

AUTISM GENETIC RESOURCE EXCHANGE (AGRE)
A Program of Autism Speaks
5455 Wilshire Boulevard, Suite 2250
Los Angeles, California 90036-4234
323-931-6577; FAX 323-931-1977

AGRE RESEARCHER DISTRIBUTION AGREEMENT

Part I. APPLICATION INSTRUCTIONS

Principal Investigator must complete the following steps in order to qualify for access to the AGRE resource for purposes of purchasing AGRE biomaterials and accessing online data:

1. Submit a current online AGRE Researcher Access Application, located on the AGRE researcher website (www.agre.org/application/researcherapp.cfm).
2. Submit an original signed AGRE Researcher Distribution Agreement to AGRE at 5455 Wilshire Boulevard, Suite 2250, Los Angeles, California 90036-4234, Attention: Researcher Liaison.
3. Submit a copy of Principal Investigator's current Institutional Review Board (IRB) approval or IRB exemption to AGRE.

Part II. DEFINITIONS

A. AGRE – The Autism Genetic Resource Exchange, a collaborative gene bank jointly established by Autism Speaks (AS) and Rutgers University Cell and DNA Repository. AS is an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 [26 U.S.C. 501(c)] and exempt from taxation under section 501(a) of the Internal Revenue Code [26 U.S.C. 501(a)]. Any reference in this Agreement to AGRE is understood to refer to AS and/or its Autism Genetic Resource Exchange.

B. Agreement – This AGRE Researcher Distribution Agreement.

C. AGRE Repository – The Cell and DNA Repository located at Rutgers University, which is responsible for the production of immortalized cell lines and extraction of DNA from AGRE samples, as well as for the storage and distribution of AGRE Biomaterials. The AGRE Repository includes Biomaterials belonging solely to AGRE as well as Biomaterials collected and/or stored in collaboration with the National Institute of Mental Health.

D. Biomaterials – Any biological or biochemical materials stored in the AGRE Repository and made available to approved researchers pursuant to this Agreement, which may include DNA, immortalized cell lines, serum, urine, or any other material retained in the AGRE Repository, and any Progeny, Unmodified Derivatives, byproducts, or derivatives thereof. Biomaterials shall **not** include: (a) Modifications or (b) other substances created by Recipient through the use of the Biomaterials that are not Modifications, Progeny or Unmodified Derivatives.

E. Clinical Data – Information concerning AGRE subjects, which may include family configuration, age at time of testing, sex, psychopathology, diagnosis, cognitive functioning, family and medical history, and any other clinically relevant information collected by AGRE or one of its collaborating researchers. Clinical Data shall exclude any personally identifying information about the family or its members.

- F. Commercial Purposes** – The sale, lease, license, or other transfer of the Materials or Modifications to a for-profit organization. Commercial Purposes shall also include uses of the Materials or Modifications by any organization, including Institution, to perform contract research, to screen compound libraries, to produce or manufacture products for general sale, or to conduct research activities that result in any sale, lease, license, or transfer of the Materials or Modifications to a for-profit organization. However, industrially-sponsored academic research shall not be considered a use of the Materials or Modifications for Commercial Purposes per se, unless any of the above conditions of this definition are met.
- G. Data** – Collectively, Clinical Data and Genetic Analysis Data. All such Data are coded for confidentiality and stripped of personal identifiers.
- H. Effective Date** – The date indicated below when AGRE has executed this Agreement.
- I. Genetic Analysis Data** – Data derived from genotyping, mutation analysis, sequencing, karyotyping, zygosity testing, Fragile X testing, and any other genetic analyses performed on the Biomaterials.
- J. Institution** – The institution that has executed this Agreement and employs/retains Principal Investigator (whether the Principal Investigator is in an employee/employer relationship or an independent contractor relationship with the institution).
- K. Materials** – Collectively, Data and Biomaterials.
- L. Modifications** – Substances or information created by Recipient that contain/incorporate the Materials.
- M. Person** – A natural person, corporation, partnership, trust, estate, joint venture, sole proprietorship, government (and any branch or subdivision thereof), government agency, association, cooperative, laboratory, or other entity.
- N. Principal Investigator** – The researcher employed/retained by Institution and approved by the IRB as Principal Investigator of the Research Project, for which Principal Investigator has sole responsibility.
- O. Progeny** – Unmodified descendant from the Biomaterials, such as virus from virus, cell from cell, or organism from organism.
- P. Recipient** – Collectively, Institution and Principal Investigator.
- Q. Researcher Application** – The on-line application for access to AGRE Materials.
- R. Researcher Generated Data** – Any and all data (including, but not limited to, Genetic Analysis Data) generated by Principal Investigator that was derived from or based upon the use of any of the Data and/or Biomaterials.
- S. Research Project** – The specific research project for which Principal Investigator has sole responsibility, and which is explicitly described in the Researcher Application. If there have been any material changes to the Research Project since the submission of the Researcher Application, an updated project abstract and statement of intended use must be submitted to the AGRE Researcher Liaison at the time of execution and/or renewal of this Agreement, as applicable.
- T. Unmodified Derivatives** – Substances created by Recipient that constitute an unmodified functional subunit or product expressed by the Biomaterials or Data. Some examples include: subclones of unmodified cell lines, purified or fractionated subsets of the Biomaterials, proteins expressed by DNA/RNA supplied by AGRE, or monoclonal antibodies secreted by a hybridoma cell line.

