

ATTACHMENT B

TRANSFER AGREEMENT CONCERNING COMMERCIAL USE OF ARRAYED, FLOWSORTED HUMAN CHROMOSOME- SPECIFIC COSMID CLONES BETWEEN GENESERVICE LTD AND A COMMERCIAL THIRD PARTY

This agreement is between the Geneservice Ltd ("DISTRIBUTOR") located at 2 Cambridge Science Park, Milton Road, Cambridge, CB4 0FE, UK and [THIRD PARTY'S name, street address, city, state, zip and Country] ("COMMERCIAL RECIPIENT"). DISTRIBUTOR and COMMERCIAL RECIPIENT jointly are referred to hereafter as the "PARTIES".

1. BACKGROUND

1. 1. Los Alamos National Laboratory ("LANL") is operated by The Regents of the University of California ("UC") under contract for the U.S. Department of Energy ("DOE").
2. 2. UC has developed and is committed to providing Arrayed, Flow-Sorted Human Chromosome-Specific Cosmid Libraries to researchers in the scientific community in order to further research and development in the Human Genome Project and to serve the public good.
3. 3. DISTRIBUTOR has been selected by UC to act as a distribution center for clones and stamped filters from LANL's Arrayed, Flow-Sorted Human Chromosome-Specific Cosmid Libraries to third party researchers. It is the intent of this Agreement that the third party 'recipients of clones and stamped filters from LANL's Cosmid Libraries will further the objectives of the Human Genome Project and advance the public interest by submission into public databases the sequencing, mapping and expression data generated through the use of these clones.

2. DEFINITIONS

1. 1. DISTRIBUTOR: Organization receiving the ORIGINAL MATERIAL from LANL and distributing clones or stamped filters (RECIPIENT MATERIAL) to the COMMERCIAL RECIPIENT.
2. 2. COMMERCIAL RECIPIENT: Organization receiving the RECIPIENT MATERIAL from DISTRIBUTOR.
3. 3. ORIGINAL MATERIAL: Arrayed, Flow-Sorted Human Chromosome-Specific Cosmid Libraries.
4. 4. RECIPIENT MATERIAL: Clones or stamped filters.
5. 5. MODIFICATIONS: Substances created by the COMMERCIAL

RECIPIENT which contain or incorporate the RECIPIENT MATERIAL.

6. 6. PROGENY: Unmodified descendants from the RECIPIENT MATERIAL.

7. 7. UNMODIFIED DERIVATIVES: Substances created by COMMERCIAL RECIPIENT which constitute an unmodified functional subunit or product expressed by the RECIPIENT MATERIAL. Some examples include, but are not limited to, subclones and proteins expressed by DNA isolated from clones in the LANL Library.

8. 8. COMMERCIAL PURPOSES: The sale, lease, license, or other transfer of the MATERIAL or MODIFICATIONS to a for-profit organization. COMMERCIAL PURPOSES shall also include uses of the MATERIAL or MODIFICATIONS by any organization, including DISTRIBUTOR, to perform contract research, to screen compound libraries, to produce or manufacture products for general sale, or to conduct research activities whose goal is the sale, lease, license, or transfer of the MATERIAL or MODIFICATIONS to a for-profit organization. However, Industry-sponsored academic research shall not be considered a use of the MATERIAL or MODIFICATIONS for COMMERCIAL PURPOSES per se, unless any of the above conditions of these definitions are met.

9. 9. NONPROFIT ORGANIZATION(S): A university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 USC 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 USC 501(a)) or any scientific or educational organization qualified under a state nonprofit organization statute or any scientific or educational organization qualified as a nonprofit under the laws and regulations of the country of the DISTRIBUTOR. As used herein, the term also includes government agencies.

3. SCOPE OF GRANT

1. 1. UC retains ownership of the RECIPIENT MATERIAL, including any RECIPIENT MATERIAL contained or incorporated in MODIFICATIONS.

