

**AGREEMENT FOR THE PROVIDING OF COMPOUNDS TO
THE SCREENING LIBRARY “DK OPENSREEN”
(PMTA)**

between

Technical University of Denmark

Department of Chemistry

Anker Engelunds Vej 1

DK-2800 Kgs. Lyngby, Denmark

CVR. No. 30 06 09 46

(hereinafter referred to as “” or “Library Hosting Site”)

and

[Provider’s name]

[Address]

[Postal code, city, country]

Business Registration No. [XX]

(hereinafter referred to as "Provider")

(each hereinafter individually referred to as "Party" and jointly as "Parties")

DK-OPENSREEN is a national platform for research within chemical biology. DK-OPENSREEN was established by the Technical University of Denmark, University of Copenhagen, Aalborg University and Aarhus University.

The DK-OPENSREEN consortium provides expertise in the field of chemical biology including a platform for storage, quality control and distribution of potentially bioactive organic compounds (screening compounds) for (inter)national research groups with the aim to strengthen research in chemical biology.

The infrastructure is hosted by the above partners and the Compound collection used for screening within the DK-OPENSREEN consortium is handled and distributed by the Library Hosting Site.

The purpose of this PMTA is to set forth the rights and obligations of the Parties in connection with the transfer of such Compounds from the Provider to the Library Hosting Site for the purpose of inclusion of such Compounds in the Library.

This PMTA consists of the below mentioned section A to section D, describing the characteristics of this PMTA and the Standard Terms and Conditions included as **Annex 1**.

SECTION A – RECEIPT OF THE COMPOUNDS

Each Compound delivered for inclusion in the Library by the Provider will be accompanied by a unique set of Characterization Data and an identifier to track Compound identity and ownership. The Library Hosting Site is responsible for storing this information electronically. The Provider shall inform the Library Hosting Site of any special requirements relating to the handling and storage of the Compound(s) and whether or not the Compound(s) and Characterization Data are subject to confidentiality obligations.

SECTION B – PERMITTED USE

The Compound(s) is/are provided by the Provider for the purpose of storage and maintenance in the Library making the Compound(s) accessible for distribution to any User who desires to use the Compound(s) for non-commercial scientific research.

The Library Hosting Site will format the Compounds and add them into the Library. Compounds within the Library will be accessible for any User for the purpose of screening in a Biological Assay. Screening may take place at different Screening Sites operated by the DK-OPENSREEN consortium.

Any distribution expressly excludes any Characterization Data applicable to the Compounds with the exception of the molecular weight. The Library Hosting Site will not publish Characterization Data, except as provided below in this SECTION B – PERMITTED USE or with the Provider's prior written consent.

If requested by the User, a Compound will be screened by a Screening Site, who carries out Biological Assays. The User is required to inform the Library Host of the identity of all Hits no later than thirty (30) calendar days after such Hits have been identified. The Library Hosting Site shall inform the Provider of Hits so identified for the purpose of enabling the Provider and the User and the Screening Site, if a Screening Site has been used for biological testing, to pursue protection and/or publication of the scientific data as well as further scientific collaboration. Such information shall be provided to the Provider, the User and the Screening Site, if any, no later than thirty (30) calendar days after the Library Hosting Site has received notice of Hit(s).

Any intellectual property rights in relation to Hit(s) discovered or obtained by the biological screening shall be owned by the User, the Provider and the Screening Site, if any, according to intellectual contribution. Protection of intellectual property rights shall be agreed upon jointly by the User, the Provider and the Screening Site. Provided that the User, the Provider or the Screening Site, if any, do not agree to pursue protection of intellectual property rights within 90 (ninety) calendar days, the remaining parties are free to publish the results of the screening. In the event that the Provider waives the right to pursue further cooperation or publication with the User and/or the Screening Site, if any, either actively in writing or if no response has been received from the Provider within ninety (90) calendar days after written notice has been sent by the Library Hosting Site to the Provider, the User and/or the Screening Site, if any, has a right to pursue non-commercial scientific research alone or in cooperation with other parties.

In addition, the Library Hosting Site and the Screening Site, if any, shall be entitled to publish the results of the screening and the Compounds' Characterization Data after such ninety (90) days have lapsed, in which event the duty of confidentiality applying to such Compound and Characterization Data shall lapse. The Library Hosting Site provides the Characterization Data for publication.

The Library Hosting Site is in any event entitled to publish Metadata resulting from the use of the Library or any part hereof.