Part III. ASSURANCES AND INDEMNIFICATION

AGRE and Institution (collectively, the Parties), intending to be legally bound, hereby agree as follows:

A. Assurances

1. Before any Materials may be transferred to Recipient, Institution shall agree to and Principal Investigator shall acknowledge the terms and conditions set forth herein.
2. This Agreement is entered into upon the Effective Date. Upon execution of this Agreement by AGRE, AGRE shall promptly provide Recipient with a copy of the executed Agreement.
3. This Agreement shall be renewed **annually** in writing, no later than twelve (12) months following the Effective Date and each anniversary thereof, by AGRE, Principal Investigator and Institution, each in their sole discretion.
4. During the term of this Agreement, if there have been any material changes to the Research Project, Recipient shall promptly provide the AGRE Researcher Liaison with an updated project abstract and statement of intended use. In the event that the Principal Investigator has embarked on a new research project, a new on-line application must be filed and a new agreement signed.

B. Usage

1. Materials and Modifications shall be used exclusively by Recipient in connection with the Research Project.
2. Materials and Modifications shall be used exclusively for the advancement of medical science and shall be used in a manner consistent with the goals and policies of AGRE.
3. Recipient agrees that the Biomaterials and/or Modifications will not be used in connection with human experimentation of any kind.

C. Resale, Third Party Use, and Transferability

1. Recipient agrees to retain control over all Materials obtained from AGRE and the AGRE Repository, and further agrees not to provide, resell, share, or otherwise distribute them (free of charge or otherwise), directly or indirectly, to any other Person other than as provided in this Agreement.
2. If Recipient collaborates (or intends to collaborate) with any Person(s) not covered by this Agreement who will be utilizing and/or analyzing any Materials, Recipient shall immediately inform AGRE in writing of any and all such collaborations. All such Person(s) and their respective institutions must sign a separate Agreement with AGRE prior to beginning such collaborations.
3. This Agreement is not transferable to any other principal investigator, Person, facility, or institution. If Principal Investigator begins work at a different institution, Principal Investigator and any new institution shall sign a new Agreement in order for Principal Investigator to continue utilizing the Materials. Institution may not appoint a new principal investigator, conduct the Research Project at a different facility under Institution's control, or make any other substantive changes, unless AGRE agrees to an appropriate written amendment of this Agreement.

4. No rights of Institution under this Agreement may be assigned or otherwise conveyed to any Person or party, including a purchaser of Institution, without the specific written agreement of AGRE.

D. Commercial Use

1. AGRE retains ownership of the Materials, and any and all Materials contained or incorporated in Modifications. For purposes of clarity, this does not include the Researcher Generated Data comprising SNPs significantly associated with autism developed by Recipient from the use of the Biomaterials. Recipient shall retain ownership of all Researcher Generated Data.

2. AGRE arranges for the provision of Materials for research, clinical trials, and research and development only, but not for the manufacture of products. Should Principal Investigator reasonably believe that his/her research has led to the development of a commercial product, Recipient agrees to notify AGRE within sixty (60) days of such development.

3. (a) Recipient shall have the right, without restriction, to distribute substances created by Recipient through the use of the Biomaterials only if those substances are not Progeny, Unmodified Derivatives, or Modifications.

(b) Without written consent from AGRE, Recipient may NOT use or distribute any Materials or Modifications for Commercial Purposes. Such required written consent shall not apply to the extent that such Materials or Modifications are used solely for screening purposes. It is recognized by Recipient that such Commercial Purposes shall require a commercial license from AGRE, and AGRE has no obligation to grant a commercial license to any ownership interest in the Materials or Modifications. Nothing in this paragraph, however, shall prevent Recipient from granting commercial licenses under Recipient's intellectual property rights claiming any Modifications, or methods of their manufacture or their use.

