

Sample Confidentiality Agreement with
the
W.M. Keck Foundation Biotechnology Resource Laboratory
at
Yale University

(8/28/00 version)

Kenneth R. Williams, Ph.D.
Director, W.M. Keck Foundation Biotechnology Resource Laboratory
Yale University
295 Congress Avenue
New Haven, CT 06536-0812

Dear Dr. Williams:

Subject to the full execution of this Agreement, the _____ retains the W.M. Keck Foundation Biotechnology Resource Laboratory of Yale University (KFBRL/Yale) to carry out procedures under the following terms and conditions:

1. Information and Samples. KFBRL/Yale agrees to carry out the procedures within the terms of this Agreement, in adherence to specifications, information, technology and data (collectively "Information") provided to KFBRL/Yale by _____ who will provide KFBRL/Yale with information and instructions for the sole use and safe handling of the Samples/Requests.

2. Use/Ownership of Provided and Derived Items. KFBRL/Yale agrees that all information, Samples, Safety information and Sample Testing Statements (collectively "Provided Items") provided hereunder are the sole property of _____. KFBRL/Yale also agrees that any information, inventions, innovations, ideas, discoveries and/or products (whether or not copyrightable or patentable), suggestions, notes, reports, raw data, specimens, tissues and wet tissues, computer-derived or preliminary results, final results, or other work product which are conceived, derived, reduced to practice, made or developed by KFBRL/Yale as a result of conducting the Tests (collectively "Derived Items") shall be promptly disclosed to _____ and shall be the sole property of _____. KFBRL/Yale disclaims any rights to the aforementioned Provided and Derived items and shall assert no copyright patent or other claim to their use, development and/or production. KFBRL/Yale shall use the Provided and Derived Items solely for the Tests under the terms of this Agreement, shall not employ them for commercial purposes, and shall not provide them to any third party without _____ prior written consent.

3. Interim and Final Reports. During the term of this Agreement KFBRL/Yale shall keep _____ advised of the progress of the Tests and provide data and interpretive reports (collectively "Interim Reports") as _____ may request, within thirty (30) days following completion of the testing of each Sample.

4. Consideration.

a. As full consideration for KFBRL/Yale's services hereunder and for its agreement to the terms and conditions hereof _____ agrees to pay KFBRL/Yale in accordance

with the costs for Tests listed at <http://info.med.yale.edu/wmkeck> as of the completion date of the tests. Payment will be made to KFBRL/Yale upon the completion of Tests for Samples within thirty (30) days from the date of receipt and approval of an invoice itemizing services and following satisfactory receipt of all items due _____ in accordance with paragraph 3 herein.

b. In the event of premature termination of the Tests, _____ will pay KFBRL/Yale according to the extent of services performed and expenses incurred. In the event of any overpayment by _____, KFBRL/Yale shall remit the same to _____ within thirty (30) days after such overpayment.

c. KFBRL/Yale will be reimbursed upon presentation of appropriate receipts for all other reasonable expenses incurred at _____ prior request in the performance of services hereunder.

5. Confidentiality. During the term of this Agreement including any extension thereof and ten (10) years thereafter, KFBRL/Yale shall exercise due care to prevent the unauthorized disclosure of Confidential Information and shall not use Confidential Information for any purpose other than that indicated in this Agreement without _____ prior written approval. To assist KFBRL/Yale in maintaining confidentiality, _____ agrees to limit the information given to KFBRL/Yale to only that data (such as the mass of the sample protein, the procedure used to bring about its final purification and the form/buffers in which the sample is shipped) which is requested by KFBRL/Yale and which is essential for carrying out the requested procedures. Confidential Information shall include Provided Items; all information concerning the Tests and Samples disclosed to KFBRL/Yale by _____ and information developed as a result of conducting the Tests including Derived Items, and Interim and Final Reports; except any portion thereof which:

a) is known to KFBRL/Yale before receipt thereof under this Agreement, except as previously disclosed by _____ to KFBRL/Yale and/or gained through prior services provided by KFBRL/Yale for _____ under obligations of confidentiality;

b) is disclosed to KFBRL/Yale without restriction after the effective date of this Agreement by a third party who has a legal right to make such disclosure; or

c) is or becomes part of the public domain through no fault of KFBRL/Yale's; or

d) is required to be disclosed by law.

6. Publicity/Advertising. Neither party shall use the name of the other party in any publicity, advertising or information disseminated to the general public without the prior written approval of the other party. However, _____ agrees their name may be

included in the annual listing of users of the KFBRL/Yale that is submitted in support of government and other grant applications and Progress Reports filed by the KFBRL/Yale.

7. Government Compliance. KFBRL/Yale represents that it shall conduct the Tests in compliance with all applicable federal, state and local laws, regulations and guidelines including, but not limited to all safety and environmental standards and requirements. KFBRL/Yale shall observe safe and diligent handling procedures of the Sample during the Tests in complete accordance with the Safety Information for the Sample.

8 Independent Contractor, Assignment and Subcontracting. KFBRL/Yale's status under this Agreement is that of an independent contractor, and KFBRL/Yale has no authority to bind or act on behalf of _____ except as otherwise expressly stated herein. KFBRL/Yale employees shall be bound as employees of KFBRL/Yale by all terms of this Agreement. KFBRL/Yale may not assign this Agreement to any third party without _____ prior written consent, and any attempted assignment and/or subcontracting of services shall be null and void.

9. Indemnification. KFBRL/Yale agrees to indemnify and hold harmless _____ from and against any and all liability, losses, claims of injury or damages, and expenses (including reasonable attorneys' fees), arising out of (a) any failure by KFBRL/Yale to adhere to their Safety Information, instructions or other precautions for the Samples and Tests, or (b) any willful or negligent act or omission in the performance of any of KFBRL/Yale's obligations under this Agreement.

10. Supersession and Modification. This Agreement contains the entire understanding of the parties with respect to the matters herein contained and supersedes all previous agreements and undertakings with respect thereto.

11. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Connecticut excluding its conflict of laws principles. If the foregoing terms and conditions are acceptable, please have an authorized representative sign and date two originals of this Agreement and indicate on the following page the name and address of the person to whom the completed form should be returned to.

By: _____

Date: _____

By: _____

Rebecca Balentine
Associate Director, YSM Grant &
Contract Administration

Date: _____

Tax Identification #060646973

By: _____

Date: _____

By: _____

Kenneth R. Williams, Ph.D.

Director, KFBRL

Date: _____

Upon completion, the KFBRL should mail this agreement to:
