**MATERIAL TRANSFER AND EVALUATION AGREEMENT**

Concluded by and between:

**Institute of Chemical Process Fundamentals of the Academy of Science of the Czech Republic**, public research institution (Ústav chemických procesů AV ČR, v.v.i.)

Having seat at Rozvojova 1/135 CZ-165 00 Prague 6 – Suchdol, Czech Republic

VAT no. CZ67985858

Hereby represented by Ing. Michal Šyc, Ph.D., Director

(hereinafter only as “***ICPF***”)

and

## **Università degli Studi di Padova**

## Having seat at via Martiri della Libertà 8, Padova, Italy

## VAT no. 00742430283

## Hereby represented by dott. Andrea Berti, Head of Area Ricerca e Rapporti con le Imprese,

## (hereinafter referred to as “***UNIPD***”)

## ICPF and UNIPD on one side jointly acting as the “***Providers***”

and

**CEM Corporation**

3100 Smith Farm Road

Matthews, NC 28104 USA

Hereby represented by Dr. Michael J. Collins, CEO

On the other side acting as the “***Recipient***”

(Providers and Recipient hereinafter individually as “***Party***” and collectively as “***Parties***”)

**PREAMBLE**

**WHEREAS:**

1. UNIPD is a public institution that promotes and organizes higher education and scientific research respecting the freedom of teaching and science, as well as the transfer of knowledge to the territory;
2. ICPF is public research institution of the Czech Academy of Sciences. It functions as a centre for advanced research in chemical, biochemical, catalytic and environmental engineering;
3. UNIPD and ICPF are the joint owners of: (i) the intellectual property rights on an innovative system aimed at providing a solid-state supports for peptide synthesis; (ii) the corresponding patent application (as better specified under Section 1.1(m) “Patents ”); and (iii) the connected know-how (as better specified under Section 1.1(k) “ Know-How”), the exploitation of all of the above assets being regulated under the Joint Ownership & Exploitation Co-operation Agreement entered into by UNIPD and ICPF on 5.4.2018;
4. CEM wishes to gain access to the Material for the sole purpose of testing and evaluating the properties of the Material in order to determine its interest to negotiate and obtain a Commercial license to the Material and Intellectual Property rights related thereto;

NOW, THEREFORE, in consideration of mutual covenants and obligations, the Parties have agreed as follows:

**ARTICLE 1 – DEFINITIONS**

1. The following terms, when capitalized, shall have the meanings as set forth in this Article 1:
2. **“*Affiliate*”** shall mean in relation to a Party a person or entity that directly or indirectly through one or more intermediates, controls, is controlled by, or is under common control with such Party. For the purpose of this definition, “*control*” shall mean a direct or indirect ownership of:
3. at least fifty percent (50%) of equity or voting interest of the entity (or such lesser percentage which is the maximum allowed to be owned by a foreign corporation in a particular jurisdiction); or
4. at least fifty percent (50%) of the capital stock or share capital entitled to vote for the election of directors of the entity (or such lesser percentage which is the maximum allowed to be owned by a foreign corporation in a particular jurisdiction); or
5. the ability to otherwise direct the management and operations of the entity;
6. **“*Agreement*”** shall mean this Material Transfer and Evaluation Agreement;
7. “***Commercialization***” or “***Commercialize***” or “***Commercial***” shall mean for-profit activities directed to offering and/or negotiating to license and/or transfer any rights to a third party, or activities directed to developing, producing, manufacturing, marketing, promoting, distributing, importing, and selling of products;
8. **“*Confidential Information*”** shall mean any information disclosed by or on behalf of one Party to the other Party in any form (e.g. in oral, written, graphic, or electronic form), including but not limited to any Know-How, research and development, manufacturing, financial and commercialization plans and/or information, and trade secrets which is clearly designated, labelled or marked as such at the time of its disclosure or which by its nature is confidential. For the avoidance of doubt, regardless of whether it has been designated, labelled or marked as confidential any information related to Material shall be considered Confidential Information proprietary to Providers (jointly or individually);
9. **“*Disclosing Party*”** shall mean a Party disclosing Confidential Information;
10. **“*Effective Date*”** shall mean the date this Agreement is executed by the last Party;
11. “***Evaluation***” shall mean the non-Commercial experiments performed by CEM during the Evaluation Period in accordance with the Evaluation Plan for the sole purpose of:
	* 1. examination and comparing of the properties of the Material to those currently used by CEM; and
		2. assessing the properties of the Material, namely (without limitation) faster reaction kinetics (exploiting for either purity, lower epimerization, longer sequences), and less washing per amount of peptide;
12. **“*Evaluation Period*”** shall meanthe period starting on the Effective Date and ending 1 (one) month after the Effective Date;
13. “***Evaluation Plan***” shall mean the plan of works and timeline of the Evaluation attached as **Appendix A**;
14. **“*Intellectual Property*”** ***(“IP”)*** shall mean patents, trademarks, registered designs, copyrights, database rights, design rights, topographies of semiconductors, confidential information, applications for any of the above, and any similar right recognized from time to time in any jurisdiction, together with all rights of action in relation to the infringement of any of the above, that are owned or controlled by a Party;
15. **“*Know-How*”** shall mean any unpatented technical information (including, without limitation, information relating to inventions, discoveries, concepts, methodologies, models, research, data, records, development and testing procedures, the results of experiments, tests and trials, manufacturing processes, techniques and specifications, laboratory records, chemical, pharmacological, toxicological, clinical, analytical and quality control data, analyses, reports and submissions, and information contained in submissions to and information from ethical committees and regulatory authorities, that is owned or controlled by a Party;
16. **“*Material*”** shall mean the physical samples of the novel polymeric support suitable for method of solid-state peptide synthesis supplied by Providers to Recipient under this Agreement; the composition, qualities and quantity of the Material is defined in Appendix B; for the avoidance of doubt, the Material is subject to industrial property protection under the Patents;
17. **“*Patents*”** shall mean the European Patent Application no. 18164049.1 filed on 23/06/2017 titled “Method of solid-state peptide synthesis using a polymeric support“, and the US patent application no. US 16/289,157filed on 28/02/2019 titled “Method of solid-state peptide synthesis using a polymeric support, including any and all patents granted based thereon, and any and all reissues, substitutions, confirmations, registrations, validations, re-examinations, additions, continuations, continued prosecution applications, continuations-in-part, or divisions of or to any of the foregoing; and (c) extensions, renewals or restorations of any of the foregoing by existing or future extension, renewal or restoration mechanisms, including supplementary protection certificate, patent term additions, patent term extensions or the equivalent thereof;
18. **“*Receiving Party*”** shall mean a Party to whom Confidential Information is disclosed;
19. **“*Results*”** shall mean the results and data related to and/or obtained directly from the Evaluation. For the avoidance of doubt, Results shall not include or extend to the Material and any Intellectual Property proprietary to any of the Parties;
20. **“*Technology*”** shall mean the novel method of solid-state peptide synthesis using a polymeric support disclosed in the Patents and the connected Know-How.
	1. In addition to the definitions set forth in this Article 1, other terms used as definitions in this Agreement shall have the meaning assigned to them in the respective Section of this Agreement where such terms are defined.

**ARTICLE 2 – TRANSFER OF MATERIAL AND EVALUATION**

1. UNIPD will produce and deliver to CEM the Material. In consideration for the Material transfer and evaluation option, CEM agrees to pay consideration in accordance with Article 3.
2. During the Evaluation Period, CEM shall at its own cost perform the Evaluation. At the end of the Evaluation Period, CEM shall disclose to the Providers the Results by delivering a written report of the process of the Evaluation, including (without limitation) the experimental protocols, information on quantities of Material used in the Evaluation, records concerning the handling, storage and physical movement of the Material, and information on the quantity of any remaining Material (hereinafter only as “***Report***”).
3. Providers hereby grant to CEM a non-exclusive non-Commercial non-sublicensable license to use the Material under the Patents for the sole purpose of performing the Evaluation under the terms and conditions of this Agreement exclusively for the time of the Evaluation Period.
4. CEM hereby undertakes:
	* + - 1. to keep the Material in a secure environment and to protect the Material against theft, damage, loss, misuse and/or unauthorized access;
				2. not to transfer the Material or any parts or samples thereof to any person other than explicitly specified under this Agreement, unless previously agreed by Providers in writing;
				3. to use the Material solely for the purposes of performing the Evaluation; it is expressly understood that no other use of Material by CEM is allowed;
				4. not to use the Material for any Commercialization purposes whatsoever prior to entering into a license agreement with Providers;
				5. to use the Material only at the CEM facilities under the direction of the CEM Supervisor;
				6. not to reverse-engineer the Material in any manner and for any purposes;
				7. to maintain records concerning the handling, storage and physical movement of the Material;
				8. to carry out any and all activities under this Agreement in accordance with the Handling Instructions provided by Providers and all applicable governmental and regulatory laws, regulations and guidelines which apply to the receipt, storage, handling, use and disposal of the Material.

**ARTICLE 3 – COSTS AND CONSIDERATION**

1. In consideration for the preparation and transfer of the Material, CEM shall pay to the Providers the total sum of EUR 1000 which shall be payable within 5 (five) business days from the receipt of a corresponding invoice issued by ICPF on behalf of both Providers. The invoice may be issued in electronic form and shall be delivered to CEM by e-mail to. Upon receipt of the payment, ICPF will distribute 50% of the amount to UNIPD.
2. Regardless of the outcome of the Evaluation, and regardless of suitability or non-suitability of the Material for Commercialization, none of the Parties shall have any right whatsoever to claim consideration or reimbursement of any costs and/or expenses related to any activities performed hereunder.

**ARTICLE 4 – INTELLECTUAL PROPERTY AND PUBLICATION OF RESULTS**

1. The Material, Know-How, Technology and any and all Intellectual Property and Confidential Information owned and/or controlled by Providers (either jointly or individually) on the Effective Date shall continue to be owned and controlled by Providers.
2. The Parties hereby agree and confirm that all rights, title and interest in and to the Results of the Evaluation, including (without limitation) the right to file patent applications claiming (solely as well as jointly with other inventions) the Results and/or their use, shall be vested in and jointly owned by Providers. Any results or inventions arising from such use shall be owned by Providers.
3. CEM shall have a non-exclusive non-Commercial research license to use the Results for the sole purpose of non-Commercial research, unless the Parties agree otherwise in writing, namely in the License Agreement.
4. CEM shall refrain from any publication or disclosure of the Results and Evaluation Report and shall keep the Results and Evaluation Reports confidential pursuant to Article 5 below, unless the Parties agree otherwise in writing, namely in the License Agreement.
5. Nothing in this Agreement shall be interpreted as granting a license or transferring or vesting in CEM any rights to the Technology, Know-How and Intellectual Property of any of the Providers, except as expressly set out in this Agreement.

**ARTICLE 5 – CONFIDENTIALITY**

1. Each of the Parties undertakes and agrees to:
	* + - 1. use the Confidential Information of the other Party only for the purposes expressly agreed herein;
				2. ensure that in case of disclosure of Confidential Information by one Party to the other, only those employees, members or other persons related to the Receiving Party, whose access is necessary to the Confidential Information on a strictly applied "need to know" basis and are informed of the secret and confidential nature of it and sign a confidentiality clause or agreement imposing obligations of the same nature as those under this Article 6, will have access to such Confidential Information;
				3. keep the Confidential Information of the Disclosing Party confidential and not disclose or permit to be disclosed, directly or indirectly, to any third party including any consultants or other advisors for any reason without a prior written consent of the Disclosing Party;
				4. protect the confidentiality of the Confidential Information of the Disclosing Party using at least the same level of efforts and measures used to protect its own Confidential Information;
				5. make copies of documents containing the Confidential Information only if they are reasonably required and necessary for the purposes of performing the Research and Evaluation pursuant to this Agreement; and
				6. promptly notify the Disclosing Party of any unauthorized use or disclosure of the Confidential Information of the Disclosing Party; and
2. The following disclosure of Confidential Information shall not be deemed as breach of the confidentiality obligations set in this Article 5, provided that the Confidential Information:
	* + - 1. is or becomes generally available to the public otherwise than by reason of breach by a Receiving Party;
				2. was known to and lawfully in possession of the Receiving Party prior to its receipt from the Disclosing Party through other means than derived directly or indirectly from the Disclosing Party, as evidenced by documents predating the date of disclosure;
				3. is disclosed to the Receiving Party without obligations of confidence by a third party owing no such obligations to the Disclosing Party in respect of that Confidential Information;
				4. is required by governmental law, rule, regulation or order to be disclosed, in which case the Receiving Party will provide prompt written notice of such requirement to the Disclosing Party so that it may, if so advised, seek appropriate relief to prevent or limit such disclosure; or
				5. its publication and use is contemplated herein and agreed upon by the Parties as part of this Agreement, especially (without limitation) in Section 4.3.
3. The Disclosing Party assumes no liability for injury, loss or damage arising from, and makes no representation in connection with, the use of any Confidential Information by the Receiving Party, except in cases of negligence or willful misconduct on the part of the Disclosing Party.
4. Upon termination of this Agreement or at a Disclosing Party's request for any reason at any time, the Receiving Party shall:
	* + - 1. immediately cease using all the Disclosing Party's Confidential Information disclosed under the Agreement; and
				2. promptly, at the Disclosing Party´s instruction, return, delete or destroy all of the Disclosing Party's Confidential Information disclosed under this Agreement or carriers containing such information, including any copies, extracts, summaries or derivative works of such Confidential Information, and certify in writing to the requestor the completion of such return and/or destruction, provided, however, that the Receiving Party may retain one copy solely for legal archival purposes and such copy shall continue to be kept strictly confidential.

**ARTICLE 6 -** **WARRANTIES AND LIABILITIES, SANCTIONS**

1. Each Party warrants to the other Parties that it has the full capacity and authority to enter into this Agreement and perform its obligations pursuant to this Agreement and that it will follow applicable laws governing the activities performed under this Agreement.
2. CEM expressly acknowledges and agrees that the Material is experimental in nature. Providers (both jointly and each of them individually) expressly disclaim any liability whatsoever, and make no representations and extend no warranties of any kind, expressed or implied, including, but not limited to, warranties of merchantability and fitness for a particular purpose of the Material.
3. Providers (both jointly and individually) expressly disclaim any liability whatsoever, and make no representations and extend no warranties of any kind, either express or implied, that any use of Material for any purposes (including, without limitation, use for Evaluation, or Commercialization), does not or will not infringe any patent or other intellectual property right of any third party.
4. Providers (both jointly and individually) expressly disclaim any liability whatsoever, and make no representations and extend no warranties of any kind, either express or implied, and expressly disclaim any liability whatsoever in relation to the performance of the Evaluation by CEM. Without limiting the foregoing, CEM acknowledges that it has not and is not relying upon any express or implied representation or warranty whatsoever as to the performance, completion or prospects (financial, regulatory or otherwise), or the validity or likelihood of success, of the Evaluation and Commercialization of any product.Providers (either jointly or individually) shall not be liable for any special, incidental, consequential, indirect or punitive damages or penalties arising out of failure to perform or complete the Evaluation pursuant to this Agreement, including lost profits arising from or relating to such failure, provided however, that this limitation shall not apply to intentional breach of the Agreement.

**ARTICLE 7 – TERM AND TERMINATION**

1. This Agreement shall commence on the Effective Date and, unless terminated in accordance with Section 7.3, shall continue in full force and effect until the end of the Evaluation Period.
2. This Agreement may be terminated by a written agreement of the Parties or unilaterally pursuant to Section 7.3 of this Agreement. Termination of this Agreement pursuant to Article 8 [without prejudice](https://www.lawinsider.com/clause/termination-without-prejudice) to any rights or remedies which one Party may otherwise have against the other Party.
3. Either Party may terminate this Agreement with immediate effect by delivering a written 30 (thirty) days notice to the other Party provided that:
4. the other Party is in breach of any of its material obligations under this Agreement and (if it is breach is capable of remedy) the breach has not been remedied within twenty (20) business days after receipt of a written notice specifying the breach and requiring its remedy; or
5. the other Party becomes insolvent, or if an order is made or a resolution is passed for its winding up (except voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator, administrative receiver or receiver is appointed over the whole or any part of the other Party's assets, or if the other Party makes any arrangement with its creditors;
6. The expiration or termination of this Agreement shall be without prejudice to any rights of either Party which may have accrued by, at or up to the date of such expiration or termination.
7. The provisions set out in Section 2.4, Article 3, Article 4 and Article 5 of this Agreement shall survive and remain in full force and effect after the expiration or termination of this Agreement. The confidentiality obligations pursuant to Article 5 shall cease to exist in relation to a particular Confidential Information upon entering of such Confidential Information into public domain or upon revocation of the obligation made in writing by the Disclosing Party.
8. Upon termination of this Agreement by any Party, CEM shall immediately discontinue any use of the Material and, pursuant to the instruction of Providers, either destroy or return all remaining Material that has not been used in Evaluation before the effective date of termination.

