



Prize Announcement for New Chordoma Cell Lines

Currently, access to valid chordoma cell lines is a major barrier for chordoma research and treatment development. To overcome this barrier, the Chordoma Foundation seeks to create a collection of at least ten well-characterized chordoma cell lines, each of which faithfully represents the biology of the tumor from which it was derived. The Foundation has partnered with ATCC, world's largest non-profit cell line repository, to establish a Chordoma Cell Line collection in their catalog.

In order to help establish the Chordoma Cell Line Collection at ATCC ("Collection"), the Chordoma Foundation will offer \$10,000 prizes for each cell line that is approved by the Chordoma Foundation and deposited into the Collection at ATCC as described below. This award is meant to encourage novel and creative approaches to establishing new cell lines. It is also intended to promote biological diversity and avoid homogeneity among the set of cell lines in the panel.

SUBMISSION PROCESS

Any investigator who has created an immortalized cell line derived from a chordoma tumor is invited to submit the cell line for validation and inclusion in the Collection. Creators are encouraged to submit cell lines as soon as possible. To achieve standardization among the entire Collection, all validation experiments will be carried out in a laboratory designated by the Chordoma Foundation. As of the date of this Prize Announcement, the Chordoma Foundation has contracted with Dr. Michael Kelley at Duke University in Durham, North Carolina to conduct cell line validation experiments in his lab. Cell lines provided for validation will not be further distributed without the permission of the creator.

Submission of cell lines for inclusion in the Collection will proceed as follows:

- 1) Sign the accompanying Letter of Intent (Appendix A) indicating your acceptance of the terms and conditions outlined in this Prize Announcement and email it to josh@chordoma.org. Alternatively you may mail the letter to:

Josh Sommer
Chordoma Foundation
PO Box 2127
Durham, NC 27702
- 2) A Chordoma Foundation representative will contact you to coordinate transfer of the cell line to a lab designated by the Chordoma Foundation for characterization and validation. If necessary, the Chordoma Foundation will help arrange a material transfer agreement between your institution and the designated laboratory governing the use of your cell line.
- 3) Submit early passages of the cell line(s) and any relevant data, tissue, or tissue derivatives to the laboratory designated by the Chordoma Foundation. See Inclusion Criteria below for list of required materials and data.
- 4) Analysis of the cell line will be performed using some or all of the following approaches: gene expression microarrays, array CHG and/or high density genotyping arrays, western blot, and potentially others. The cell line will also be checked for mycoplasma contamination. Data generated for the purpose of validating the cell line will be shared with you.
- 5) If the cell line has characteristics consistent with chordoma, then it will be considered for inclusion in the Collection. You will be notified in writing by the Chordoma Foundation whether or Rev. 070511 line(s) were selected for inclusion in the Collection.
- 6) Once your cell line is selected for inclusion in the Collection, the next step is for you or your institution to execute the ATCC Chordoma Cell Line Collection Material Deposit Agreement ([Appendix B](#)) or another

agreement approved in writing by the Chordoma Foundation to deposit your cell line with ATCC (the "Deposit Agreement").

- 7) Upon finalizing the Deposit Agreement with ATCC and depositing the cell line into the Collection, the Chordoma Foundation will issue an award letter and payment form offering you an unrestricted prize for scientific and educational purposes in the amount of \$10,000 for the cell line deposited into the Collection.
- 8) Once you complete and return the payment form, the Chordoma Foundation will mail a check to the "Fiscal Officer" address indicated on the payment form.

If you have questions about any aspect of this prize please call 919-809-6779 or email josh@chordoma.org

SUBMISSION REQUIREMENTS

For a cell line to be considered for inclusion in the Collection, the following must be submitted:

1. At least two tissue culture flasks or frozen vials containing the cell line
2. A completely deidentified pathology report from the tumor of origin
3. A copy of the informed consent form used to collect the tumor from which the cell line was derived. The informed consent must allow for the use, storage and distribution of the cell line for all research and development purposes and be clear that no profit from any commercial products derived from the cell line will be returned to the patient.
4. A description of cell line including
 - a. initial tumor dissociation and culture method
 - b. approximate number of passages
 - c. time period over which cells were passaged
 - d. any significant changes in phenotype or emergence of subpopulations during passage
 - e. history of microbial contamination
5. Instructions for culturing the cell line including product information for media and any other reagents.
6. Information about the tumor from which the cell line was derived
 - a. Anatomic location of the chordoma
 - b. Whether the tumor was primary, recurrent, or metastatic
 - c. Date tumor was resected
 - d. Tumor size
 - e. Histological subtype (conventional, chondroid, dedifferentiated)
 - f. Biochemical, cytogenetic, and immunophenotypic data from the tumor, if available
 - g. Indicate if a portion of the tumor was also preserved
7. Information about the patient from which the cell line was derived (if available)
 - a. Demographics: gender, age at diagnosis, race
 - b. Treatment history including prior surgery, chemotherapy, or radiation
 - c. Patient outcome if known. Is the patient alive or deceased?

The following items are requested but not required

1. Several unstained slides from the tumor from which the cell line was derived
2. A frozen and/or paraffin embedded tissue sample from the tumor of origin and/or nucleic acids derived from the tumor of origin
3. Normal tissue, peripheral blood mononuclear cells and/or DNA from the patient from which the tumor was derived is strongly encouraged to discern somatic from inherited mutations.

- Any data regarding phenotype (e.g. growth in soft agar or xenografts), genotype, copy number changes, gene expression, protein expression, or other validation experiments conducted on the purported chordoma cell line.

