Non-Exclusive Sub-License Agreement for Commercial Organizations for Use of Bacterial Strains, known as The KEIO Collection supplied by Nara Institute of Science and Technology, National University Corporation, 8916-5, Takayama, Ikoma, Nara, 630-0192, Japan

(hereinafter "**NAIST**")

Between

Gene Bridges GmbH, Im Neuenheimer Feld 584, 69120 Heidelberg, Germany

(hereinafter "**GENE BRIDGES"**)

and

……..

(hereinafter "**LICENSEE"**)

the following is agreed upon:

PREAMBLE:

Whereas, the European Molecular Biology Enterprise Management Technology Transfer GmbH (hereinafter "**EMBLEM**"), a fully-owned subsidiary of the European Molecular Biology Laboratory (hereinafter "**EMBL**"), is the exclusive licensee of certain U.S. and foreign patent rights and patent applications owned by EMBL, including, without limitation, such patent rights and patent applications as described in Section 1.4, with the right to grant a sublicense to any third party;

Whereas, GENE BRIDGES represents and warrants that EMBLEM granted GENE BRIDGES licenses under particular patents and patent applications, including, without limitation, such patent rights and patent applications as described in Section 1.4, with the right to grant sub-licenses to any third party;

Whereas, GENE BRIDGES granted an exclusive sublicense to a third party under specific parts of the rights granted by EMBLEM (hereinafter "**Third Party License Agreement**") but retained the right to use, exploit and sublicense these rights within a particular scope

Whereas LICENSEE desires to obtain a sublicense from GENE BRIDGES under such patent rights and patent applications as described in Section 1.4;.

Now, in consideration of the promises and conditions contained herein, GENE BRIDGES and LICENSEE agree to the following:

ARTICLE 1
DEFINITIONS

1.1 Use shall mean:

An action performed at the facilities of Licensee, but not a fee-for-service, for the benefit of Licensee, and not for a Third Party in exchange for financial benefits or any other consideration including but not limited to an acquisition of shares or rights or an exchange of materials or information.

1.2 Effective Date shall mean:

The date of the last party's signature hereof.

1.3. KEIO Collection shall mean:

A set of single-gene deletion mutants of *Escherichia coli* K-12. The targeted Open Reading Frame coding region of each mutant is replaced with a kanamycin resistant cassette. For the purpose of defining **The KEIO Collection** in this Agreement, **The KEIO Collection** also shall mean a set of single-gene deletion mutants of *Escherichia coli* K-12 whose targeted Open Reading Frame coding region is replaced with other antibiotics resistant cassette than a kanamycin resistant cassette.

1.4 Materials shall mean:

Bacterial Strains produced by using the Red®/ET® Recombination Method and known as the KEIO Collection and supplied to LICENSEE by NAIST.

1.5 Patent Rights shall mean:

Patents and patent applications whose PCT-Publication Numbers are (i) WO 99/29837 claiming priority of the European Patent Application No. 97 121 462.2 (December 5, 1997) and 98 118 756.0 (October 5, 1998), which was issued on January 2003 as US patent No. 6,509,156, and (ii) WO 01/04288 claiming priority of U.S. Application no. 09/350,830 (filed on July 9, 1999), which was issued on March 12, 2002, as US patent 6,355,412. A list of these

patent applications and corresponding national patent applications is attached as **Annex I**. "Patent Rights" shall include patent rights issued based on such patent applications as well as any continuations, continuations-in-part, divisionals, foreign counterparts, and issued patents based thereon.

1.6 Person shall mean:

Any natural person, corporation, general partnership, limited partnership, joint venture, proprietorship, organization, university, academic or research institution, or any other business or not-for-profit entity.

1.7 Red®/ET® Recombination Method shall mean:

A recombination method for specific modification of bacterial chromosomes or *E. coli* compatible DNA target molecules, by *in vivo* homologous recombination with a targeting DNA molecule in prokaryotic cells. The position at which the target molecules are modified is determined by the design of the targeting molecule with which the target molecule recombines. The method also encompasses direct cloning and subcloning of target DNA sequences from various donor molecules. The method is described and claimed in further detail in the Patent Rights.

1.8 Third Party shall mean:

A Person other than LICENSEE, GENE BRIDGES or any respective **Affiliates** thereof.

ARTICLE 2
SUBLICENSE GRANT AND TRANSFER OF MATERIAL

2.1 Non-exclusive License to Use the Materials

Upon the Effective Date and subject to the terms and conditions of this Agreement, GENE BRIDGES hereby (i) grants LICENSEE a worldwide, non-exclusive sublicense under the Patent Rights to Use the Materials at Licensee's facilities for three (3) years from the Effective Date. The sublicense granted does not include the right of LICENSEE to sell, have a Third Party sell, offer for sale, import, export, and/or otherwise distribute the Materials, or to use the Materials as part of a commercial fee-for-service business.