4. If Recipient desires to use or license the Materials or Modifications for Commercial Purposes, Recipient agrees, in advance of such use, to negotiate in good faith with AGRE to establish the terms of a commercial license. It is agreed that any such commercial license shall include provisions for an initial license fee, earned royalties and minimum annual royalties, as determined by that which is reasonable and acceptable in the industry. It is understood by Recipient that AGRE shall have no obligation to grant such a license to Recipient, and may grant exclusive or non-exclusive commercial licenses to others, or sell or assign all or part of the rights in the Materials to any third party or parties, subject to any pre-existing rights held by Recipient or others and any pre-existing obligations to the Federal Government.

5. Recipient is free to file patent application(s) claiming inventions made by Recipient through the use of Materials, but agrees to notify AGRE upon filing any such patent application that is based upon use of such Materials.

6. Recipient further agrees that it shall grant and hereby does grant to AGRE a non-exclusive, paid-up, royalty free, worldwide license to any patents and patent applications owned or filed by Recipient based upon use of the Materials for research and educational purposes only and not for any Commercial Purposes. Such license shall include the right to grant sublicenses without fee to nonprofit organizations for research and educational purposes only and not for any Commercial Purposes, provided that AGRE has obtained Institution's approval (which approval shall not be unreasonably withheld) and discloses to Institution the identities of potential sublicensees prior to the grant of said sublicenses.

7. Recipient understands that AGRE arranges for the provision of Materials for research, clinical trials, and research and development only. **Nothing in this Agreement shall be construed as an authorization for the use of such Materials for Commercial Purposes.**

8. Recipient further understands that AGRE has made no attempt to determine outstanding rights of the Materials, and disclaims any knowledge relating to property interest in such Materials. AGRE does not make any warranty, express or implied, that the Materials may be exploited without infringement of the intellectual property or proprietary rights of any third parties. The responsibility for determining any rights in the Materials, or the byproducts and derivatives thereof, for purposes of commercialization rests exclusively with Recipient.

E. Data Sharing

1. Recipient shall provide AGRE with an electronic copy of any and all Researcher Generated Data. Such Researcher Generated Data shall be in the format specified in paragraphs E(2) and E(3), below. Recipient shall provide AGRE with such Researcher Generated Data twelve (12) months after initial receipt of any Data and/or Biomaterials or upon publication of any research in which such Data and/or Biomaterials were analyzed, whichever comes first, and annually thereafter upon the anniversary of this date. This shall continue until the Research Project is completed. Upon completion of the Research Project, Recipient shall provide AGRE with a final updated collection of Researcher Generated Data.

2. Recipient shall provide to AGRE, Researcher Generated Data indexed by AGRE subject ID number, in the electronic format specified by AGRE.

3. Recipient shall provide to AGRE all descriptive Genetic Analysis Data regarding the genotyped genetic marker, including all known marker names, the allele sizes (in base pairs) or polymorphic alleles and the corresponding allele frequencies, the relative distances in both base pairs and Centimorgans, the marker heterozygosity, and the principal source of information used for assigning map position and allele frequencies.

4. AGRE shall make available on the AGRE website any or all of the Researcher Generated Data received by AGRE; provided, however, that should Recipient desire to file a patent application related to the Researcher Generated Data, AGRE shall allow Recipient a reasonable amount of time in which to file said application prior to making the Researcher Generated Data available on the AGRE website.

5. AGRE may at any time distribute any or all of the Researcher Generated Data to qualified scientific investigators, subject to any patents or pending patent applications of Principal Investigator and/or Institution; provided, however, that should Recipient desire to file a patent application related to the Researcher Generated Data, AGRE shall allow Recipient a reasonable amount of time in which to file said application prior to making the Researcher Generated Data available to qualified scientific investigators.

F. Acknowledgement of Use

1. Recipient agrees to acknowledge the use of any and all Materials in any and all publications, oral and written presentations, media reports, interviews, and disclosures resulting from any and all analyses of Materials, whether during the term of this Agreement or afterwards. Recipient shall submit a list of all such publications, presentations, media reports, interviews, and disclosures to the AGRE Researcher Liaison.