INCLUSION CRITERIA

The cell line will be evaluated for inclusion in the Collection based on the following criteria:

Criteria	Assay
All required	
Confirmed chordoma diagnosis	Original tumor is brachyury and cytokeratin or EMA positive by IHC
Human species	Karyotype, human-specific PCR product, or hybridization to human oligonucleotide array
Has rearranged genome	Karyotype, CGH, aCGH, or SNP array
Genotype does not match known cell lines	STR profiling and verification against ATCC database
Cell line is immortal	At least 50 population doublings in culture
--plus--	
At least two required	
Genomic rearrangements match original tumor	Karyotype, CGH, aCGH, or SNP array
Expresses T	PCR, gene expression array, immunofluorescence, or immunoblot
Expresses CD24, Cytokeratin 19, and Col2a1	PCR, gene expression array, immunofluorescence, or immunoblot
Physaliferous morphology	In-vitro light microscopy

PRIZE GUIDELINES AND EXPECTATIONS

In addition to satisfaction of the scientific criteria described above, the Chordoma Foundation has the following guidelines and expectations for cell lines to be included in the Collection.

- Proper consent from the patient must have been obtained to allow for the use, storage and distribution of the cell line for all research and development purposes. No profit from any commercial products derived from the cell line(s) shall be returned to the patient.
- Data generated in characterizing the cell line will be shared only with the creator and the Chordoma Foundation. This data will be kept confidential unless the creator waives this confidentiality. Upon inclusion in the Collection and acceptance of the prize, all data associated with the cell line provided to the Chordoma Foundation will be made public and distributed with the cell line.
- The Chordoma Foundation encourages creators to publish results of the research leading to the development and characterization of the new cell line(s), preferably in a peer-reviewed open access journal. Therefore, at the request of the creator, the Chordoma Foundation will embargo specific data generated in characterizing the cell line for up to six months to give the creator an opportunity to publish on the creation and characterization of the cell line.
- You or your institution must have entered into a Deposit Agreement with ATCC approved by the Chordoma Foundation for purposes of depositing your cell line into the Collection.
- Upon acceptance of the prize, the Chordoma Foundation will be permitted to publicize the name of the institution and/or creator, and the amount of the prize.

TERMS AND CONDITIONS OF PRIZE

1. AWARDS PROCESS

The decision to include a cell line in the Collection and to award a \$10,000 prize to the cell line's creator will be made by the Chordoma Foundation Board of Directors based on the recommendation of expert advisors, the availability of funding, and other pertinent factors. The Chordoma Foundation will consider the genetic and biological characteristics of the cell line, as well as accompanying data regarding the tumor from which the cell line was derived. Investigators will be notified in writing by the Chordoma Foundation whether or not cell line(s) are selected for inclusion in the Collection. Upon validation, selection for inclusion in the Collection, execution of the Deposit Agreement and deposit of the cell line with ATCC, the Chordoma Foundation will issue an award letter and payment form offering an unrestricted prize for scientific and educational application in the amount of \$10,000 for the cell line deposited into the Collection.

2. ACCEPTANCE OF AWARD

A grantee indicates acceptance of an award and will become bound by the terms and conditions attached to the award notification letter by signing the award notification letter and depositing funds disbursed by the Chordoma Foundation. Each prize will be awarded on the terms and conditions outlined herein.

3. DISBURSEMENT POLICY

This prize is made to reward the creator of a chordoma cell line for contributing that cell line to the Chordoma Foundation Cell Line Collection at ATCC. The prize is made as an unrestricted award to the creator's institution to be used at the sole discretion of the creator for scientific and educational application. Payment to the creator's institution will be made by check unless otherwise requested by an authorized institutional official. Checks will be mailed to the "Fiscal Officer" address indicated on the payment form.

4. LIABILITY

Upon acceptance of this award, the creator and the creator's institution will indemnify and hold harmless the Chordoma Foundation, its Board, officers, agents, advisors and constituents from any claim, judgment, award, damage, settlement, liability, negligence or malpractice arising from research or investigation activities related to this award.

Intent to Submit Cell Lines for Inclusion in Chordoma Foundation Cell Line Collection

I have read and agree to the terms and conditions of the Chordoma Foundation Cell Line Collection (“Collection”) set forth in the Prize Announcement and intend to submit the cell line(s) named _____ **[insert names of cell lines]** to be considered for inclusion in this Collection. I will make these cell line(s) available to the Chordoma Foundation for the purposes of characterization and validation. I understand that data generated on my cell line(s) will be shared with me and with the Chordoma Foundation to serve as a basis for the decision whether to accept my cell line(s) for inclusion in the Collection. I understand that inclusion in the Collection is not guaranteed and is determined by the Chordoma Foundation Board of Directors based on the characterization of the cell line, the availability of funding, and other pertinent factors.

If my cell line(s) are selected for inclusion in the Collection, then, as a condition to my receipt of any corresponding award from the Chordoma Foundation, I will deposit my cell line(s) with ATCC under Deposit Agreement approved by the Chordoma Foundation to use, store and distribute this cell line(s) for all research and development purposes.

Name _____

Job Title _____

Organization _____

Address _____

Telephone # _____

Email Address _____

Investigator’s Full Name (typed)

Signature

Date



ATCC MATERIAL DEPOSIT AGREEMENT

This material deposit agreement (the "**Agreement**") effective as of the date of the last signature to the Agreement ("**Effective Date**") is by and between the **American Type Culture Collection**, District of Columbia not-for-profit corporation, having its principal place of business at 10801 University Boulevard, Manassas, Virginia 20110-2209 ("**ATCC**"); and **[Institution]**, with offices at **INSERT ADDRESS** ("**Depositor**") (each a "**Party**," and collectively, the "**Parties**").

Background

Depositor desires to deposit, and ATCC desires to accept, certain biological material upon the terms and conditions of this Agreement, for the common purpose of advancing scientific knowledge and ensuring broad access and availability in and to such material to the global scientific community.

