

## mNeonGreen - Fluorescent Protein

### NON-COMMERCIAL USE LICENSE AGREEMENT FOR NON-PROFIT ORGANIZATIONS

By opening the containers or using the products accompanying this agreement, including those relating to or concerning mNeonGreen or any other of Allele's fluorescent protein sequences, you accept the terms and conditions below.

**IMPORTANT INSTRUCTIONS – PLEASE READ CAREFULLY:** This Non-Commercial Use License Agreement (“Agreement”) is the legal agreement between you, your Not-For-Profit Organization (hereinafter collectively “Licensee”) and Allele Biotechnology and Pharmaceuticals Inc. (hereinafter “Allele”) for the non-commercial use of Allele's mNeonGreen fluorescent protein (hereinafter “Allele FPs”) and any other fluorescent protein sequence belonging to Allele and distributed through the NIH, National Institute of Allergy and Infectious Diseases (NIAID) Prime Contractor for the BEI Resources Program and the NIH HIV Reagent Program.

AS A CONDITION OF TRANSFER, LICENSEE AGREES TO THE FOLLOWING TERMS AND CONDITIONS. YOU AGREE AND ACKNOWLEDGE THAT ANY SHARING OF THE PROTEINS OR THEIR SEQUENCES BE SUBJECT TO AND WITH FULL DISCLOSURE OF THESE TERMS AND CONDITIONS.

- 1. Allele FPs Are For Non-Commercial Use Only.** Licensee shall use the Allele FPs solely for the purpose of conducting internal, non-commercial scientific research and education in Licensee's classrooms or laboratory within Licensee's Not-For-Profit Organization, provided any sort of commercial purposes are not involved (hereinafter, such activities defined as “Research”). Allele hereby grants Licensee a non-exclusive, non-transferable, non-sublicensable, and limited license under the Patent Rights (defined below) to use the Allele FPs obtained hereunder solely for Research in accordance with the terms of this Agreement. Licensee may allow its employees and/or students access to the Allele FPs for purposes consistent with this agreement, provided however, that prior to providing such access, Licensee will advise such individuals of the proprietary nature of the Allele FPs. Licensee shall remain liable for the actions of such individuals.
- 2. Modified FP.** “Modified FP” is comprised of any Allele FP that results in such Allele FP having altered spectral or biological properties (“Modified FP”), including but not limited to alterations in: half-life of either mRNA or protein, absorbance or emission spectra, brightness, propensity to aggregate or oligomerize, or biocompatibility of the Allele FP in a cell, tissue or organism; provided, however, that Modified FPs shall not include fusion proteins made solely by fusing of a peptide-expressing nucleic acid sequence to the coding region of an Allele FP or the cloning of a promoter element in front of the coding region of an Allele FP. Any Modified FP shall be owned by Allele and Licensee hereby assigns to Allele any and all rights in and to such Modified FP. At no additional cost to Allele, Licensee shall reasonably assist Allele in the perfection and enforcement of such rights.
- 3. Disclosure.** Licensee shall promptly and fully disclose to Allele in writing any Modified FP that results from Licensee's use of any Allele FP, including modifications to DNA, RNA, or protein.

**mNeonGreen - Fluorescent Protein****4. Prohibited Uses.** Licensee shall not:

- i. Offer the Allele FP or any component, derivative or modification of any Allele FPs for resale;
- ii. Distribute, transfer, loan, or otherwise provide access to the Allele FP or any component, derivative or modification of the Allele FP to any third party for any purpose, including transfer of the Allele FP as a component of a kit, without acknowledging the terms and conditions of this license agreement.
- iii. Provide services to a third party using the Allele FPs, including screening and profiling services;
- iv. Use the Allele FPs in any process to manufacture or research a product intended for sale or commercial use, or for providing services to a third party (a) for purposes of intended sale or commercial use of a product, (b) for obtaining data to support the commercial use of a product, or (c) for obtaining data to seek or obtain approval for the commercial use of a product; or
- v. Authorize any third party to use or sell any Allele FP or derivatives thereof.
- vi. Licensee and its affiliates and agents are prohibited from providing for-profit entities with Allele FP or their derivatives.
- vii. Use the Allele FP for commercial use or for use in connection with a commercial use, including without limit the winnowing down of drug candidates, testing or researching the effectiveness of one or more drug candidates, or obtaining clinical data to support government approval of one or more drug candidates.

Such uses are prohibited absent a commercial license. Commercial uses or other uses outside the rights provided herein should be inquired about directly to Allele, who is the only entity authorized to grant use rights or licenses to the Allele FP for commercial purposes. See section 5 on Commercial Use Prohibited.

**5. Commercial Use Prohibited.** If Licensee is interested in commercial uses or other uses outside the rights provided herein, including those prohibited by Section 4 of this Agreement, Licensee should inquire directly to Allele by phone: (858)-587-6645 or email: [info@allelebiotech.com](mailto:info@allelebiotech.com). Licensee acknowledges and agrees that the only entity authorized to grant use rights or licenses to the Allele FP for commercial purposes is Allele itself, and Allele does not license commercial uses through any other intermediary or third party. Without implying any right to a future commercial license, or restricting in any way Allele's discretion or ability to determine appropriate license terms at such time, please keep in mind that such licenses, if granted, will generally be non-exclusive and reasonable royalties may be applied including to the ultimate commercialized product for which the Allele FP is used to pursue development or regulatory approval. In the event unauthorized commercial uses are made, Licensee agrees this form of license for the Allele FP is reasonable.

**6. Compliance with Laws.** Licensee understands that the Allele FPs are to be used with caution and prudence in any experimental work. Accordingly, Licensee will adhere to all applicable state and federal laws, guidelines and regulations governing research with such materials. Licensee shall bear all risk to Licensee or any others resulting from Licensee's use of the Allele FPs.