SECTION C – PROVIDER

[Name], [Title], [Place]

SECTION D – AMENDMENTS TO THE TERMS AND CONDITIONS

The Provider and the Library Hosting Site agree that the following amendments to the Terms and Conditions of this Agreement shall apply:

[Not Applicable – Any amendments needs to be approved by Legal and Contracts, DTU]

SIGNATURES

This Agreement shall be signed by the authorized signatories of each Party.

On behalf of Library Hosting Site

Place:

[Date]

On behalf of Provider

Place:

[Date]

[Name, title]

[Name, title]

STANDARD TERMS AND CONDITIONS

1. Definitions

Biological Assay shall mean any means of obtaining information about a Compound's bioactivity in a high-throughput format. A Biological Assay may have been pre-established by a Screening Site, developed independently by a User, or developed jointly by a Screening Site and a User.

Characterization Data shall mean information pertaining to a Compound's chemical composition, structure, SMILES string and analytical data (e.g. NMR, MS, melting point).

Compound shall mean a single chemical entity in the form of a physical sample (e.g. solids, liquids, oils, powders, solutions) which becomes a part of the Library.

Hit shall mean a Compound identified in a biological assay as having a desired biological effect above a threshold defined for each individual assay.

Library shall mean the collection of Compounds, including relevant Characterization Data about such Compounds hosted by the Library Hosting Site under DK-OPENSREEN.

Library Hosting Site shall mean a Party under DK-OPENSREEN responsible for the collection and distribution of Compounds to Screening Sites and Users.

Metadata shall mean data pertaining to a collection of compounds and their physical/chemical properties including biological information. Metadata specifically exclude Characterization Data for single Compounds.

Permitted Use shall mean the use of Compounds for non-commercial scientific research within the scope of DK-OPENSREEN, including storage and maintenance of Compounds in the Library. Permitted Use is further described in Section B.

PMTA shall mean this Provider's Material Transfer Agreement including annex(es) applying to the transfer of Compounds into the Library from the Provider.

Provider shall mean the provider of Compounds to DK-OPENSREEN, who created, discovered or procured the Compounds. The Provider has been identified in the introduction of the PMTA.

Screening Site shall mean a facility for carrying out Biological Assays, operated by the DK-OPENSREEN consortium.

User shall mean a consortium member of the DK-OPENSREEN and/or a third party with whom DK-OPENSREEN is cooperating and which carries out biological testing of Compound(s) from the DK-OPENSREEN Library or uses the Screening Sites for biological testing of Compounds.

2. Ownership of the Library and Compounds and Provider's representations

- 2.1. The Compounds, including any intellectual property rights contained herein shall remain the property of the Provider. Nothing in this Agreement shall restrict Provider's rights of ownership, including distribution of the Compounds for commercial or non-commercial purposes except as set forth in this PMTA.
- 2.2. Provider represents that the Compounds have been collected and/or produced in accordance with all applicable laws, regulations and consents (as applicable) and that Provider has title to the Compounds transferred as well as the authority to transfer the Compounds to the Library Hosting Site under this PMTA.

3. Use of the Library and Compounds

- 3.1. Subject to the conditions of this PMTA, the Provider grants to the Library Hosting Site a limited, non-exclusive license to use the Compound(s) transferred to the Library for non-commercial scientific research within the Permitted Use and to extend this right to Users subject to the terms and conditions set forth herein.

- 3.2. The Compounds shall at all times be used in compliance with all applicable laws, guidelines and regulations including, but not limited to, laws and regulations pertaining to import, export and environment.
- 3.3. The Library Hosting Site shall limit access to the Library to those of its staff who need access to the Library or any part hereof for the Permitted Use, and shall secure that any such person with access to the Library or any part hereof comply with this PMTA.
- 3.4. Any use of the Compounds in the Library by the Library Hosting Site for other purposes than the Permitted Use requires the prior written consent of the Provider. Provider agrees, in advance of such use, to negotiate in good faith an agreement for any additional use of the Compounds, however any additional use shall be at the absolute discretion of the Provider and subject to such terms and conditions as may be agreed between the Provider and the Library Hosting Site.
- 3.5. Any distribution of any Compound by the Library Hosting Site for purposes outside the Permitted Use requires the prior written consent of the Provider.
- 3.6. The Library Hosting Site shall ensure that any User undertakes to comply with all the relevant applicable obligations of this PMTA and that any agreement or arrangement with any such User shall be made in writing and expressly subject to the terms and conditions of this PMTA.
- 3.7. The Library Hosting Site agrees to refer to the Provider any request for details from a User, including a Compound's Characterization Data.

4. Confidentiality

- 4.1. The Library Hosting Site will keep the nature of any single Compound and the Characterization Data related hereto confidential, except as otherwise provided for in this PMTA, cf. section B.
- 4.2. The duty of confidentiality under section 1.1 shall not apply to the Compounds in the Library or any Characterization Data which
 - at the time of receipt is or later becomes available to the public other than through the Library Hosting Site's breach of the duty of confidentiality as set forth in this Agreement;
 - was lawfully in the Library Hosting Site's possession at the time the Compounds were received without any confidentiality restrictions;
 - was received from a third party who appeared to be entitled to lawfully disclose the details of the Compounds or Characterization Data; or
 - was developed independently of the Permitted Use by the Library Hosting Site.
- 4.3. In the event of disagreement between the Parties, the Library Hosting Site has the burden of proof that the Compounds or Characterization Data received are comprised by section 4.2.
- 4.4. In the event that the Library or any part hereof, including Compounds and/or Characterization Data, becomes subject to legislation or executive orders, public law decisions, judgments, awards, etc. requiring the Library Hosting Site to pass on Compounds and/or Characterization Data in whole or in part, the Recipient shall inform the Provider hereof without delay. The Recipient's compliance with any such required disclosure of the Compounds and/or Characterization Data shall not constitute any breach of the duty of confidentiality under this PMTA.

5. Limitation of liability

- 5.1. Except as set forth above, the Library and any Compound contained herein is provided "as is" and the Provider expressly disclaims all warranties of any kind concerning any Compound contained herein, express or implied, including, without limitation, warranties of merchantability, fitness for a particular purpose and non-infringement of third party intellectual property rights, except in the event that such infringement was known to the Provider at the time of transfer of the Compound(s) to the Library.

- 5.2. Notwithstanding the above, the Provider assumes all liability for damages which may arise from its violation of applicable laws, regulations and consents in the Provider's production or collection of the Compounds, lack of title or authority to transfer the Compounds to the Library Hosting Site under this PMTA or its infringement of third party intellectual property rights as set forth under section 5.1 above. The Provider will at all times during the term of this PMTA and thereafter, indemnify, defend and hold the Library Hosting Site harmless against all claims, proceedings, demands and liabilities of any kind whatsoever, including legal expenses and reasonable attorneys' fees, arising out of such claims.
- 5.3. Except to the extent prohibited by law and in this section 5, the Library Hosting Site assumes all liability for damages, which may arise from its storage and handling of Compounds in the Library. The Library Hosting Site will at all times during the term of this PMTA and thereafter, indemnify, defend and hold the Provider harmless against all claims, proceedings, demands and liabilities of any kind whatsoever, including legal expenses and reasonable attorneys' fees, arising out of the death or injury to any person or persons or out of any damage to property, resulting from the storage and handling of Compounds in the Library.
- 5.4. Notwithstanding the above, by entering into this PMTA, the Provider accepts that the Compounds provided to the Library Hosting Site may be lost during the storage and handling by the Library Hosting Site. Unless caused by willful misconduct of the Library Hosting Site, no claim for damages shall be made by the Provider.

6. Term and termination

- 6.1. This PMTA shall enter into force on the date of the latest signature by the Provider and the Library Hosting Site.
- 6.2. Unless terminated or otherwise extended by mutual written agreement, this PMTA shall automatically terminate on December 31, 2028. However, the Parties may decide to extend the Agreement for consecutive time periods of three (3) years.
- 6.3. After expiry of the Agreement, each of the Parties may terminate this Agreement with 6 months' prior written notice.

7. Miscellaneous

- 7.1. This PMTA may not be assigned to any third party without the prior written consent of the Provider.
- 7.2. If any section of this PMTA is deemed unenforceable or invalid for any reason, the remaining parts of the PMTA shall not be affected hereby. The Provider and the Library Host shall enter into negotiations for the purpose of substituting such section with a corresponding, valid and enforceable wording, if possible.

8. Governing Law and Venue

- 8.1. This PMTA shall be governed by the laws of Denmark. This applies whether or not the application of international private law and choice of law rules may lead to the application of another country's laws.
- 8.2. Should a dispute arise between the Parties in connection with this Agreement, including its interpretation and use, the Parties shall enter into negotiations in good faith in order to solve the dispute.
- 8.3. Have the Parties been unsuccessful in solving the dispute within thirty (30) calendar days after initiation of negotiations hereof, the Parties may agree to refer the dispute to mediation at Mediationsinstituttet (www.mediationsinstituttet.dk) according to its rules.
- 8.4. If the Parties do not agree to mediation within seven (7) calendar days after expiry of the deadline set forth in section 8.3, or has no solution to the dispute been reached thirty (30) calendar days after commencement of mediation with Mediationsinstituttet, the dispute shall be settled by the District Court of Lyngby, Denmark, as the court of first instance.