

[The following agreement is a model. If you wish to conduct a research collaboration with a scientist at a company, you should contact the attorney responsible for your site to initiate preparation of a research collaboration agreement.]

RESEARCH COLLABORATION AGREEMENT

This Research Collaboration Agreement (the “Agreement”), having an Effective Date of _____, is made between [Company] (the “Company”), and Howard Hughes Medical Institute (“HHMI”) and [Host Institution] (the [“University/Hospital”]) under the following terms and conditions. HHMI and the [University/Hospital] are referred to collectively in this Agreement as the “Institutions” and, unless specifically named, are treated as a single party.

1. Research Project. The Company and the Institutions desire to undertake collaborative research activities for the purpose of [general description of research] (the “Research Project”). The respective contributions of the Company and the Institutions to the Research Project are described in the Statement of Work set forth on Attachment A to this Agreement, which is incorporated herein by reference. The Principal Investigator for the Institutions will be [Investigator Full Name with Degrees], who is an HHMI employee and a faculty member of the [University/Hospital]. The Principal Investigator for the Company will be [type in full name of company investigator], who is an employee of the Company. The Research Project shall not exceed the scope of work set forth on Attachment A, provided that Drs. [Institute Investigator’s Last Name] and [type in last name of company investigator] may agree to modifications of Attachment A that do not alter its scope, as they believe appropriate. Any significant changes must be in writing and must be approved by the Company, HHMI, and the [University/Hospital]. Each party will bear all of its own costs and expenses in connection with the Research Project.

2. Transfer of Materials Among Parties. Biological and other research materials, as hereinafter defined, may be transferred between the Company and the Institutions in connection with the Research Project. The following terms shall govern any transfer of materials pursuant to the Research Project.

a. *In General.* It is expected that the Company will transfer to the Institutions materials developed outside the course of the Research Project as set forth in Attachment A, and the

Institutions will transfer to Company materials developed outside the course of the Research Project as set forth in Attachment A. In addition, other materials developed during the course of the Research Project may be transferred between the parties as part of the Research Project. Materials developed solely by the Company, whether developed before or after the Effective Date, together with progeny and unmodified derivatives, will be owned solely by the Company (“Company Materials”); materials developed solely by Institutions, whether before or after the Effective Date, together with progeny and unmodified derivatives, will be owned solely by Institutions (“Institutions Materials”); materials developed jointly by researchers at the Company and the Institutions in the course of the Research Project will be owned jointly (“Jointly Developed Materials”). All materials that may be transferred hereunder are sometimes hereinafter referred to as “Research Materials,” singly or collectively.

[If blood or other human materials may be exchanged, the parties should confirm that informed consent, IRB and HIPPA requirements, as applicable, have been satisfied.]

b. *No Warranties.* All Research Materials transferred in connection with the Research Project are experimental in nature and shall be used with prudence and appropriate caution, since not all of their characteristics are known. **ALL RESEARCH MATERIALS ARE PROVIDED WITHOUT WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED.** A party providing its Research Materials makes no representation or warranty to the receiving party that the use of such Research Materials will not infringe any patent or other proprietary right.

c. *Legal Title; Use.* Legal title to any Research Materials transferred hereunder shall be unaffected by this Agreement or the transfer made hereunder. The Institutions will use Company Materials only in work done in the course of the Research Project, and only in Dr. [Institute Investigator Last Name]’s laboratory in research by laboratory personnel under [his/her] immediate and direct control. The Company will use Institutions Materials only in work done in the course of the Research Project, and only in Dr. [type in last name of company’s investigator]’s laboratory in research by laboratory personnel under [his/her] immediate and direct control. In addition, during the term of the Research Project, any Jointly Developed Materials will not be used by the parties other than in the Research Project.

d. *Limitations.* Research Materials transferred under this Agreement are provided only for use in animals or in vitro. ***Research Materials transferred under this Agreement will not be***

used in humans, including for purposes of diagnostic testing. Any use of Company Materials by the Institutions, or of Institutions Materials by the Company, or of Jointly Developed Materials by a party, other than in accordance with this paragraph 2, is a material breach of this Agreement for purposes of the termination provisions of paragraph 8, below.

e. *Recipient Rights in Transferred Materials.* The transfer of Company Material to the Institutions, and the transfer of Institutions Materials to the Company, gives the recipient no rights in such material other than those specifically set forth in this Agreement.

