

MATERIAL TRANSFER AGREEMENT

(For use with non-profit entities only)

THIS MATERIAL TRANSFER AGREEMENT (this "MTA") is hereby entered into effective as of _____, 20__ (the "Effective Date"), by and among **ChromoTek GmbH, German corporation ("CTK")**, with a principal address of Am Klopferspitz 19, D-82152 Planegg-Martinsried, Germany, and _____, a _____ **non-profit corporation ("Recipient")**, with a principal address of _____, and _____, Recipient's agent and primary custodian of Product (as defined below) provided pursuant to this Agreement ("Researcher").

1. Definitions.

1.1 "Derivative" shall mean any DNA or RNA construct, modification, cell (line), plasmid, vector, virus, protein, tissue, pharmaceutical or other product or agent which incorporates a variable domain of a heavy chain antibody (VHH/ Nanobody®) or any portions thereof of the Product.

1.2 "Material" shall mean any Product, Progeny and/or Derivative.

1.3 "Product" shall mean a mammalian expression plasmid which incorporates the sequence of a variable domain of a heavy chain antibody (VHH/ Nanobody®) fused in frame with a fluorescent protein encoding sequence and comprises Dmnt1-Chromobody-TagRFP (product code dcr).

1.4 "Progeny" shall mean any unaltered copies of Product.

1.5 "Third Party" shall mean any person or entity which is not CTK, Recipient or Researcher.

2. Scope of MTA.

2.1 This MTA shall apply to all licenses and deliveries of Products by CTK to Recipient, whether ordered online, or by e-mail or facsimile.

2.2 Requests to CTK may be made:

- i. online in CTK web shop <https://shop.chromotek.com/>; or Proteintech Group web shop <https://www.ptglab.com/>
- ii. by email to order@chromotek.com; USAorders@chromotek.com; proteintech@ptglab.com; or
- iii. by facsimile to +49 89 124148811 attn. "License Request".

2.3 CTK retains the right to reject an order and refuse providing Product hereunder if CTK has any concern, in its sole discretion, that any Product may be used for unauthorized purpose(s).

2.4 Any additional terms and conditions of Recipient proposed to be applicable to the scope of this MTA, that are not expressly acknowledged and approved in writing by CTK, are hereby rejected and shall have no applicable hereto.

3. License.

3.1 Product is provided to Recipient under a non-exclusive, non-transferable, non-sublicensable license¹ limited in scope solely for academic, internal non-profit research in the laboratory of Researcher, subject to the restrictions set forth in Section 5.

3.2 Recipient confirms that it takes the license to use the Product in its own name and for its own internal use.

3.3 Recipient further confirms that it will use the requested Products solely within the limitation of scope of use as set forth herein, including without limitations, the restricts set forth under Section 5 below. CTK retains the right to require written evidence from Recipient that the use of the Product will be limited to scientific research purposes in accordance with the terms of this Agreement.

3.4 CTK and its licensors reserve all their rights not expressly granted herein, and no implied or other licenses are granted.

4. Term. This MTA shall begin on the Effective Date and terminate upon the first to occur of: (i) completion of any designated research program relating to the Materials or (ii) Recipient's breach of this MTA. Expiration or termination of this MTA shall not relieve either party of any obligation accruing prior to such expiration or termination, specifically but without limitation, Sections 5, 7, 9.2, 10, 12 and 15 shall survive the expiration or termination of this Agreement.

5. Restricted Use.

5.1 Recipient shall maintain and use Material in compliance with all applicable laws, regulations and rules. Material may only be used for internal academic non-profit research. **In no circumstances shall Material be used (i) in or for clinical trials; (ii) for diagnostic or therapeutic purposes involving human subjects or animals; (iii) for prophylactic use; or (iv) for production.** Recipient shall be solely liable for any modifications to any Product that it makes, directs or permits, including but not limited to any potential infringement upon third-party intellectual property rights. Recipient shall defend, indemnify and hold CTK harmless from and against any claims of third parties based on any claim arising out of Recipient's use of .

5.2 Recipient warrants that the research work is carried out under the direction of the Researcher and employees of Recipient. Recipient shall not involve any person in the research work with the Product that is not employed by Recipient without the prior written consent of CTK.

5.3 Recipient shall be free to propagate or modify the original Product to create new plasmids, vectors, cells, except that (i) the coding region of the inherent Nanobody® may not be altered/modified; and/or (ii) Evrogen fluorescent protein may not be isolated or separately transferred into a new context.

5.4 Recipient shall not offer Material for sale or distribution and shall not offer services to any Third Party using any Material. The use of Material in research for or on behalf of for-profit organizations, which receive access to data and results stemming from the research of the Researcher under this Agreement is prohibited and shall require a commercial license from CTK.