2.2 No Allowance for other use of Materials:

LICENSEE is not allowed to use the Materials for any purpose other than for Use .

2.3 No Allowance for Sublicense Grant

LICENSEE is not entitled to grant any sublicense in the right(s) granted by GENE BRIDGES as set forth in Sections 2.1, or to transfer or assign these licensed right(s), to any Third Party. In the case of a sale of LICENSEE wherein at least 50% of the equity interest (or an equivalent interest), partnership interest (or an equivalent interest), or voting interests in LICENSEE are sold to a Third Party, or in case of a merger of LICENSEE with a Third Party, this Agreement is automatically terminated.

ARTICLE 3

FINANCIAL CONSIDERATION

3.1 Sublicense Fee

In consideration of the sublicense and release granted by GENE to LICENSEE, LICENSEE shall pay a one-time payment of Euro 3500 (Three Thousand Five Hundred Euros) excluding VAT tax due within thirty (30) days of the Effective Date of this Agreement. The Payment shall be made to GENE BRIDGES within 30 (thirty) days after the receipt of an invoice from GENE BRIDGES. A delay in payment will result in an additional surcharge of 2% of the total payment due per calendar month. Should the license fee payment be delayed by more than two (2) months, GENE BRIDGES shall have the right to terminate this non-exclusive license agreement.

3.2 Taxes / Distribution costs

All turnover taxes and indirect taxes (i.e. VAT) or withholding taxes shall be borne by LICENSEE. All distribution costs for items and documents which must be provided by GENE BRIDGES shall be borne by LICENSEE. The Party required to deduct withholding taxes shall do so and promptly pay such tax. Each Party agrees to assist the other Party, as may reasonably be necessary, in claiming exemption from or reduction of such deduction or withholding under a double taxation treaty. The Parties also agree to assist each other by providing documentation as is needed to claim a repayment of or a credit for the withholding tax.

ARTICLE 4

WARRANTIES AND INDEMNITIES

4.1 GENE BRIDGES does not assume liability for any damage occurring through Use of the Materials for any purpose, in particular arising out of the care, handling, disposal or transfer, unless the claim is due to the intentional misconduct or gross negligence of GENE BRIDGES. GENE BRIDGES gives no warranty nor makes any representation, express or implied, with regards to the suitability of the Materials for any applications or purposes of LICENSEE.

4.2 GENE BRIDGES warrants that it has been authorized by EMBLEM to sublicense the Patent Rights to LICENSEE as provided for herein. Additionally, GENE BRIDGES warrants that GENE BRIDGES has the right to grant sublicenses under the Patent Rights without breaching its obligations set forth in the Third Party License Agreement.

4.3 GENE BRIDGES represents and warrants as follows:

(a) this Agreement is and shall be a legal and valid obligation binding upon GENE BRIDGES, enforceable in accordance with its terms;

(b) the execution and delivery of this Agreement, do not and will not constitute a breach or violation of any other agreement or understanding, written or oral, to which it is a party; and

(c) the execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate action on the part of GENE BRIDGES, and the person executing this Agreement on behalf of GENE BRIDGES has been duly authorized to do so by all requisite corporate action.

4.4 LICENSEE represents and warrants as follows:

(a) this Agreement is and shall be a legal and valid obligation binding upon LICENSEE, enforceable in accordance with its terms;

(b) the execution and delivery of this Agreement do not and will not constitute a breach or violation of any other agreement or understanding, written or oral, to which it is a party;

(c) the execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate action on the part of LICENSEE, and the person executing this Agreement on behalf of LICENSEE has been duly authorized to do so by all requisite corporate action.

4.5 LICENSEE shall Use the Materials in accordance with all applicable laws, rules and regulations.

4.6 GENE BRIDGES guarantees neither the patentability nor the validity of the Patent Rights, and shall not be liable accordingly.

4.7 LICENSEE guarantees that it has not previously used the Red®/ET® Recombination Method, or will not in the future use the Red®/ET® Recombination Method, without a valid sublicense agreement with GENE BRIDGES to use the Red®/ET® Recombination Method.

ARTICLE 5
TERM AND TERMINATION

5.1 Duration

This Agreement shall remain in effect for duration of three (3) years from the Effective Date. Thereafter, the parties may extend the period of this Agreement by a mutual written agreement between the parties.

5.2 Expiration of the Patent Rights

In any case, this Agreement shall terminate upon the expiration of the last-to-expire of the patents issued on the Patent Rights.

ARTICLE 6
GENERAL CONDITIONS

6.1 Amendments and Modifications

Amendments and modifications to this Agreement including the amendment and modification of this provision may be made only in a writing signed by both parties.