Agreement

For good and valuable consideration and the following mutual promises, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the following terms and conditions and hereby enter into this Agreement, intending to be legally bound:

1. Definitions.

- (A) "**Accession**" means the evaluation, characterization, authentication, preservation, optimization, use, modification, derivation and/or reproduction of biological materials.
- (B) "**ATCC Commercial License**" means a separate license between ATCC and a Third Party that governs the commercial use of ATCC Material by such Third Party and its sublicensees. For purposes of this definition, "commercial use" shall have the meaning that is set forth in the MTA, as may be amended from time to time.
- (C) "**ATCC/Foundation Agreement**" means a certain agreement between ATCC and the Foundation dated on or about 2/3/2012.
- (D) "**ATCC Licensing Income**" means all applicable fees, royalties or other monetary payments received by ATCC as consideration made pursuant to an ATCC Commercial License; *provided, however*, that where an ATCC Commercial License governs the use of more than one (1) ATCC Material, such ATCC Licensing Income shall be calculated by multiplying the gross revenues received by ATCC under such license by the fraction A/B, where "A" is the number of ATCC Materials defined in Section 1(D)(1) only that are subject to the ATCC Commercial License, and "B" is the total number of ATCC Materials that are governed by such license. For sake of clarification, ATCC Licensing Income shall not include Relevant Catalog Sales.
- (E) "**ATCC Material(s)**" means:
 - (1) in the case of the Deposit Material, any biological material that is produced from, derived by or results from Deposit Material that is Accessioned by ATCC; or
 - (2) in all other cases, any biological material in which ATCC has the right to Accession, make, use, license, market and/or Distribute for a Fee. By way of non-limiting example, this may include biological material that ATCC received from Depositor or Third Parties and has obtained rights to under a separate agreement.

As used herein, the term "**ATCC Material(s)**" shall be construed strictly in accordance with this Agreement, and the term shall not be interpreted to mean that any rights in or to the Deposit Material are granted to ATCC beyond the scope of this Agreement.

- (F) "**Deposit Material(s)**" means the tangible biological materials described in Exhibit A that Depositor deposits with ATCC pursuant to the terms and conditions of this Agreement. Subsequent to the Effective Date, the Parties may make changes to Exhibit A only by entering into a written amendment.
- (G) "**Depositor Commercial License**" means a separate license between Depositor and a Third Party that governs the commercial use of ATCC Material by such Third Party and its sublicensees. For purposes of this definition, "commercial use" shall be determined in the sole discretion of Depositor.
- (H) "**Depositor Licensing Income**" means all applicable fees, royalties or other monetary payments received by Depositor as consideration made pursuant to a Depositor Commercial License; *provided, however*, that where a Depositor Commercial License governs the use of more than one (1) ATCC Material and/or non-ATCC Accessioned biological materials, such Depositor Licensing Income shall be calculated by multiplying the gross revenues received by Depositor under such license by the fraction A/B, where "A" is the number of ATCC Materials defined in Section

1(D)(1) only that are subject to the Depository Commercial License, and "B" is the total number of biological materials that are governed by such license but are not Accessioned by ATCC or subject of this Agreement.

- (I) "**Distribution/Distribute for a Fee**" means any transaction that transfers or exchanges to an arm's-length Third Party, for value, services and/or the right of physical possession and use of ATCC Material, subject to the terms and conditions of the MTA or a distribution agreement, as the case may be.
- (J) "**Foundation**" means the **Chordoma Foundation**, a not-for-profit organization, with an address at 512 S. Mangum St., Durham, NC 27701.
- (K) "**Institutional Review Board**" means a review board or committee that is established in accordance with and for the purposes expressed in Title 45, Code of Federal Regulations, Part 46.
- (L) "**Material Transfer Agreement**" or "**MTA**" means the ATCC Material Transfer Agreement, including applicable addenda, as may be amended from time to time by ATCC, as provided to ATCC customers in the course of its business. Notwithstanding the foregoing, wherever there is any conflict between any provision of the MTA and this Agreement, this Agreement shall prevail. A copy of the MTA which is in force as of the Effective Date is included as a reference in Exhibit B of this Agreement.
- (M) "**Relevant Catalog Sales**" means all revenues in any form received by ATCC from the Distribution for a Fee of ATCC products and services from its general catalog; *provided, however*, that such products and services are derived or produced from ATCC Material as defined under Section 1(D)(1); less the following items, but only insofar as they actually pertain to the disposition of such products and services by ATCC, are included in such gross revenue, and are separately billed:
 - (1) credits for returns, allowances or trades, actually granted for spoiled, damaged, outdated or returned goods;
 - (2) import, export, excise, sales, value added and use taxes, custom duties and other government charges (other than taxes based solely on income) imposed with respect to the Distribution for a Fee;
 - (3) trade discounts customarily and actually allowed; and
 - (4) freight, packing, transit insurance and transportation costs to the extent separately invoiced.For sake of clarification, Relevant Catalog Sales shall not include ATCC Licensing Income.
- (N) "**Third Party**" means any person or entity that is not a Party to this Agreement.