6. License Fee. In consideration for CTK entering into this Agreement with Recipient, Recipient shall pay to CTK a one-time fee in accordance with the price list published on CTK's website at the time or

¹ Licensed/Sublicensed are the following IP Rights: Evrogen IP JSC under US 7,417,131, US 7,605,230, US 7,638,615, United States Patent Application 12/179,000, European Patent Application No. 06809023.2, European Patent Application No. 07705420.3. Under license from LMU under EP 1945673, EP 2451841 and equivalent patents and patent applications in other countries.

ordering any Product, or as may be otherwise agreement in writing between the parties. License fees do not include any VAT or sales tax, for which Recipient shall be liable.

7. Payment Terms, Default of Payment.

7.1 CTK invoices are payable without any discounts within 30 days from the invoice date.

7.2 Payment by check, credit card, bill of exchange or other payment transfer acceptable to CTK shall be effective only after the instrument or process has cleared and the funds are received by CTK. Charges on bills of exchange and other payment processing fees, along with any collection and other bank charges, shall be borne by Recipient.

7.3 CTK may demand payment in advance or request grant of security for payment(s).

7.4 In the event of past-due payment, CTK shall be entitled to demand interest on the defaulted amounts for the period of default at a rate of 9% above three-month EURIBOR, or the highest rate permitted by applicable law, whichever is lower.

7.5 No invoiced amount may be withheld by Recipient except to the extent of a specific dispute with respect to the invoiced item.

8. Delivery. Unless expressly agreed otherwise, delivery terms shall be EXW Planegg-Martinsried Germany) or EXW Rosemont, IL, USA (Incoterms 2020.

9. Warranties.

9.1 Each party hereto represents and warrants to the other party that such party (i) is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized; (ii) has the requisite power and authority and the legal right to enter into this Agreement and to perform its obligations hereunder; and (iii) has obtained all necessary consents, approvals and authorizations of all governmental authorities and other persons or entities required to be obtained by such party in connection with this Agreement. Each party represents that this Agreement does not conflict with any other right or obligation provided under any other agreement or obligation that such party has with any third party.

9.2 Recipient acknowledges that Product is experimental in nature and may have hazardous properties. EXCEPT AS EXPRESS SET FORTH HEREIN, NEITHER CTK NOR ANY THIRD-PARTY LICENSOR OF RIGHTS ASSOCIATED WITH ANY PRODUCT MAKES ANY REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

9.3 In the event any Product fails to comply with applicable specifications in a manner that renders them unable to be used by Recipient and such non-compliance is established to have existed at the time of shipment by CTK, as Recipient's sole and exclusive remedy therefor, CTK shall either, in its discretion, provide replacement Product or issue a pro rata refund of the applicable license fee paid by Recipient for said non-conforming Product.

10. Liability.

10.1 CTK shall have no liability under this MTA except to the extent arising out of a material negligent breach of an obligations hereunder critical for the realization of the purpose of this MTA, or damages arising out of its gross negligence or willful misconduct or gross negligence; however, in case of

ordinary negligence, CTK's liability shall be limited to foreseeable damages caused by the negligent defect or misconduct.

10.2 Notwithstanding any term to the contrary herein, CTK shall have no responsibility or liability damages caused by non-compliant or other inappropriate handling, storage, use, processing and/or disposal of Material by Recipient.

10.3 To the extent permitted under applicable law, Recipient shall indemnify, defend and hold harmless CTK and its officers, employees, licensors and agents (the "Indemnitees") from and against any liability, damage, loss or expense of any kind (including without limitation reasonable attorney fees) incurred by or imposed upon any of the Indemnitees in connection with any claims, suits, actions, demands or judgments arising out of any theory of any damage or loss liability relating to Recipient's handling, storage, use, processing and/or disposal of Material.

10.4 IN NO EVENT SHALL CTK BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES UNDER THIS MTA, INCLUDING WITHOUT LIMITATION, COST OF COVER, LOST REVENUES AND PROFITS, LOSS OF BUSINESS, DOWNTIME, PROPERTY DAMAGE, LOSS OF GOODWILL OR ANY ECONOMIC DAMAGES OR LOSS OF ANY KIND, WHETHER FORESEEABLE OR NOT AND WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11. **No Assignment.** No right granted under this MTA may be assigned or otherwise transferred to any Third Party; provided, however, that CTK may assign this MTA to an affiliated party and/or in connection with a merger or sale of substantially all of its assets. Material may only be transferred to Third Parties with the prior written approval of CTK for transferring Material to academic colleagues provided that the institution of the receiving colleague has submitted itself in writing to the terms of this MTA. The same shall apply when Recipient changes his/her affiliation and desires to move any Material governed by this MTA.

12. **Rights in Material.**

12.1 Recipient and Researcher acknowledge that ownership of the Product shall remain with CTK. Any Progeny generated by Recipient or Researcher from the Product shall also be owned by CTK. Title to any Derivative shall be with Recipient, except for the nanobodies which shall be owned by CTK. Should in specific cases the CTK nanobodies are not separable from the Derivatives, then Recipient and CTK shall be co-owners of such Derivatives.

12.2 Upon termination of the research work of Researcher, the Product and any Progeny thereof shall be destroyed, and Recipient shall certify to CTK in writing as to such destruction. After Researcher has accomplished his/her research with the Product or for other reasons stops working with the Product, Recipient shall ensure that the Product and all Progenies will be destroyed, and Recipient shall certify so to CTK in writing.

12.3 Recipient shall retain all right, title and interest in and the unrestricted right to use all results generated by use of the Material, as well as the right to publish or otherwise disclose such results, provided that CTK is named as the source of the Product and intellectual property holder of the nanobody sequence in the Product in any written or oral publications.

12.4 Recipient hereby grants CTK an non-exclusive, irrevocable, royalty-free, worldwide, sublicensable license for any internal research use of all Derivatives.

13. Force Majeure.

13.1 CTK shall be excused from its obligations to fulfil its obligations hereunder in a timely manner due to interruptions outside of its reasonable control due to acts of God, strikes, fires, explosion, flood, riot, lockouts, injunction, interruption of transportation, accidents, pandemics, war or apprehension of war, or other disturbances affecting CTK or CTK's suppliers which are beyond CTK's control and/or responsibility and are not caused by intention or gross negligence on CTK's side, for so long as the disturbances and the consequences thereof persist. Should a force majeure event last longer than three months, Recipient shall be entitled to rescind this MTA.

13.2 In no event shall CTK be liable to Recipient for any claims, damages or expenses arising out of or related to CTK's inability to fulfil its obligations under this MTA due to a force majeure event.

14. Responsibility for Access Data and Passwords.

14.1 Any data of Recipient, such as usernames and passwords, shall be kept confidential and shall be stored in a manner inaccessible by unauthorized persons.

14.2 Recipient shall be responsible to ensure that the web shop on CTK's Website in the login-area are accessed and utilized only by Recipient or its entitled users. If Recipient learns of or suspects an unauthorized person has obtained knowledge of Recipient's access data and passwords, Recipient shall promptly inform CTK thereof. CTK may then block or inactivate access to the login area under the applicable username(s) and password(s).

15. Miscellaneous.

15.1 This MTA shall be governed by the laws of the State of Illinois as they apply to agreements entered into and to be performed entirely within Illinois between Illinois residents, without regard to conflict of law provisions. Both parties agree that any claim or dispute between them must be resolved exclusively by a state or federal court located in Cook County, Illinois. Both parties agree to submit to the personal jurisdiction of the courts located within Cook County, Illinois for the purpose of litigating all such claims or disputes, and hereby waive all claims of *forum non conveniens*.

15.2 If any provision or provisions of this MTA shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and said court is hereby authorized to redraft and/or amend the invalidated text such that the amendment would be rendered valid and most nearly reflect the original intent of the parties.

15.3 This MTA contains the entire agreement between the parties with respect to the subject matter contained herein and supersedes any previous understandings, commitments or agreements, oral or written, other than any non-disclosure or confidentiality agreement which may have been entered into by and between the parties, and if so, said agreement is hereby ratified and shall continue in full force and effect, but subject to the terms of this MTA.

15.4 A waiver, delay or forbearance by either party, whether express or implied, in enforcing or exercising any of its rights or remedies hereunder will not constitute a waiver of such right or remedy.

15.5 No provision of this MTA is intended to be enforceable by any person who is not a party to this Agreement and nor are any rights granted to any third party under statute or otherwise.

15.6 Nothing in this MTA will create a partnership, joint venture or relationship of agency between the parties.

15.7 This MTA may be executed in counterparts and by electronic signature, each of which shall be deemed an original.

[Remainder of page intentionally left blank; signature page to follow.]

IN WITNESS WHEREOF, this Material Transfer Agreement is hereby entered into by and among the undersigned as of the above-noted Effective Date.

"RECIPIENT"

By: _____

Name: _____

Title: _____

"CTK"

ChromoTek GmbH

By: _____

Name: _____

Title: _____

"RESEARCHER"

Signature: _____

Name: _____

Title: _____