2. 2. DISTRIBUTOR has the right to generate and distribute clones and stamped filters derived from LANL's Arrayed, Flow-Sorted Human Chromosome-Specific Cosmid Libraries to COMMERCIAL RECIPIENT for research purposes only.

3. 3. DISTRIBUTOR is providing COMMERCIAL RECIPIENT with [specification of cosmid clones and/or stamped filters] derived from Arrayed, Flow-Sorted Human Chromosome-Specific Cosmid Libraries (ORIGINAL MATERIAL) developed by UC in order to advance the public interest of research and education.

4. 4. The COMMERCIAL RECIPIENT retains ownership of: (a) MODIFICATIONS (except that UC retains ownership rights to the RECIPIENT MATERIAL included therein), and (b) those substances created through the use of the RECIPIENT MATERIAL or MODIFICATIONS, but that are not PROGENY, UNMODIFIED DERIVATIVES or MODIFICATIONS.

4. TERMS AND CONDITIONS

1. By entering this Agreement and by accepting the RECIPIENT MATERIAL, COMMERCIAL RECIPIENT shares the intent of UC, LANL and DISTRIBUTOR to advance the public interest and agrees to the following terms. If COMMERCIAL RECIPIENT is unable to agree to these terms, it must immediately return all RECIPIENT MATERIAL, including copies, to DISTRIBUTOR.

.a. If COMMERCIAL RECIPIENT desires to use the RECIPIENT MATERIAL or MODIFICATIONS for COMMERCIAL PURPOSES, it agrees that in advance of such use that it will be required to obtain a separate agreement from UC authorizing such use, for example, a nonexclusive commercial license.

.b. In consideration of being provided with the RECIPIENT MATERIAL, COMMERCIAL RECIPIENT agrees to use the RECIPIENT MATERIAL solely for research and education purposes at COMMERCIAL RECIPIENT'S facility. The research conducted by COMMERCIAL RECIPIENT is restricted to generating sequencing, mapping and expression data from the RECIPIENT MATERIAL. COMMERCIAL RECIPIENT agrees to place all such data into public databases (e.g. Genome Sequence Data Base for mapping data, Genome Sequence Data Base for sequence data, or other public databases as appropriate for the type of data) that provide data at no charge or at nominal cost within one hundred and eighty (180) days after the date on which such information is in a form suitable for submission to such databases.

.c. This Agreement shall not be interpreted to prevent or delay publication of research findings resulting from the use of the RECIPIENT MATERIAL.

.d. COMMERCIAL RECIPIENT agrees to provide appropriate acknowledgment of the source of the RECIPIENT MATERIAL in all publications.

.e. DISTRIBUTOR agrees to include the unique and specific nomenclature, which is provided by LANL, pertaining to each clone to facilitate communication about the clones among researchers. The names of the clones will be used in all sequence, mapping or expression data, in any databases, and in resulting publications. All LANL Libraries (ORIGINAL MATERIAL) will have a full name, e.g., "LA04NC01" and a short name, e.g., "LA04" (for use in individual clone naming). The clone(s) shall be named in the following manner "LA0458E7" (library name "LA04", microtiter dish 58, row E, column 7).

.f. COMMERCIAL RECIPIENT will not transfer the RECIPIENT MATERIAL received from DISTRIBUTOR to any third party(ies). COMMERCIAL RECIPIENT agrees to refer to UC any request for the RECIPIENT MATERIAL from third party(ies). Third party(ies) includes COMMERCIAL RECIPIENT'S affiliates, joint ventures, assignees, sublicensees, transferees, agents, or any

other person(s) acting on its behalf.

.g. COMMERCIAL RECIPIENT AGREES THAT ANY RECIPIENT MATERIAL DELIVERED PURSUANT TO THIS AGREEMENT IS UNDERSTOOD TO BE EXPERIMENTAL IN NATURE AND THAT IT IS BEING PROVIDED WITHOUT ANY REPRESENTATIONS AND

NO WARRANTY IS EXTENDED, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR FREEDOM FROM INFRINGEMENT OF ANY PATENT OR OTHER PROPRIETARY RIGHT OF A THIRD PARTY.

