

## MATERIALS TRANSFER AGREEMENT

This Agreement is made and entered into as of the date of last signature below by and between The University of Tennessee, on behalf of its Health Science Center, a public higher educational institution and instrumentality of the State of Tennessee, having a place of business at 62 South Dunlap, Suite 300 Memphis, Tennessee ("UNIVERSITY"), and \_\_\_\_\_ with a business address of \_\_\_\_\_. ("PROVIDER").

It provides the terms and conditions under which PROVIDER will transfer to UNIVERSITY \_\_\_\_\_ ("Material") and any associated know-how, data, or other information transferred with the Material ("Information"). The Material is provided to UNIVERSITY for use by \_\_\_\_\_ ("SCIENTIST") in SCIENTIST's laboratory only.

1. The Material shall include any replications, progeny, portions and unmodified derivatives, whether provided to or made by UNIVERSITY. The Material shall be retained in confidence by UNIVERSITY and will not be transferred or disclosed to any person, corporation, or entity other than those employees of UNIVERSITY under SCIENTIST's immediate and direct control and who have been made aware of this Agreement and who are bound by its terms and are necessary for the performance of the Study as set out in paragraph 2. Upon completion of UNIVERSITY's Study, or one (1) year from the date of this Agreement, whichever occurs first, any remaining Material will be properly destroyed or returned to PROVIDER, at PROVIDER's option.
2. The Material will be used solely for non-commercial research and will not be subject to any mechanical or structural analysis. The Material will not be sold or used for commercial purposes such as screening, production, or sale, for which a commercial license is required. The Material will be used only in connection with the research project described with specificity as follows (the "Study") and will not be used in any other studies, trials, or evaluations (*please use an attachment page, if necessary*):
3. UNIVERSITY will use the Material in compliance with all applicable laws, governmental regulations and guidelines, including current National Institutes of Health guidelines and any regulations or guidelines pertaining to research with animals or recombinant DNA. *The Material shall not be used in humans under any circumstances.*
4. UNIVERSITY will bear the costs of preparing and of handling and shipping the Material to UNIVERSITY.
5. UNIVERSITY will provide PROVIDER, through SCIENTIST with the results of the Study hereunder. UNIVERSITY agrees, also, that it will promptly disclose to PROVIDER all discoveries, inventions, and modifications made through the use of the Material and will grant and does hereby grant PROVIDER a non-exclusive, irrevocable, royalty-free license to use the same for non-commercial research, educational and patient care purposes.
6. PROVIDER shall at all times retain ownership of the Material, including but not limited to any Material contained or incorporated in modifications resulting from the use of the Material by UNIVERSITY.
7. UNIVERSITY agrees to hold in confidence any Information supplied by PROVIDER to UNIVERSITY, and further agrees not to disclose or permit such Information to be disclosed to any person or entity, other than those employees of UNIVERSITY who have a need to know such Information, or use such Information other than for the purpose set out in Paragraph 2, above. For purposes of this Agreement, Information shall not include Information that:
  - a. as of the date of this Agreement, is in the public domain or publicly known or available or subsequently enters the public domain through no act or omission of UNIVERSITY; or

- b. at the time of receipt by UNIVERSITY was legally known to UNIVERSITY and was not acquired, directly or indirectly, from PROVIDER or the Investigator as evidenced by its written records; or
  - c. at any time is received in good faith by UNIVERSITY from a third party reasonably believed by UNIVERSITY to have a lawful right to make such disclosure; or
  - d. has been in UNIVERSITY's possession for five (5) years or longer; or
  - e. is required by order of a court of law or otherwise required by applicable law to be disclosed provided, however, that UNIVERIT shall give PROVIDER a written notice prior to transferring Information to a third party under this provision.
8. UNIVERSITY may publish the results of the Study, provided that it does not violate the obligations of confidentiality set forth herein, and, further provided that, in order to protect the interests of the parties, UNIVERSITY shall have granted PROVIDER sixty (60) days to review the proposed publication or presentation to verify that it does not contain Information of PROVIDER. At the request of PROVIDER, UNVIERSITY will remove any Information from such publication or presentation. UNIVERSITY will acknowledge PROVIDER as the source of the Material and give credit to PROVIDER scientists, as scientifically appropriate in any publication or presentation.
9. This Agreement shall not be construed to grant to UNIVERSITY any express or implied option, license, or other right, title or interest in or to the Material except for the purpose set forth in this Agreement in Paragraph 2, nor shall this Agreement obligate PROVIDER to enter into any agreement granting any such right.
10. This Agreement is not intended to be exclusive. The PROVIDER shall be free at its sole discretion, to use the Material and Information for its own purposes and to distribute the Material to other parties.
11. To the extent allowed by applicable law (TCA 9-8-301 et seq.), UNIVERISTY may be held liable for its actions and those of its employees under this Agreement.
12. Any MATERIAL delivered pursuant to this Agreement is understood to be experimental in nature and may have hazardous properties. ANY MATERIAL SO SUPPLIED IS DONE SO WITH NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO WARRANTIES OR REPRESENTATIONS AS TO THE PURITY, ACTIVITY, SAFETY OR USEFULNESS OF THE MATERIAL OR THAT THE USE OF THE MATERIAL WILL NOT INFRINGE ANY PATENT OR OTHER PROPRIETARY RIGHT.
13. UNIVERSITY accepts the Material with the knowledge and understanding that the hazardous and toxicological properties of the Material have not been completely investigated and are unknown and that the Material should be handled as if it is hazardous until its properties are fully investigated. UNIVERSITY will inform PROVIDER in writing of any adverse effects experienced by persons handling the Material.
14. PROVIDER shall not incur any liability to UNIVERSITY if for any reason the Material is not available for use by UNIVERSITY.
15. The Parties hereby acknowledge that the export of goods and/or technical data from the United States may require some form of export control license from the U.S. Government. . If an export license is required but is not obtained, the contract will terminate and no party will have any further duties to any other party. Each party agree that it will not disclose or re-export any materials or technical data received under this agreement to any countries for which the U.S. Government requires an export license, unless such party has obtained prior written authorization first with the U.S. Office of Export Control or other

authority responsible for such matters. UNIVERSITY does not represent that a license(s) shall not be required nor that, if required, it (they) shall be issued.

16. This Agreement is entered into in the State of Tennessee, United States of America, and shall be construed and the legal relations of the parties determined in accordance with the laws of the State of Tennessee.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

PROVIDER

THE UNIVERSITY OF TENNESSEE on  
BEHALF OF ITS HEALTH SCIENCE  
CENTER

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_