3. Confidentiality. Subject to paragraph 5, below, during the term of this Agreement and for a period of five years thereafter, each party shall cause all information that is disclosed to it by the other party in connection with the Research Project and is identified in writing as confidential by the disclosing party (“Confidential Information”) to be treated according to the same internal security procedures and with the same degree of care regarding its secrecy and confidentiality as the party receiving the disclosure treats similar information of its own within its organization. Confidential Information does not include information that: (i) is or later becomes available to the public through no breach of this Agreement; (ii) is obtained from a third party who had the legal right to disclose the information; (iii) as of the date of disclosure, is already in the possession of the party to whom disclosure is made; or (iv) is required to be disclosed by law, government regulation, or court order.

4. Results of Research Project.

a. *In General.* Each party will keep the other parties informed of research results obtained from its work in connection with the Research Project. Information shared in accordance with this paragraph shall be treated as confidential by the party to which it is disclosed (even if not identified as confidential by the disclosing party), and shall be handled by that party in accordance with, the terms of paragraph 3, above. Following the collaboration, each party shall have an unrestricted right to use for its own internal research purposes all research results, including without limitation any Sole Invention of any party and any Joint Invention (as such terms are defined below), obtained from the Research Project.

[If the research results will be tangible, for example a genetically modified mouse, the agreement should provide that the party generating the research results will make a reasonable number of samples of the results available to the other parties as soon as the results have been generated.]

b. *Inventions.* For purposes of this Agreement, an “Invention” is any invention or discovery, whether patentable or nonpatentable, or copyrightable or non-copyrightable, that is conceived or reduced to practice in the course of the Research Project. Inventorship of Inventions will be determined in accordance with principles of U.S. patent law. In the case of a non-patentable Invention, inventorship will be determined under such principles by treating such Invention as if it were patentable. If an Invention is made by one or more inventors all of whom are required to assign rights in the Invention to a single party (a “Sole Invention”), the Sole Invention shall be the property of that party. If an Invention is made by more than one inventor, and at least one inventor is required to assign rights in the Invention to the Company, and at least one inventor is required to assign rights in the Invention either to HHMI or to the [University/Hospital], the Invention shall be jointly owned by the parties who are assigned rights in the Invention (each, a “Joint Invention”). However, HHMI will assign its rights in any Sole Inventions and Joint Inventions to the [University/Hospital] pursuant to the collaborative arrangements between them, subject, however, to a research-use license retained by HHMI. The [University/Hospital] and Company may pursue joint patent protection of Joint Inventions.

[If this is a software-related collaboration, consider amending this paragraph as needed to change focus from patent to copyright (or expand to cover both).]

c. *Licensing of Sole Inventions.* Each of the Company and the Institutions separately reserve the right to license its interest in any Sole Invention, subject to the other party’s right to use the Sole Invention for its own internal research purposes, and the Institutions or the Company, as the case may be, shall have no right to compensation in connection with any such license granted by the other party to any third party.

d. *Licensing of Joint Inventions.* Subject to [University/Hospital]’s obligations to the U.S. government and other third parties, and subject to the right of each of HHMI and the [University/Hospital] to use each Joint Invention for its own internal research purposes, the [University/Hospital] hereby grants to the Company an option to negotiate in good faith for an exclusive (or non-exclusive, if the Invention would be considered a research tool under NIH or HHMI policy on research tools), royalty-bearing license on reasonable commercial terms to use the [University/Hospital]’s interest in any Joint Invention. The option to negotiate with respect to any such Joint Invention shall be valid and exercisable for a period of 60 days after the [University/Hospital] notifies the Company of the Joint Invention and, if the Company exercises the option within that period, then the Company shall have 120 days after exercise of the option

within which to execute a license. The 120-day period may be extended by mutual agreement of the [University/Hospital] and the Company. If, with respect to any Joint Invention, either the Company does not exercise its option within the option period for that Invention or the [University/Hospital] and the Company are unable to agree on the terms of a license within the negotiation period, then the [University/Hospital] shall be free to license its interest in such Invention to others without further obligation to the Company.