2. Chordoma Foundation. Depositor understands, acknowledges and agrees to the following:

- (A) In ATCC's catalog and/or through ATCC's customer service representatives, ATCC will identify Foundation as a contributor to the Deposit Materials, and provide to purchasers of the Deposit Materials information regarding the Foundation and its mission as well as guidelines for acknowledgement of Foundation in research, academic or scholarly publications and in patent applications that reference the Deposit Material;
- (B) ATCC will ensure that each MTA for the Deposit Materials provides Foundation with the benefit of all rights, disclaimers, indemnities, Third Party assumptions of risk and other protections to which any organizations, entities or individuals providing material to ATCC for deposit are entitled thereunder;
- (C) Foundation is expressly identified as a third party beneficiary of this Agreement, and Depositor expressly agrees that Foundation shall have the right, as a third party beneficiary, to enforce all applicable terms, conditions, obligations and other restrictions of the rights granted by Depositor to ATCC under this Agreement against Depositor;
- (D) Beginning March 1, 2013 and every six (6) months thereafter for the term of the ATCC/Foundation Agreement, ATCC will submit to Foundation the names of the purchasers of the Deposit Material;
- (E) ATCC will provide to Foundation, upon reasonable request, available records related to the Accessioning, manufacture, preservation, storage and handling of the Deposit Materials;
- (F) ATCC will supply a copy of this Agreement to the Foundation. ATCC is not permitted to modify or amend this Agreement without the prior written consent of the Foundation;
- (G) Foundation and its representatives or agents shall treat as Confidential Information all information concerning Deposit Agreements, purchaser information, customer lists, reports, and all information learned in the course of any notification under this Section, except to the extent necessary for Foundation to reveal such information in order to enforce its rights under the ATCC/Foundation Agreement or as may be required by law; and
- (H) As it pertains to Foundation, wherever there is any conflict between any provision of this Agreement and the ATCC/Foundation Agreement, then the ATCC/Foundation Agreement shall prevail.

3. Minimum Requirements for Samples of Deposit Material; Distribution of ATCC Materials

- (A) Depositor understands and agrees that in order for Deposit Material to be subject to this Agreement, samples of the Deposit Material received by ATCC must be **in accordance with ATCC's quality assurance and quality control standards**, unless otherwise agreed to in writing. Depositor further agrees to provide additional samples of Deposit Material from time to time at the request of ATCC in order for ATCC to maintain its cultures, to the extent that Depositor, in its sole discretion, determines that such additional samples are available.
- (B) Depositor agrees to provide on Exhibit A the name and contact information of the principal investigator(s) associated with each Deposit Material. For sake of clarification, the Parties understand and agree that any principal investigators named on Exhibit A are not a Party to this Agreement. However, such principal investigators shall sign the applicable section of Exhibit A for the purpose of acknowledging his or her knowledge and understanding of this Agreement.
- (C) ATCC agrees to Accession the Deposit Material and to market, license and Distribute for a Fee ATCC Material in compliance with this Agreement and its vision, mission and criteria, as determined in its sole and absolute discretion.

4. Rights Granted; Limitation. For clarification, at a minimum, this Agreement requires Depositor to grant ATCC the rights provided in Section 4(A) below, in all of the Deposit Materials. This allows ATCC to Distribute ATCC Materials to its customers for research purposes. However, the rights granted in Sections 4(B) and 4(C) relate to distribution of ATCC Material for commercial use (as opposed to research use), and are granted at Depositor's option.

- (A) License grant to ATCC. Subject to the terms and conditions of this Agreement, in consideration of the payments due herein, as well as other obligations undertaken by the Parties under this Agreement, Depositor hereby grants to ATCC, and ATCC hereby accepts, a non-exclusive, worldwide, perpetual, sublicensable right and license to Accession any and all Deposit Materials, and to develop, make, manufacture, use, market and Distribute for a Fee any ATCC Material and/or services derived therefrom, to Third Parties; *provided however*, that purchasers of such ATCC Material and/or services are required to enter into an MTA.

In consideration of the rights granted in this Section 4(A), ATCC will owe payments to Depositor in accordance with Section 5(A)(1), below.

- (B) ATCC Commercial Licenses. With respect to the Deposit Materials listed under Section 1 in Exhibit A, as may be amended from time to time, ATCC shall have the right (but not the obligation) to negotiate, enter into and perform **ATCC Commercial Licenses with Third Parties, the terms and conditions of which shall be in ATCC's sole and absolute discretion; *provided, however***, that:
 - (1) ATCC shall require that such Third Party licensees indemnify Depositor in connection with their (or their sublicensees') use of the ATCC Material under such license; and
 - (2) ATCC shall provide to Depositor an annual report as described in Exhibit C for all ATCC Commercial License(s) on or before ninety (90) days from the start of the successive calendar year.

For clarification, the rights outlined in this Section 4(B) shall be granted at Depositor's option, and if granted, shall be in addition to the rights granted to ATCC in Section 4(A) immediately preceding. In order for Depositor to exercise this option, Depositor will reference the Deposit Materials under Section 1 of Exhibit A.

In consideration of the rights granted in this Section 4(B), ATCC will owe payments to Depositor in accordance with Section 5(A)(2), below.

- (C) "Grant-back rights" to Depositor; Depositor Commercial Licenses. With respect to the Deposit Materials listed under Section 2 in Exhibit A, as may be amended from time to time, ATCC shall have no right to negotiate, enter into, or perform an ATCC Commercial License pursuant to Section 4(B). In addition, the Parties shall have the following obligations:
 - (1) in instances where Third Parties contact ATCC for information about potential commercial use of the ATCC Material under the terms of the MTA, ATCC shall provide such Third Parties with the contact information of Depositor and instruct them to contact Depositor directly;
 - (2) **thereafter, it shall be Depositor's sole responsibility to negotiate, enter into, perform and enforce any Depositor Commercial License relating to or resulting from such referral;**
 - (3) upon reasonable request, and subject to a separate nondisclosure agreement between ATCC and Third Party licensees of Depositor Commercial Licenses, ATCC will provide to Third Party licensees the records in possession of ATCC relating to the history and traceability of the ATCC Materials, including but not limited to passage history, certificates of analysis and quality control testing data;
 - (4) **Depositor shall require that Third Party licensees indemnify ATCC in connection with their (or their sublicensees') use of the ATCC Material under a Depositor Commercial License; and**
 - (5) Depositor shall provide to ATCC an annual report as described in Exhibit C for all Depositor Commercial License(s) on or before ninety (90) days from the start of the successive calendar year.

For clarification, the rights outlined in this Section 4(C) shall be **granted at Depositor's option, and if granted, shall be** in addition to the rights granted to ATCC in Section 4(A), above. In order for Depositor to exercise this option, Depositor will reference the Deposit Materials under Section 2 of Exhibit A.

In consideration of the rights granted in this Section 4(C), Depositor will owe payments to ATCC in accordance with Section 5(B), below.

- (D) The Parties understand, acknowledge and agree that the licenses granted in this Section 4 are limited to the rights granted herein. For other uses of Deposit Materials and ATCC Materials, the Parties shall have no additional rights except for any incidental rights which may be necessary for them to fulfill their obligations under this Agreement.

5. Consideration. Subject to the terms and conditions of this Agreement, and in consideration of the rights granted herein, the Parties agree to make payments in accordance with each of the following provisions:

(A) Payments due to Depositor.

(1) With respect to each ATCC Material in which ATCC is granted rights under Section 4(A), beginning in the year in which the applicable ATCC Material is first Distributed for a Fee by ATCC and continuing until this Agreement is terminated, ATCC shall pay to Depositor an earned annual royalty at the rate of five percent (5%) of the Relevant Catalog Sales; *provided, however*, that on an annual basis, ATCC earns a minimum of twenty thousand dollars (\$US 20,000) in Relevant Catalog Sales from each such ATCC Material. For clarification, no royalty payment shall be due to Depositor for any year in which Relevant Catalog Sales does not achieve a minimum of twenty thousand dollars (\$US 20,000).

(2) With respect to each ATCC Material in which ATCC is granted rights under Section 4(B), beginning in the year in which ATCC enters into an ATCC Commercial License and continuing until this Agreement is terminated, ATCC shall pay Depositor an earned annual royalty at the rate of ten percent (10%) of the ATCC Licensing Income.

- (B) Payments due to ATCC. With respect to each ATCC Material that is subject to Section 4(C), beginning in the year in which Depositor enters into a Depositor Commercial License and continuing until this Agreement is terminated, Depositor shall pay to ATCC an earned annual royalty at the rate of twenty percent (20%) of the Depositor Licensing Income.

- (C) Annual payments due under this Section 5 shall be made on or before ninety (90) days from the start of the successive calendar year. For example, royalties due to Depositor from 2012 Relevant Catalog Sales will be paid by ATCC to Depositor before March 31, 2013.

6. Representations; Limitations on Liability.

- (A) When applicable, Depositor represents that Deposit Material shall satisfy all requirements of its Institutional Review Board and all applicable laws and regulations. A copy of the pertinent approval documentation from Depositor's Institutional Review Board, if any, shall be provided to ATCC by Depositor, upon request.

- (B) Each Party represents to the other that it has the full right and authority to enter into and perform this Agreement and, with respect to Depositor, to deposit the Deposit Material and grant the rights hereunder, and that it is not aware of any impediment which would inhibit its ability to perform the terms and conditions imposed upon it by this Agreement; and that it will not execute any agreement conflicting with this Agreement.

- (C) Except as expressly provided herein, Deposit Material and ATCC Material is and shall be provided as-is, without warranties of any kind, express or implied, including but not limited to any implied warranties of merchantability, fitness for a particular purpose, typicality, safety, accuracy and/or non-infringement. There are no representations by any Party that the use and/or distribution of ATCC Material will not infringe any patent, copyright, trademark or other proprietary right.

- (D) Each Party shall be responsible for its compliance with all applicable foreign and domestic, federal, state and local statutes, ordinances, regulations and guidelines related to this Agreement and its obligations hereunder.

- (E) In no event will either Party be liable for any indirect, special, incidental or consequential damages of any kind in connection with or arising out of this Agreement and ATCC Materials (whether in contract, tort, negligence, strict liability, statute or otherwise) even if the Party has been advised of the possibility of such damages. In no event shall **either Party's cumulative liability exceed the fees paid by ATCC under this Agreement for the twelve (12) month period** preceding the date of the event giving rise to a claim. Each Party hereby agrees that the limitations of liability set forth in this Agreement shall apply even if a limited remedy provided hereunder fails of its essential purpose.

7. Term; Termination.

- (A) The term for this Agreement shall begin on the Effective Date and continue until terminated pursuant to Section 7B.

Exhibit A:
List of Deposit Materials

To exercise the Depositor's "commercial use" options under Section 4 of the Agreement, Depositor will reference the Deposit Materials under the Sections that follow:

Section 1: List of Deposit Materials that are subject to ATCC Commercial License rights:

The following Deposit Materials are deposited, subject to Section 4(B) of the Agreement:

PLEASE INDICATE

Section 2: List of Deposit Materials that are subject to Depositor Commercial License rights:

The following Deposit Materials are deposited, subject to Section 4(C) of the Agreement:

PLEASE INDICATE

Exhibit B:
Reference to ATCC Material Transfer Agreement

MATERIAL TRANSFER AGREEMENT ("MTA")

Last updated: November 15, 2011



IMPORTANT! PLEASE READ CAREFULLY BEFORE SUBMITTING AN ORDER. THIS IS A CONTRACT.

This Material Transfer Agreement ("MTA") is between the _____, a _____ type organization, having its principal place of business at _____ ("Purchaser") and the American Type Culture Collection, a District of Columbia not-for-profit corporation, having its principal place of business at 10801 University Boulevard, Manassas, VA 20110-2209 ("ATCC"). Purchaser must have an approved, current ATCC account to place an order. This MTA is effective as of the last date of execution by the parties and governs the purchase and use of all Biological Materials under the terms and conditions set forth below.

TERMS AND CONDITIONS

Definitions

"ATCC Material" means any materials acquired from ATCC by Purchaser as described on an ATCC Sales Order.

"ATCC Sales Order" means an order submitted for ATCC Material in a form and format as determined by ATCC from time to time.

