

(11) If a publication results from the work using the Materials, Recipient agrees to acknowledge TIGR and/or give credit to TIGR scientists and their collaborators, as scientifically appropriate.

(12) This Agreement is not assignable by Recipient, whether by operation of law or otherwise, without the prior written consent of TIGR. Otherwise, this Agreement is binding upon the successor(s) and assignee(s) of the parties.

The following additional provisions apply to the purchase of I.M.A.G.E. cDNA Clones.

Agreement in Good Faith Concerning Use and Distribution of Arrayed cDNA Clones

You are being provided with I.M.A.G.E. Consortium [LLNL] cDNA clones and/or associated products in order to advance the public interest and to advance the objectives of the institutions that developed the original libraries from which these clones were derived. The Originators of the libraries are the beneficiaries of, and may independently enforce, this Agreement.

USE OF CLONES

By accepting the arrayed clones you are agreeing in good faith to the following terms. If you are unable to agree to these terms, you must immediately return all copies and replicas of the arrayed clones.

(a) You will place all sequencing, mapping, and expression data arising from your use of the arrayed clones into public databases that provide data at no charge or at nominal cost (e.g., Genome Data Base for mapping data, GenBank for sequence data, or other public databases as appropriate for the type of data) promptly after the date on which such information is in a form suitable for submission to such databases and, at your option, steps reasonably necessary to protect your proprietary rights to such data have been taken. You specifically agree not to disclose or transfer such sequencing, mapping, or expression data to any external commercial enterprise prior to submission into such public databases.

(b) You will include the unique and specific identifier (which was initially assigned by Lawrence Livermore National Laboratory, Livermore, California, and accompanies these clones) pertaining to each arrayed clone in the sequence, map or expression data submitted to such public databases and in resulting publications. This nomenclature consists of the term "I.M.A.G.E. Consortium CloneID" followed by a five to seven digit number. You agree to refer publicly (including but not limited to electronic and print versions of articles and databases) to these arrayed cDNA clones as "I.M.A.G.E. Consortium [LLNL] cDNA Clones", and will reference the following publication: "The I.M.A.G.E. Consortium: An Integrated Molecular Analysis of Genomes and their Expression", Lennon, G.G., Auffray, C., Polymeropoulos, M., and Soares, M.B. [1995] Genomics (vol/page to be provided by LLNL as soon as available). In INTERNET/World Wide Web publications and databases, you agree to provide electronic referencing (e.g. 'anchors' and/or 'hotlinks') to the I.M.A.G.E. Consortium WWW page, currently located at URL <http://image.llnl.gov/>.

(c) YOU AGREE THAT THE ARRAYED CLONES ARE EXPERIMENTAL IN NATURE AND ARE BEING PROVIDED WITHOUT WARRANTY, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR FREEDOM FROM INFRINGEMENT OF ANY PATENT OR OTHER PROPRIETARY RIGHT OF A THIRD PARTY.

(d) YOU AGREE TO HOLD HARMLESS AND INDEMNIFY THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, LAWRENCE LIVERMORE NATIONAL LABORATORY, THE DEPARTMENT OF ENERGY, THE U.S. GOVERNMENT, THE ORIGINATORS OF THE LIBRARY FROM WHICH THE CLONES WERE ARRAYED, THE PROVIDER OF THE CLONES AND PERSONS ACTING ON THEIR BEHALF, FOR ANY CLAIM ASSERTED BY A THIRD PARTY RELATED TO YOUR POSSESSION, USE, STORAGE, OR DISPOSAL OF THE ARRAYED CLONES.

(e) You understand that the ownership of the unarrayed cDNA libraries from which these clones were arrayed is retained by the Originators of those libraries. Any new patentable developments or inventions first made by any party using the arrayed clones will remain the property of the inventing party. This Agreement does not constitute the Originator's waiver of any patent rights.

(f) You may only distribute these arrayed clones to additional parties if this document is its entirety accompanies them and the arrayed clones may only be distributed at no charge.

ADMINISTRATION

Any correspondence concerning this Agreement should be addressed to:

Lawrence Livermore National Laboratory
The Regents of the University of California
Industrial Partnerships and Commercialization Program
Attn: Transfer of cDNA Materials
P.O. Box 808, L-795
Livermore, CA 94550
Phone: 510/423-4418
Fax: 510/423-8988