.h. COMMERCIAL RECIPIENT AGREES TO HOLD HARMLESS AND INDEMNIFY UC, LANL, DOE, THE U.S. GOVERNMENT, THE DISTRIBUTOR OF THE RECIPIENT MATERIAL, AND PERSONS ACTING ON THEIR BEHALF FOR ALL LIABILITY, INCLUDING COSTS AND EXPENSES RESULTING FROM COMMERCIAL RECIPIENT'S POSSESSION OR USE OF THE RECIPIENT MATERIAL AND ANY CLAIM ASSERTED BY THIRD PARTY(IES) RELATED TO COMMERCIAL RECIPIENT'S POSSESSION OR USE OF THE RECIPIENT MATERIAL.

.i. COMMERCIAL RECIPIENT agrees that other than the right to use the clones or stamped filters, no license, either direct or implied, is granted under US Agreement to the RECIPIENT MATERIAL or MODIFICATIONS, or to any UC intellectual property.

.j. COMMERCIAL RECIPIENT agrees to use the RECIPIENT MATERIAL in compliance with all applicable statutes and regulations, including Public Health Service and National Institutes of Health regulations and guidelines such as, for example, those relating to research involving the use of animals or recombinant DNA.

.k. COMMERCIAL RECIPIENT agrees not to use the RECIPIENT MATERIAL in human subjects, in clinical trials, or for diagnostic purposes involving human subjects without the prior written consent of UC.

1. TERM AND TERMINATION

1. 1. This Agreement may be terminated by either DISTRIBUTOR or COMMERCIAL RECIPIENT by providing thirty (30) days' written notice using the address(es) set forth in Section 7, ADMINISTRATION, below. In the event of termination, DISTRIBUTOR will cease distributing further RECIPIENT MATERIAL to COMMERCIAL RECIPIENT. DISTRIBUTOR may require COMMERCIAL RECIPIENT to destroy the RECIPIENT MATERIAL in its possession at the time of such termination, at COMMERCIAL RECIPIENT'S expense, and to certify such destruction in writing within forty-five (45) days

thereof.

2. 2. The terms and conditions of this Agreement between DISTRIBUTOR and COMMERCIAL RECIPIENT will survive termination of the Material Transfer Agreement between UC and DISTRIBUTOR.

2. ASSIGNABILITY

1. This Agreement is binding on and inures to the benefit of UC, its successors and assigns, but is personal to DISTRIBUTOR and COMMERCIAL RECIPIENT and is not assignable by either.

2. 3. ADMINISTRATION

Any correspondence or other communication concerning this Agreement

must be sent to: For UC Los Alamos National Laboratory (The Regents of the

University of California) Civilian & Industrial Technology Program Attention:

License Administrator

P.O. Box 1663, Mail Stop C334 Los Alamos, New Mexico 87545 (505) 665-9090 [telephone] (505) 665-0154 [fax]

Technical contact Larry L. Deaven, Ph.D. Director, Center for Human Genome Studies Los Alamos National Laboratory

.P.O. Box 1663, Mail Stop M888 Los Alamos, New Mexico 87545 (505) 667-3114 [telephone] (505) 667-2891 [fax]

For DISTRIBUTOR Geneservice Ltd, 2 Cambridge Science Park, Milton Road,

Cambridge, CB4 0FE, UK Tel: +44(0)1223 432600 Fax: +44(0)1223 432601

Technical queries at Geneservice Ltd Email: info@geneservice.co.uk

For COMMERCIAL RECIPIENT

Recipient Company Name

Address

[telephone]

[fax]

Technical contact name

title

[telephone]

[fax]

AGREED: DISTRIBUTOR'S NAME

Signature Typed name Title

Date

COMMERCIAL RECIPIENT'S NAME

Signature Typed name Title

Date

Version 1205