2. Recipient shall follow the then current guidelines for acknowledging the AGRE resource that are posted on the AGRE website (<http://www.agre.org/program/howToCite.cfm>).
3. Upon publication of the results of any and all analyses of the Materials, Recipient agrees to forward a supplementary data table that clearly identifies the samples that were selected for analysis and the type of assays performed (i.e., genetic markers, cell culture treatments, etc.). A sample data table can be downloaded from the AGRE researcher website (<http://www.agre.org/program/SuplDataTb1EX.xls>).
4. Some of the samples in the AGRE resource are shared samples from other researchers. Recipient agrees to acknowledge the use of any and all such shared researcher samples that are identified as such by AGRE, in any and all publications, oral and written presentations, media reports, interviews, and disclosures resulting from any and all analyses of such samples, whether during the term of this Agreement or afterwards.
5. Recipient agrees to acknowledge the contribution of researchers who generated Researcher Generated Data used by Recipient in any and all publications, written and oral presentations, media reports, interviews, and disclosures resulting from any and all analyses of such Researcher Generated Data, whether during the term of this Agreement or afterwards.
6. As soon as Recipient has a manuscript accepted for publication (whether during the term of this Agreement or afterwards), a copy of the manuscript along with the name of the publication and expected date of publication shall be forwarded to the AGRE Researcher Liaison (research@agre.org). As soon as reprints are available, two copies of the reprint shall be forwarded to AGRE. In lieu of reprints, PDF files may be submitted.

G. Confidentiality – Recipient understands that the identities of the AGRE contributing subjects are confidential. Recipient agrees that no effort will be made whatsoever to establish the individual identities of any of the AGRE subjects through the use of any Materials, either alone or in conjunction with any other information. Should Recipient discover the identities of any of the AGRE subjects, it is prohibited from revealing such identities and/or their corresponding family and subject ID numbers to any Person, including but not limited to the AGRE subjects themselves.

H. Access to Materials

1. AGRE agrees to transfer to Recipient Biomaterials for exclusive use by Principal Investigator to conduct the Research Project. AGRE shall transfer such Biomaterials within a reasonable timeframe as mutually agreed upon by AGRE and Principal Investigator.
2. AGRE agrees to provide Recipient with Data for all qualified participating subjects, if available, provided that it does not jeopardize the privacy or safety of the research subject. Such Data, along with periodic updates, if available, will be provided through the AGRE website (www.agre.org) or through other electronic media. There may be a fee associated with the provision of such data, to be determined by AGRE.
3. AGRE agrees to provide to Recipient Biomaterials at a fee to be determined by AGRE. A current fee schedule may be obtained by contacting the AGRE Researcher Liaison (research@agre.org). An order application and instructions for ordering Biomaterials online is located on the AGRE researcher website (http://www.agre.org/application/Biomaterial_Order_Sheet.xls). Upon receipt of such

order, AGRE may invoice Institution for such fee and Institution agrees to pay such fee to AGRE within thirty (30) days of the date of the invoice.

4. In the event that a family or family member of the original contributor of the Materials provided to Recipient wishes to withdraw from the AGRE resource, AGRE reserves the right to request that Recipient destroy all such remaining Materials and any Progeny, Modifications or Unmodified Derivatives thereof. In such event, Recipient agrees to comply with such request and to refrain from using such Materials and any Progeny, Modifications or Unmodified Derivatives thereof in further analyses; provided, however, that Recipient may continue to use Researcher Generated Data.

I. Biohazard and Handling of Human Biomaterials

1. All cultured animal and human cells have the potential for carrying viruses, latent viral genomes, and other infectious agents in an unapparent state. All Biomaterials should, therefore, be treated as if they are NOT free of contamination.

2. Biomaterials should always be handled carefully by trained personnel under laboratory conditions that afford adequate biohazard containment. By accepting Biomaterials from AGRE, Recipient accepts and shall assume full responsibility, financial and otherwise, for the safe and appropriate handling of such Biomaterials, or any products obtained from AGRE. AGRE assumes no responsibility for any personal illness or injury or property loss resulting from Recipient's use of the Biomaterials, except to the extent caused by the willful misconduct or gross negligence of AGRE.

3. Recipient understands that the designated repositories shall have the sole responsibility of storing and distributing the Biomaterials. Recipient shall comply with all designated repositories' and other appropriate safety and quality control procedures, including the guidelines set forth in *Biosafety in Microbiological and Biomedical Laboratories* (Fourth Edition, April 1999), prepared by the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, and National Institutes of Health, which can be found on-line at www.cdc.gov/od/ohs/biosfty/bmbl4/bmbl4toc.htm.

J. Institutional Review Board (IRB) Compliance – Recipient certifies that the Institution provides IRB approval or exemption for the conduct of the Research Project and that Principal Investigator is in full compliance with the regulations and policies of said IRB. Recipient agrees to report promptly to AGRE any proposed changes in the Research Project and any unanticipated problems involving risks to subjects or others.