6.2 Governing Law; Arbitration

This Agreement shall be governed by and construed in accordance with the substantive laws of the Federal Republic of Germany, without reference to conflicts of law principles. All disputes, controversies or differences which may arise between the parties, or the breach thereof shall be referred to and settled by arbitration in accordance with the Rules of Conciliation and Arbitration of the German Chamber of Commerce.

6.3 Assignment

This Agreement may be assigned by GENE BRIDGES or its successors in interest, assigns, trustees and other legal representatives.

6.4 Waiver

Any failure by a party to insist upon strict performance of any provision hereof, at anytime or for any period of time, shall not constitute a waiver of, or estoppel against asserting, the right to require such performance in the future. No waiver of any term or condition of this

Agreement shall be effective unless it is set forth in a written instrument duly executed by or on behalf of the party waiving such term or condition.

6.5 Force Majeure

Neither party shall be liable or deemed to be in breach of this agreement by reason of any delay in performing, or failure to perform, any of its obligations if the delay or failure was due to any cause beyond that party's reasonable control. Causes beyond a party's reasonable control include, but not limited to, an act of God, explosion, flood, tempest, fire or accident, war or threat of war, sabotage, insurrection, civil disturbance or requisition, acts, restrictions, bye-laws, prohibitions, or measures of any kind on the part of any governmental, parliamentary or local authority, import or export regulations or embargoes, strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of Gene Bridges, customer or a third party), difficulties in obtaining raw materials, materials from suppliers, labor, fuel parts or machinery, power failure, power surge or spike, telecommunications failure or breakdown of machinery.

6.6 Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of, the parties, successors and permitted assigns.

6.7 Annexes

Annex I is part of this Agreement.

LICENSEE:		GENE BRIDGES :	
		Gary Stevens	
Name	Signature	Name	Signature
		Chief Executive Officer	
Title		Title	
_____		_____	
Date		Date	

Full Invoice Address LICENSEE:

Annex I

Patent Rights

I. Patent Application PCT/EP98/07945, Novel DNA Cloning Method (ET) Priority date December 5, 1997;
II. U.S. Patent Application no. 09/350,830 filed July 9, 1999, Directed Cloning and Subcloning;
III. Related know how and reagents complementary to the patent and patent applications listed in Exhibit B; and
IV. US Patent nos. 6,355,412 and 6,509,156B by Stewart et.al. including the following related patents and applications:

US 6509156 FAMILY			
Country	**Title**	**Appln. No.**	**Filing Date**
Austria	Neue Methode Zur Klonierung Dns Unter Anwendung Des E. Coli Rece/Rect Rekombinationssystems	AT19980963541T	12/07/98
Australia	Novel DNA Cloning Method	AU19990018771	12/07/98
Australia	Novel DNA Cloning Method	AU19990018771D	12/07/98
Canada	Novel DNA Cloning Method	CA19982312474	12/07/98
Germany	DNA Cloning Method Relying On The E. Coli Rece/Rect Recombination System	DE19986015384	12/07/98
Germany	DNA Cloning Method Relying On The E. Coli Rece/Rect Recombination System	DE19986015384T	12/07/98
Denmark	DNA Cloning Method Relying On The E. Coli Rece/Rect Recombination System	DK19980963541T	12/07/98
Europe	Novel DNA Cloning Method Relying On The E. Coli Rece/Rect Recombination System	EP19980963541	12/07/98
Europe	Novel DNA Cloning Method Relying On The E.Coli RECE/RECT Recombination System	EP20020021915	12/07/98
Spain	DNA Cloning Method Relying On The E. Coli Rece/Rect Recombination System	ES19980963541T	12/07/98
Japan	DNA Cloning Method Relying On The E. Coli RecE/RecT Recombination System	JP20000524410T	12/07/98
Portugal	Novo Metodo De Clonagem De Adn Baseado No Sistema De Recombinacao Rece/Rect De E. Coli	PT19980963541T	12/07/98
United States	DNA Cloning Method Relying On The E. Coli Rece/Rect Recombination System	US20000555510	06/05/00
United States	Novel DNA Cloning Method	US20020231013	08/30/02
United States	Novel DNA cloning method	US20040842534	05/11/04
PCT	Novel DNA Cloning Method	WO1998EP07945	12/07/98

US 6355412 FAMILY			
Country	**Title**	**Appln No.**	**Filing Date**
Australia	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	AU20000066911	07/10/00
Australia	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	AU20000066911D	07/10/00
Brazil*	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	BR20000012283	07/10/00
Canada	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	CA20002377938	07/10/00
China	Method And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	CN20000812739	07/10/00
Europe	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	EP20000954461	07/10/00
Israel	No English Title Available	IL147385D	Unavailable
Japan	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	JP20010509492T	07/10/00
Mexico	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	MX2002PA00233	07/10/00
Poland	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	PL20000353634	07/10/00
United States	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	US19990350830	07/09/99
PCT	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	WO2000EP06533	07/10/00
South Africa	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	ZA20020000152	01/08/02