[If the research results will be a genetically modified mouse, the agreement should provide that it is understood that the Institutions may send samples of any mouse arising from the Research Project to the Jackson Laboratory, after publication, so that the mouse will be generally available to other research scientists.]

e. Indemnification for Commercial Use. In the event that the Company, any affiliate or sublicensee thereof, or any third party on behalf of or for the account of the Company, uses a Joint Invention for any commercial purpose (“Commercial Use”), including without limitation the development or derivation of a product or service from such Joint Invention (collectively, a “Product”) and there is no license agreement in place between the [University/Hospital] and the Company with respect to such Invention, the [University/Hospital], HHMI and their respective trustees, directors, officers, employees, and agents (collectively, “Indemnitees”), will be indemnified, defended by counsel acceptable to the [University/Hospital] and HHMI, and held harmless by the Company from and against any claim, liability, cost, expense, damage, deficiency, loss, or obligation, of any kind or nature (including, without limitation, reasonable attorneys’ fees and other costs and expenses of defense) (collectively, “Commercial Use Claims”), based upon, arising out of, or otherwise relating to any Commercial Use or use of any Product by any person or entity (including any Indemnitee), including without limitation any cause of action relating to product liability. The previous sentence will not apply to any Commercial Use Claim that is determined with finality by a court of competent jurisdiction to result solely from the gross negligence or willful misconduct of an Indemnitee. In the event that the [University/Hospital] grants a third party a license for the commercialization of an Invention that is jointly owned by the [University/Hospital] and the Company, and the Company is not a party to said license, then the [University/Hospital] shall include language in any such license so that Company is indemnified by the third party licensee thereunder. Without limiting the foregoing, no party hereto shall have any obligation or liability under any agreement by which another party (the “Licensing Party”) licenses or sublicenses a Sole Invention of the Licensing Party or the Licensing Party’s interest in a Joint Invention.

5. Publication. It is contemplated that results of the Research Project will be jointly published; however, the Institutions and the Company each separately reserve the right to publish information and data generated in the course of the Research Project. The parties agree to abide by the policies of journals in which publications will appear as to such matters as the public release or availability of data or biological materials relating to the publication, and to abide by HHMI's policy on Sharing of Publication-Related Materials, Data, and Software (posted at <http://www.hhmi.org/about/ogc/downloads/Sharing.pdf>). Authorship of results of the Research Project will be determined in accordance with academic standards and custom. Proper acknowledgment will be made for the contributions of each party to the research results being published. If a proposed publication is not a joint publication, the party wishing to make the publication shall provide a copy of the manuscript or abstract to the other party at least 30 days prior to publication in order to allow the other party an opportunity to protect proprietary information or intellectual property that might be disclosed by the manuscript or abstract. In addition, a party will not publish Confidential Information received from the other party (not to include information and data generated in the course of the Research Project) without such other party's consent. Once information and data generated in the course of the Research Project have been published, the confidentiality restrictions of this Agreement shall no longer apply to such information and data. In addition, each party shall make samples of its Research Material disclosed in the publication available upon request (supplies permitting) to scientists at non-profit institutions, provided that the recipient scientist agrees in writing that (i) the Research Material will be used for research in the recipient scientist's laboratory only, (ii) the Research Material will not be used for any commercial purpose, (iii) the Research Material will not be used for work on human subjects, and (iv) the Research Material will not be distributed to other laboratories.

6. Responsibilities of the Parties. Each party is an independent contractor and has no authority to bind or act on behalf of another party. Each party is responsible and liable to the other parties only for its own acts and omissions, and the acts and omissions of its trustees, directors, officers, employees, and agents, relating to the Research Project or to any Research Materials that have been transferred to it in connection with the Research Project. The Company agrees to indemnify, defend with counsel acceptable to each of HHMI and the [University/Hospital], and hold each of HHMI and the [University/Hospital] and their respective

trustees, directors, officers, employees, and agents harmless from, and each of HHMI and the [University/Hospital] agrees to indemnify, defend with counsel acceptable to the Company, and hold the Company and its directors, officers, employees, and agents harmless from, any claim, liability, cost, expense, damage, deficiency, loss or obligation, of any kind or nature (including without limitation, reasonable attorneys' fees and other costs and expenses of defense) (collectively, "Claims") resulting from the indemnitor's acts or omissions, or those of its trustees, directors, officers, employees, or agents, under, arising out of or otherwise related to this Agreement, the Research Project or Research Materials transferred in connection with the Research Project, except to the extent such Claim arises out of the gross negligence or intentional wrongdoing of the party seeking indemnification or that of its trustees, directors, officers, employees, or agents. Notwithstanding the foregoing, the terms of paragraph 4e, above, shall apply to all matters covered thereby.

7. **Compliance with Laws and Regulations.** All research done in connection with the Research Project, including all use of Research Materials transferred hereunder, will be done in compliance with all applicable federal, state or local laws, governmental regulations and guidelines of the United States, including without limitation current NIH guidelines and any regulations or guidelines pertaining to research with recombinant DNA that may be applicable.

8. **Term of Agreement; Duration of Research Project.** This Agreement shall go into effect on the Effective Date. It is expected that the Research Project will be completed within approximately [EXPECTED DURATION OF RESEARCH] of the Effective Date. This Agreement shall continue in effect until the earlier of [ENTER HERE A DATE THAT IS APPROXIMATELY SIX MONTHS AFTER THE TIME THAT IS EXPECTED THE RESEARCH PROJECT WILL BE COMPLETED AS INDICATED IN THE PRECEDING SENTENCE] or the completion or termination of the Research Project. However, the Company, HHMI, or the [University/Hospital] may terminate the Research Project and this Agreement at any time upon 30 days' written notice to the other parties, regardless of whether the Research Project has been completed. In addition, in the event of a material breach of this Agreement by a party, any other party may terminate the Research Project and this Agreement immediately upon written notice to both other parties. If the Research Project and this Agreement are terminated, Company Materials received pursuant to

this Agreement by the Institutions shall, at the request of the Company, be returned to the Company or properly destroyed, and Institution Materials received pursuant to this Agreement by the Company shall, at the request of the Institutions, be returned to the Institutions or properly destroyed. The terms of paragraphs 2, 3, 4, 5, 6, and 9, and of this sentence and the preceding sentence, shall survive any termination of this Agreement.

[If the research results will be a genetically modified mouse, the Agreement should continue in effect (1) with respect to any genetically modified mice generated in the Research Project (or progeny of such mice), so long as there shall be such mice (or progeny) in being and (2) with respect to the Research Project, until the Research Project is completed or sooner terminated.]

9. Use of Name. The Company shall not use the name or names of HHMI, the [University/Hospital], or Dr. [Investigator Last Name], or any abbreviation or variant thereof, in any press release, or in any commercial advertisement or similar material that is used to promote or sell products or services, unless the Company obtains in advance the written consent of the named party to such use, and in the case of the use of Dr. [Institute Investigator Last Name]'s name, the Institutions' consent as well.

10. Assignment. This Agreement is not assignable by a party, whether by operation of law or otherwise, either in whole or in part, without the prior written consent of the other parties.

11. Counterparts. This Agreement may be executed in counterparts, each of which shall be an original, but which counterparts shall together constitute one and the same instrument.

12. Governing Law; Entire Agreement. This Agreement shall be governed by and construed in accordance with the law of the State of [State in which the Host Institution is located], without reference to its choice-of-law doctrines. This Agreement (including Attachment A hereto), and any other documents executed in connection herewith by authorized representatives of the parties, contain the entire agreement between the parties relating to the subject matter contained herein, and supersede all prior or contemporaneous agreements, written or oral, with respect thereto.

Agreed by:

HOWARD HUGHES MEDICAL INSTITUTE

By: _____
Name: David A. Clayton, PhD
Title: Vice President and Chief Scientific Officer
Date: _____

[HOST INSTITUTION]

By: _____
Name: _____
Title: _____
Date: _____

[COMPANY'S FULL LEGAL NAME]

By: _____
Name: _____
Title: _____
Date: _____

Read and acknowledged:

[Investigator Full Name with Degrees]
Date: _____

[Name of Company Principal Scientist]
Date: _____

STATEMENT OF WORK

The Institutions will supply the Company with the following biological or other materials developed outside of the Research Project: [description of any biological or other materials to be provided by the Institutions].

The Company will supply the Institutions with the following biological or other materials developed outside of the Research Project: [description of any biological or other materials to be provided by the Company].

[Institutions][Company] will supply [Company][Institutions] with the following biological or other materials developed during the course of the Research Project: [description of any biological or other materials resulting from the Research Project to be exchanged between the parties].

[Detailed description of what research will be done by the Institutions in the course of the Research Project.]

[Detailed description of what research will be done by the Company in the course of the Research Project.]