**7. Property Rights.** Allele and its licensors reserve all of their rights not expressly granted herein and no implied

## mNeonGreen - Fluorescent Protein

or other licenses are granted. Allele FPs are provided under at least one of the patents or patent applications listed on Attachment A, including U.S. Pat. No. 10,221,221. The patents and applications listed on Attachment A (including U.S. Pat. No. 10,221,221), any and all patents and applications for patents issuing thereon or claiming priority thereto, any foreign counterparts thereof, and all divisions, continuations, continuations-in-part, substitutions, extensions, reissues, reexaminations, renewals for any such patents and patent applications, or any equivalents thereof, shall be herein collectively referred to as “Patent Rights”. Without limiting the foregoing, Licensee expressly recognizes the exclusive ownership and right of Allele in and to all names and trademarks associated with any of the Allele FPs, including but not limited to the mNeonGreen trademark.

- 8. Indemnification.** Licensee will defend, indemnify and hold Allele and its licensors (collectively, the “Indemnified Parties”) harmless against any and all liability, damages, losses, claims, suits, proceedings, demands, recoveries, or expenses, including reasonable attorneys’ fees and expenses, incurred or rendered against the Indemnified Parties (collectively, the “Indemnified Losses”) arising out of or in connection with this Agreement, including without limitation Indemnified Losses resulting from any and all uses by the Licensee, Licensee’s employees, students or other agents, of the Allele FPs and any materials derived therefrom.
- 9. Disclaimer of Warranty.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, ALLELE MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ALLELE MAKES NO REPRESENTATION OR WARRANTY AS TO THE VALIDITY OR SCOPE OF ANY PATENT RIGHTS OR THAT THE USE OF THE ALLELE FPs OR PATENT RIGHTS WILL NOT INFRINGE ANY PATENT OR OTHER PROPRIETARY RIGHT OF ANY THIRD PARTY, AND ALLELE EXPRESSLY DISCLAIMS ANY LIABILITY THEREFOR.
- 10. Publications.** In any publications, Licensee agrees to acknowledge Allele as the source of the Allele FPs and to identify the relevant patents from Attachment A (including for mNeonGreen, U.S. Pat. No. 10,221,221).
- 11. Term.** This Agreement shall commence upon opening of the product packaging or initial use of the Allele FPs (the “Effective date”) and continue in full force as long as Licensee uses the Allele FPs during the term of the Patent Rights in compliance with the terms and conditions of this Agreement. Without limiting its other rights and remedies, Allele shall have the right to terminate this Agreement for any breach or default by Licensee that is not cured within thirty (30) days after a written notice from Allele describing such breach or default. Allele shall have the right to terminate this Agreement without cause on sixty (60) days written notice.
- 12. Effects Of Termination.** Upon Termination of this Agreement, Licensee must return or destroy all Allele FPs in Licensee’s possession. Licensee may no longer use Allele FPs. The rights and obligations under Sections 2, 3, 4, 7, 8, 9, 10, 13, 14, and 16 shall survive any termination of this Agreement.
- 13. No Assignment.** This Agreement is not transferable or assignable by Licensee.
- 14. Governing Law and Forum Selection.**
  - (i) All matters affecting the interpretation, validity, and performance of this Agreement shall be governed by

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the laws of the State of California without regard to its conflict of law principles.

(ii) The parties hereby irrevocably consent to the personal jurisdiction and venue of the United States Federal District Court for the Southern District of California or state courts located in San Diego County in California.

(iii) The parties agree that Allele shall have the right to elect the exclusive venue of the United States District Court for the Eastern District of Texas, Marshall Division for all claims of patent infringement asserted by Allele against the Licensee or its affiliates for alleged use of the Allele FP, related compulsory counterclaims, and claims by Licensee or its affiliates relating to the validity of the Allele FP or their infringement of the Allele FP (“Infringement Related Claims”). Allele may, but is not required to, elect for all Infringement Related Claims to be exclusively brought and resolved in the United States District Court for the Eastern District of Texas, Marshall Division. If Allele initiates suit in the Eastern District of Texas, Marshall Division asserting any of the Infringement Related Claims, it shall be deemed to have made said election, effective the date of filing. If, within sixty (60) days of service by or on Allele of the Complaint or other documents initiating litigation of any of the Infringement Related Claims, Allele fails to give written notice to Licensee declining the election of the Eastern District of Texas Marshall Division for Infringement Related Claims, Allele is deemed to have made said election, effective the date of filing. Absent such election, the parties agree that the exclusive jurisdiction and venue for all Infringement Related Claims shall be the United States District Court for the Eastern District of Texas, Marshall Division.

(iv) Licensee on behalf of itself and its affiliates hereby irrevocably consents to the personal jurisdiction of Texas and venue of the United States District Court for the Eastern District of Texas, Marshall Division for the Infringement Related Claims.

**15. Severability.** If any of the provisions contained in this Agreement are held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provisions hereof, and this Agreement shall be construed as if such invalid or illegal or unenforceable provisions had never been contained herein.

**16. Entire Agreement.** The parties hereto acknowledge that this Agreement sets forth the entire agreement and understanding of the parties hereto as to the subject matter hereof, and all prior agreements, understandings, or representations whether or not expressed or implied.

By signing this document, you acknowledge you have read and agreed to the requirements of the Limited Label Use License as required by Allele.

Recipient Name

Institution

Recipient Signature

Date Signed

Attachment A

For mNeonGreen: U.S. Pat. No. 10,221,221

Patent: Listing accessible at <https://www.allelebiotech.com/patents>