"Biological Material(s)" means any ATCC Material, any Progeny, any Unmodified Derivatives and any of the foregoing materials contained or incorporated in Modifications.

"CAR" means ATCC's Customer Acceptance of Responsibility for Potentially Highly Pathogenic Biological Materials Form.

"Commercial Use" means the sale, license, lease, export, transfer or other distribution of the Biological Materials to a person or entity not party to this MTA for financial gain or other commercial purposes and/or the use of the Biological Material: (a) to provide a service to a person or entity not party to this MTA for financial gain; (b) to produce or manufacture products for general sale or products for use in the manufacture of products ultimately intended for general sale; or (c) in connection with proficiency testing service(s), including but not limited to, providing the service of determining laboratory performance by means of comparing and evaluating calibrations or tests on the same or similar items or materials in accordance with predetermined conditions.

"Contributor(s)" means any organization(s), entity(ies) and/or individual(s) providing technology and/or patent rights related to the ATCC Material, or original material to ATCC for deposit.

"CRO" means a third-party entity performing research under contract for Purchaser.

"Industry Sponsored Academic Research" means research sponsored by a for-profit organization carried out at a non-profit organization and by the non-profit organization's employees.

"Investigator" means the individual principal scientist or researcher, who is referenced on the applicable ATCC Sales Order, employed or retained by Purchaser and using the Biological Material(s) and for whom the related ATCC Material was obtained by Purchaser, as well as his or her individual assistants for receipt of ATCC Material as employed or retained by Purchaser and referenced on the applicable ATCC Sales Order. For the avoidance of doubt, Investigator specifically does NOT include any multi-user biological material core facility or repository or any individual employed or retained thereby (in a capacity including the use of the Biological Material). ATCC Material may not be transferred to any multi-user biological material core facility or repository or any such individual.

"Modification(s)" means any substance that contains and/or incorporates a significant or substantial portion of ATCC Material, its Progeny or Unmodified Derivatives. By way of nonlimiting example, Modifications include ATCC Material that has been transfected with a reporter gene, induced pluripotent stem cells and mesenchymal stem cells that were derived from ATCC Material.

"Progeny" means an unmodified descendant from ATCC Material, such as virus from virus, cell from cell, or organism from organism.

"Purchaser(s)" means the organization purchasing and receiving ATCC Material pursuant to the ATCC Sales Order and this MTA.

"Transferee" means an employee or contractor that is a principal scientist or researcher at another organization or at Purchaser's organization. For the avoidance of doubt, Transferee specifically does NOT include any multi-user biological material core facilities or repositories to allow for the creation and provision of standardized reference materials derived from Biological Materials.

"Trademarks" means all trade name, trademark and service mark rights, whether registered or not, now owned or hereafter acquired, and the entire goodwill of the business of ATCC connected with and symbolized by such marks, including, without limitation, ATCC[®], ATCC catalog marks, and ATCC Licensed Derivative[®].

"Unmodified Derivative(s)" means substances created by Purchaser which constitute an unmodified functional subunit or product expressed by ATCC Material. By way of nonlimiting example, Unmodified Derivatives include: purified or

fractionated subsets of the ATCC Material, proteins expressed by DNA/RNA supplied by ATCC or monoclonal antibodies secreted by a hybridoma cell line.

Scope of Use

ATCC Material and Progeny: ATCC Material and Progeny may only be used by Purchaser's Investigator for research purposes and only in Investigator's laboratory.

Modifications and Unmodified Derivatives: Purchaser's Investigator may make, use and transfer Modifications and Unmodified Derivatives only as follows:

- Purchaser's Investigator's Non-Commercial Use Research Project. Modifications and Unmodified Derivatives may only be made and used by Purchaser's Investigator for his/her research project(s) in Purchaser's Investigator's laboratory. Except as provided below Purchaser may only transfer such Modifications and Unmodified Derivatives, subject to any Contributor rights and CAR restrictions, to CROs and only for purposes related to Purchaser's Investigator's research project, and any such CRO must agree to be bound by the terms and conditions of this MTA as if a Purchaser hereunder and to not further transfer such materials. No subsequent transfer or Commercial Use of such materials is permitted without ATCC's written permission. Upon completion of any contracted research, Purchaser shall require CRO to either destroy materials or return them to Purchaser's Investigator.
- Non-Commercial Use Collaborative Research Project. Except as provided above Purchaser may only transfer Modifications and Unmodified Derivatives, subject to any Contributor rights and CAR restrictions, to Transferee(s) in Purchaser's Investigator's collaborative research project, so long as such Transferees agree to be bound by the terms and conditions of this MTA as if a Purchaser hereunder and to not further transfer such materials. For purposes of clarity, collaborative research project(s) shall not include any Commercial Use. No subsequent transfer of such materials is permitted without ATCC's written permission. Upon completion of any collaborative research project, the Purchaser shall require Transferee to either destroy such materials or return them to Purchaser's Investigator. Collaborative research projects include, but are not limited to Industry Sponsored Academic Research but permitted use hereunder extends only to basic and discovery research related to, directly under, or in direct collaboration with Purchaser's Investigator's research project. If parties working on a collaborative research project need to obtain Progeny, they should obtain ATCC Material directly, as ATCC Material and Progeny may not be transferred.

If such materials are transferred, Purchaser agrees to provide written notice to ATCC of any such transfer within a reasonable period after such transfer following the instructions available at: www.atcc.org/transfer so that ATCC may maintain a chain of custody of such material. Purchaser assumes all risk and responsibility in connection with the transfer of such materials.

Except as specifically provided in this section, Purchaser shall not distribute, sell, lend or otherwise make available or transfer to a person other than the Purchaser's Investigator or an entity not party to this MTA, the Biological Material, as defined above, for any reason, without ATCC's prior written agreement. Purchaser assumes all risk and responsibility in connection with the receipt, handling, storage, disposal, transfer, and Purchaser's and its Transferees' use of, the Biological Materials including without limitation taking all appropriate safety and handling precautions to minimize health or environmental risk.

Any Commercial Use of the Biological Material is strictly prohibited without ATCC's prior written consent. Purchaser acknowledges and agrees that Purchaser's use of certain Biological Material may require a license from a person or entity not party to this MTA, or be subject to restrictions that may be imposed by a person or entity not party to this MTA ("Third Party Terms"). To the extent of ATCC's knowledge of the existence of any such applicable rights or restrictions, ATCC will take reasonable steps to identify the same, either in ATCC's catalog of ATCC Material and/or through ATCC's customer service representatives, and to the extent they are in the possession of ATCC, ATCC shall make information regarding such Third Party Terms reasonably available for review by Purchaser upon request. Purchaser expressly acknowledges that if there is a conflict between this MTA and the Third Party Terms, the Third Party Terms shall govern. Use of the Biological Materials may be subject to the intellectual property rights of a person or entity not party to this MTA, the existence of which rights may or may not be identified in the ATCC catalog or website, and ATCC makes no representation or warranty regarding the existence or the validity of such rights. Purchaser shall have the sole responsibility for obtaining any intellectual property licenses necessitated by its possession and use of the Biological Materials.

The Biological Materials are not intended for use in humans. Purchaser agrees that Biological Materials designated as biosafety level 2 or 3 constitute known pathogens and that other Biological Materials not so designated may be pathogenic under certain conditions. Purchaser acknowledges that all purchases of ATCC Materials that are received under a CAR are governed by the terms and conditions of the CAR.

Identification of Modifications and Unmodified Derivatives in Transfers

Purchaser's Investigator shall assign and use its own naming scheme when transferring Modifications and Unmodified Derivatives to any Transferees and CROs. Purchaser's Investigator shall identify such Modifications and Unmodified Derivatives as having been tested or made using ATCC Material, and except as provided in the "Intellectual Property; Identification" section of this MTA, Purchaser's Investigator may not identify ATCC in any other context or otherwise use any ATCC Trademarks. By way of nonlimiting example, Purchaser may state that the Modification or Unmodified Derivative was tested or made using the ATCC Material identified with catalog number ATCC® (ATCC Catalog Number)™.

Warranty; Warranty Disclaimer

ATCC warrants that (a) cells and microorganisms included in the ATCC Material shall be viable upon initiation of culture for a period of thirty (30) days after shipment thereof from ATCC and (b) any ATCC Material other than cells and microorganisms shall meet the specifications on the applicable ATCC Material product information sheet, certificate of analysis, and/or catalog description until the expiration date on the applicable ATCC Material's product label (such thirty (30) day period, or period until the expiration date, referred to herein as the "Warranty Period"). Purchaser's exclusive remedy, and ATCC's sole liability, for breach of the warranties set forth in this paragraph is for ATCC to, at ATCC's sole option, either (i) refund the fee paid to ATCC for such ATCC Material (exclusive of shipping and handling charges), or (ii) replace the ATCC Material. The warranties set forth in this paragraph apply only if Purchaser handles and stores the ATCC Material as described in the applicable ATCC Material product information sheet. To obtain the exclusive remedy, Purchaser must report the lack of viability or non-conformance to specifications to ATCC's Technical Service Department within the applicable Warranty Period. Any expiration date specified on the ATCC Material shipment documentation states the expected remaining useful life, but does not constitute a warranty or extend any applicable Warranty Period. **Except as expressly provided above, the ATCC Material and any technical information and assistance provided by ATCC are provided as-is, without warranties of any kind, express or implied, including but not limited to any implied warranties of merchantability, fitness for a particular purpose, typicality, safety, accuracy and/or non-infringement.**

Compliance with Laws

Purchaser is solely responsible for, and shall ensure, compliance with all foreign and domestic, federal, state and local statutes, ordinances and regulations applicable to use of the Biological Material by Purchaser or its Transferees. Purchaser is solely responsible for obtaining all permits, licenses or other approvals required by any governmental authority in connection with Purchaser's and its Transferees' receipt, handling, storage, disposal, transfer and use of the Biological Materials. Without limiting the generality of the foregoing, any shipment of Biological Materials to countries outside the United States must comply with all applicable foreign and U.S. laws, including the U.S. export control laws and related regulations. Distribution by ATCC of Budapest Treaty patent deposits are made pursuant to, and in compliance with, all applicable laws and regulations, including the Budapest Treaty and related 37 C.F.R. provisions. If there is any conflict between the terms of this MTA and any applicable law or regulation with respect to ATCC Material that is supplied hereunder by ATCC from the stock of a Budapest Treaty deposit, then the terms of the applicable law or regulation shall govern.

Indemnification

If Purchaser is a Federal or State non-profit organization or foreign organization that is prohibited by law from entering into the indemnification obligation set forth in the subsequent paragraph:

Purchaser assumes all liability for any and all third party claims, losses, expenses and damages, including reasonable attorneys' fees (collectively "Claims") arising out of or relating to Purchaser's and its Transferees' use, receipt, handling, storage, transfer, disposal and other activities relating to Biological Materials, provided that Purchaser's liability shall be limited to the extent that any such Claim arises out of ATCC's gross negligence or willful misconduct, and provided further that if the Purchaser is the U.S. federal government or a state institution or a foreign equivalent organization such Purchaser assumes such liability only to the extent provided under the Federal Tort Claims Act, 28 U.S.C. §§ 2671 et seq. or under equivalent applicable State or foreign law.

If Purchaser is a for-profit organization or a private non-profit organization:

Purchaser hereby agrees to indemnify, defend and hold harmless ATCC and its Contributors against all third party claims, losses, expenses and damages, including reasonable attorneys' fees (collectively "Claims") arising out of or relating to Purchaser's and its Transferees' use, receipt, handling, storage, transfer, disposal and other activities relating to Biological Materials, provided that Purchaser's liability shall be limited to the extent that any such Claim arises out of ATCC's gross negligence or willful misconduct. All non-monetary settlements of any such Claims are subject to ATCC's prior written consent, such consent not to be unreasonably withheld.

Limitation of Liability

To the extent permitted by law, in no event will ATCC or its Contributors be liable for any indirect, special, incidental or consequential damages of any kind in connection with or arising out of the MTA or Biological Materials (whether in contract, tort, negligence, strict liability, statute or otherwise) even if ATCC has been advised of the possibility of such damages. In

no event shall ATCC's cumulative liability to the Purchaser exceed the fees paid by Purchaser under this MTA and the applicable ATCC Sales Order for the twelve (12) month period preceding the date of the event giving rise to the claim. Purchaser agrees that the limitations of liability set forth in this MTA shall apply even if a limited remedy provided hereunder fails of its essential purpose.

Intellectual Property; Identification

As between the parties, ATCC and/or its Contributors shall retain ownership of all right, title and interest in the Biological Materials. Purchaser retains ownership **of:** (a) Modifications (except that, as between the parties, ATCC retains ownership rights to ATCC Material incorporated therein) and (b) those substances created through the use of Biological Material, but which do not contain or constitute Biological Material. Notwithstanding the foregoing, Purchaser acknowledges and agrees that the Biological Material is subject to the restrictions noted in the "Scope of Use" section above. Purchaser agrees and shall ensure Transferee agrees to acknowledge ATCC and any Contributor indicated by ATCC as the source of the Biological Material in all research, academic or scholarly publications and in patent applications that reference the Biological Material. **If required by the Contributor of the ATCC Material, ATCC may inform the Contributor of Purchaser's identity.** Purchaser explicitly acknowledges that all Trademarks are the exclusive property of ATCC and Purchaser expressly agrees not to use the Trademarks without ATCC's prior written agreement.

Miscellaneous

Any disputes arising under this Agreement shall be tried exclusively in the United States District Court for the Eastern District of Virginia or if subject matter jurisdiction does not exist in that court, then in the state courts of Virginia for Prince William County, and Purchaser hereby expressly consents to, submits to and waives any objection to the jurisdiction of such courts. If Purchaser is a Federal or State non-profit organization **or a foreign public organization then** any disputes arising under this Agreement shall be tried exclusively in a court of competent jurisdiction.

Purchaser agrees that any breach of this Agreement, including but not limited to any breach of the scope of use provisions of this Agreement, will entitle ATCC to immediately cease without notice to Purchaser further shipments of ATCC Material and may create such irreparable injury as to entitle ATCC to seek temporary restraining orders and other preliminary or permanent injunctive relief in addition to all other equitable and legal remedies that may be afforded under US or foreign laws.

Purchaser may not assign or otherwise transfer this MTA or any rights or obligations under this MTA, whether by operation of law or otherwise. Any such attempted assignment or transfer will be void and of no force or effect. This MTA, including all documents incorporated herein by reference, constitutes the entire agreement between ATCC and Purchaser with respect to the Biological Material and supersedes all previous agreements or representations (whether written or oral) between ATCC and Purchaser relating to the same subject matter. This MTA may not be modified, waived or terminated except in writing and signed by the parties hereto. No term or provision contained herein shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the parties. If any provision of this MTA is for any reason found to be unenforceable, the remainder of this Agreement will continue in full force and effect. None of the provisions of this MTA are intended to create, nor shall be deemed or construed to create, any relationship between ATCC or Purchaser other than that of independent entities contracting with each other hereunder solely for the purpose of effecting the provisions of this MTA.

By signing below, the duly authorized representative of each party acknowledge that they have read and understood and agree to the terms and conditions set forth in this Material Transfer Agreement, as evidenced by their signatures below.

For ATCC

By: _____
Name: Matthew B. Klusas
Title: Director, Corporate Development
Date: _____

For PURCHASER

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

Any correspondence concerning the ATCC Material Transfer Agreement should be addressed to ATCC, Attention: Director, IP & Licensing, Corporate Development, P.O. Box 1549, Manassas, VA 20108, Phone: (703) 365-2700 or contact us at licensing@atcc.org

**Exhibit C:
Sample Royalty Report**

Licensee: [ATCC] or [Depositor]
 ATCC agreement number: 20XX-MDA-XXXX
 Effective date of agreement: XX/XX/XXXX
 Royalty period: January 1, 20XX – December 31, 20XX

PART A: Royalty Report for RELEVANT CATALOG SALES (to be completed by ATCC, if applicable)

Royalty Rate: 5%

ATCC Material	Quantity of ATCC Material Distributed for a Fee	Gross Revenues	Deductions (Explain)*	Net Revenue	Royalty Due
TOTAL ROYALTIES DUE:					

* Trade discount for international distributors.

PART B: Royalty Report for ATCC LICENSING INCOME (to be completed by ATCC, if applicable)

Royalty Rate: 10%

ATCC Material	Quantity of Licenses	Gross Revenues	Deductions (Explain)*	Net Revenue	Royalty Due
TOTAL ROYALTIES DUE:					

* Calculation for multiple ATCC Materials, per Section 1(C) of the Agreement.

PART C: Royalty Report for DEPOSITOR LICENSING INCOME (to be completed by Depositor, if applicable)

Royalty Rate: 20%

ATCC Material	Quantity of Licenses	Gross Revenues	Deductions (Explain)*	Net Revenue	Royalty Due
TOTAL ROYALTIES DUE:					

* Calculation for multiple biological materials, per Section 1(G) of the Agreement.