**ARTICLE 8 – FINAL CLAUSES**

1. This Agreement shall be governed and constructed in accordance with of the laws of Italy, excluding any choice of law rules that may direct the application of the law of another country.
2. The Parties hereby declare that before entering into this Agreement they have carefully considered all possible risks arising out of or in connection with this Agreement and they both accept these risks.
3. The Parties are not entitled to set off their receivables unilaterally. Trade usages shall not supersede the non-mandatory provisions of the law with respect to the relations related to or arising out of this Agreement.
4. Any changes or amendments to this Agreement shall be made in the form of a written document agreed upon and signed by both Parties.
5. Any notices other communications hereunder shall be made in writing to the Parties at the following addresses:
6. To ICPF: Institute of Chemical Process Fundamentals of the Academy of Science of the Czech Republic, public research institution (Ústav chemických procesů AV ČR, v.v.i.), attn. Director, Rozvojova 1/135 CZ-165 02 Prague 6 – Suchdol, Czech Republic, e-mail:
7. To UNIPD: Ufficio Valorizzazione della Ricerca, Università degli Studi di Padova, attn. Ileana Borelli, Via Martiri della Libertà, 8, 35137 Padova, Italy; email:.
8. Shall any provision of this Agreement be or become illegal, invalid or unenforceable in any respect under the law of any jurisdiction by a court or tribunal of competent jurisdiction, such provision shall be deemed to be severed from this Agreement with respect to such jurisdiction. The remaining provisions will be revised by the court or tribunal to provide to the extent possible the original intent of the Parties with respect to those provisions which remain in full force in that jurisdiction; and all provisions will continue in full force in any other jurisdiction.
9. This Agreement and any rights and obligations arising hereunder shall not be assigned or delegated by any Party to any third person without a prior written consent of the other Party.
10. Any disputes between the Parties arising under or in connection with this Agreement shall be settled amicably and in good faith. Shall such settlement not be reached, **all disputes arising from the present contract and/or in connection with it shall be finally decided by the courts of Padova (Italy).**
11. This Agreement has been executed in 3 (three) counterparts, of which each of the Parties shall receive 1 (one) counterpart. This Agreement with handwritten signature is the final and binding version of the Agreement and supersedes the electronical signed PDFs exchanged by the Parties in advance of the execution of this final version.

*EXECUTION PAGE FOLLOWS.*

In Prague, Czech Republic on \_\_\_\_\_\_\_\_\_\_\_ In \_\_\_\_\_\_\_\_\_ on \_\_\_\_\_\_\_\_\_\_\_

For and on behalf of ICPF: For and on behalf of CEM:

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Ing. Michal Šyc, Ph.D., Michael J. Collins

Director Chief Executive Officer

In Padova, Italy on \_\_\_\_\_\_\_\_\_\_\_

For and on behalf of UNIPD:

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Andrea Berti

Head of Area Ricerca e Rapporti con le Imprese

APPENDIX A

EVALUATION PLAN AND TIMELINE

CEM will perform two types of the experiments to explore a possible benefit of the Material on:

-              Faster reaction kinetics (exploiting for either purity, lower epimerization, longer sequences);

-              Less washing per amount of peptide;

-              And/or their new method for wash free, one-pot Fmoc solid Phase peptide synthesis.

APPENDIX B

MATERIAL TRANSFERRED FOR EVALUATION

The material is a batch (1.50 g) of a novel polymeric support suitable for the method of solid-state peptide synthesis. The sample, labelled as DVB-K16-Rink(Fmoc), has a load of 0.33 mmol/g of a Fmoc protected Rink-linker enough for 5 runs at the 0.1 mmol scale.