K. No Warranty and Limitation of Damages – THE AGRE MATERIALS ARE PROVIDED AS A SERVICE TO THE RESEARCH COMMUNITY. THEY ARE PROVIDED “AS IS.” AGRE DOES NOT MAKE, AND EXPRESSLY DISCLAIMS, ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. THIS PROVISION SHALL ALSO APPLY TO ANY BYPRODUCTS OR DERIVATIVES OF THE BIOMATERIALS. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

L. Indemnification

1. Institution hereby agrees to indemnify, defend and hold harmless AGRE, and those entities composing AGRE, the original contributor of the Biomaterials supplied to Recipient and their families, and the officers, directors, employees and agents, and the heirs, successors and assigns of them and each of them, from and against any and all claims, demands, suits, liabilities, damages, costs and expenses (including reasonable attorneys' fees) that arise out of or in any way relate to Recipient's receipt, handling, storage, use, disposal, distribution or redistribution of any and all Materials supplied to Recipient, except to the extent caused by the willful misconduct or gross negligence of AGRE.

2. Nothing in this indemnification shall authorize the sale or distribution of the Materials or Modifications.

M. Termination of Agreement

1. This Agreement shall automatically terminate upon Principal Investigator ceasing to be employed/retained by Institution. Upon Principal Investigator ceasing to be employed by Institution, Principal Investigator and Institution each agree to provide written notice to AGRE of such fact.

2. AGRE may terminate this Agreement if Recipient is in default of any of the terms and conditions specified herein and if the default has not been remedied within thirty (30) days after the date of written notice by AGRE of such default.

3. Institution may terminate this Agreement upon thirty (30) days written notice to AGRE.

4. Upon termination of this Agreement, Recipient agrees to return all unused Materials to AGRE and/or provide AGRE with written certification of their destruction.

5. Failure to comply with any of the terms and conditions specified in this Agreement may result in disqualification of Recipient from receiving additional Materials from AGRE.

6. Articles E, F, G, and L, and any other provisions of this Agreement that by their nature extend beyond termination hereof, shall survive such termination.

N. Choice of Law and Venue – This Agreement shall be governed by the laws of the State of California. In the event of any controversy, claim or dispute among the Parties hereto arising out of or relating to this Agreement, such controversy, claim or dispute shall be tried exclusively in the courts of the State of California or in the United States Federal District Court for the Central District of California, located in the County of Los Angeles, as the Parties may elect. The Parties hereby waive any defense of lack of in personam jurisdiction, improper venue and forum non conveniens, and agree that service of process of such court may be made upon each of them by personal delivery or by mailing certified or registered mail, return receipt requested, to the other at the address indicated herein or as otherwise agreed to by the Parties. The Parties hereby submit to the jurisdiction of the court so selected, to the exclusion of any other courts which may have had jurisdiction apart from this paragraph.

O. Miscellaneous

1. The terms and conditions of this Agreement are binding upon Recipient, including any and all research associates, graduate students, and collaborators working on the Research Project.

2. If the terms of this Agreement contradict the terms of any other AGRE document, the terms of this Agreement shall supercede the terms of any other document.
3. Recipient understands that AGRE has the sole discretion as to whether to approve or disapprove the Researcher Application and this Agreement. AGRE shall notify Principal Investigator in writing when action has been taken on said Application.
4. The Parties agree and acknowledge that the relationship of Recipient and AGRE is in the nature of an independent contractor. This Agreement shall not be deemed to create a partnership, joint venture or franchise, and neither party is the other's agent, partner, employee or representative.
5. Neither Recipient nor AGRE may use the name, trade name, trademark, domain name, or other designation of the other party in connection with any products, promotion, marketing or advertising without the prior written consent of the other party.
6. The waiver or failure of either party to exercise any right in any respect provided for herein shall not be deemed to be a waiver of any further right hereunder.
7. This Agreement shall be binding upon and inure to the benefit of each of the Parties, including their respective heirs, legal representatives, successors, and assigns. Institution may not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of AGRE.
8. This Agreement constitutes the entire understanding of the Parties with respect to the matters referred to herein and supersedes all prior negotiations, commitments and understanding with respect thereto. No variation or modification of this Agreement or waiver of any terms of provisions hereof shall be deemed valid unless in writing and signed by authorized representatives of both Parties.
9. Notices, invoices, and communications hereunder shall be deemed made if given by overnight courier or by registered or certified envelope, post prepaid, and addressed to the party to receive such notice, invoice, or communication at the address given below or such other address as may hereafter be designated by notice in writing:

If to AGRE:

Autism Genetic Resource Exchange (AGRE)
 Autism Speaks
 5455 Wilshire Blvd., Suite 2250
 Los Angeles, CA 90036-4234
 Attention: Researcher Liaison
 Email: vkustan@agre.org
 Phone: 323-297-4731; Fax: 323-931-1977

If to Institution:
