



## **2. PROVISION OF MATERIAL AND CONFIDENTIAL INFORMATION**

- 2.1. The Materials and any Intellectual Property subsisting in or in relation to them and any Derivatives developed or discovered by the Recipient in the course of the Research are the property of Access MQ.
- 2.2. Access MQ grants the Recipient a non-exclusive license to use the Materials for carrying out the Research. The Recipient must not use the Materials for any profit making or commercial purposes.
- 2.3. Access MQ grants the Recipient a non-exclusive licence to use any Derivatives for its own internal non-commercial purposes.

## **3. RIGHTS AND OBLIGATIONS OF THE ACCESS MQ**

### **3.1. Access MQ:**

- a) retains ownership of, and all rights in the Material and all Derivatives thereof and the Confidential Information and all copies thereof;
  - b) makes no representation and provides no warranty that the use of the Materials will not infringe any patent or other intellectual property right of any other person; and
  - c) will not be liable for any failure to perform its obligations under the Agreement where such failure is due to any cause beyond the reasonable control of Access MQ.
- 3.2. Nothing in this Agreement prevents Access MQ from exploiting the Materials or any other modifications or derivatives, distributing the Materials or any other modification or derivatives to any third party, including both profit and non-profit organizations.

## **4. OBLIGATIONS OF THE RECIPIENT**

The Recipient:

- a) will comply with all Federal, State and local laws and appropriate standards in relation to the use of the Materials including, but not limited to, animal welfare laws and regulations.
- b) must not use the Materials or Derivatives in any human body fluids, extracts of human tissues, human tissue in plant culture or human cells in cell culture or transfer, sell or otherwise distribute Materials or Derivatives, without the prior written consent of Access MQ;
- c) cannot assign its rights under this Agreement or disseminate or disclose the Materials or Derivatives without Access MQ's prior written consent;
- d) must not publish details or a description of the Materials or the results of the Research in any form without the written consent of Access MQ, not to be unreasonably withheld;
- e) must treat the Material as Confidential Information and restrict access to the Materials to those of its researchers who are directly involved in the Research and who are placed under an obligation to observe the terms of this Agreement;
- f) will at its own cost return or dispose of all remaining Materials as instructed by Access MQ and supply Access MQ with any reports, and outlines of any discoveries, results or comments in relation to the Research at the conclusion of the Research;
- g) indemnifies Access MQ and its trustees, officers, staff, students, contractors, representatives and agents against all loss, liability, damage, (whether to persons or property), costs and expenses (including without limitation legal expenses), claims, demands, suits or other actions arising out of the Recipient's acceptance, use and disposal of the Materials and publication of results arising from use of the Materials;
- h) acknowledges that the Materials are experimental in nature, and to the extent permitted by law, that Access MQ excludes all warranties, express or implied, including without limitation warranties of merchantability, fitness for a particular use, safety or quality in relation to the supply of the Materials.
- i) accepts sole responsibility and liability for the conduct of the Research and will use the Materials at its own risk and will obtain and maintain adequate insurance in respect of its use of the Material;

- j) will not use Macquarie University or Access MQ's name or logo without the prior written consent of Access MQ;
- k) must only use the Materials for the purposes of the Research and only to conduct experimental work in vitro or in animals, as necessary for the Research in the Recipient's laboratories located at the Recipient institution;
- l) will not use the Materials and Confidential Information in any other way, including in humans or for commercial purposes; and
- m) will notify Access MQ promptly of all Results and also provide Access MQ with regular reports on the progress of work undertaken using the Material and/or Confidential Information.

## 5. MUTUAL OBLIGATIONS

- 5.1. Each party will treat the terms of this Agreement and all Confidential Information owned by the other party as Confidential. Each party's obligations of Confidentiality will survive expiration or termination of this Agreement and will continue until the Confidential Information disclosed to it lawfully becomes part of the public domain.
- 5.2. If a dispute (the "**Dispute**") arises between the parties, they must negotiate in good faith to resolve the Dispute before initiating proceedings in a Court. The Dispute will be referred to, in the case of Access MQ, its chief executive officer or their nominees and, in the case of the Recipient, its chief executive officer, or their nominees. Nothing in this clause will prevent a party from seeking interlocutory relief through courts of appropriate jurisdiction.
- 5.3. Any failure by a party to compel performance by the other party of any of the terms and conditions of this Agreement will not constitute a waiver of those terms or conditions or diminish rights arising from their breach.
- 5.4. This Agreement may only be amended in writing, signed by both parties. If any provision of this Agreement is invalid or unenforceable, it shall be deemed deleted but the remaining provisions of this Agreement shall remain in full force and effect.
- 5.5. A party may terminate this Agreement if the other party is in default of the terms and conditions of this Agreement and fails to take action to remedy the default within 30 days after written notice from the requiring the remedy of the default.
- 5.6. Any Notice given under this Agreement: must be in writing and signed by a person duly authorised by the sender and must either be by post, by hand or fax to the address at the front of this Agreement or the address or fax number last notified by the intended recipient to the sender. Depending on the method of sending the Notice, a Notice will be deemed given when delivered or after three (3) Business Days if posted locally, or ten (10) Business days if posted internationally. A Notice sent by fax is given on receipt of a transmission control report from the despatching machine.
- 5.7. This Agreement contains the whole of the agreement between Access MQ and the Recipient regarding the Material.
- 5.8. This Agreement may be executed in counterparts and by each party sending its executed counterpart by facsimile transmission to the other party's fax number. For evidentiary purposes only, each party must deliver or send by post its original executed counterpart to the other party as soon as practicable after execution.
- 5.9. This Agreement is governed by the laws of the State of New South Wales, Australia and the parties submit to the exclusive jurisdiction of the New South Wales courts.

**EXECUTED** as an Agreement this ..... day of .....20

SIGNED for and on behalf of

SIGNED for and on behalf of

**Access Macquarie Limited**

**The Recipient**

Signature:

Signature:

Name:

Name:

Capacity:

Capacity:

