

Material/Data Transfer Agreement

(Note- Depending on which party is the disclosing party and which party is the receiving party, please select the appropriate Provider/Recipient designation and delete the other)

THIS MATERIAL/DATA TRANSFER AGREEMENT (together with its Exhibits, "Agreement") is agreed to as of _____ (the "Effective Date") by and between **Delaware State University (DSU)** (_____) and _____ (_____), sometimes hereinafter referred to collectively as the "Parties" and individually as a "Party".

1. Background

The Receiver desires to obtain and the Provider agrees to provide, samples of _____ (hereafter "Material/Data") under the terms and conditions of this Agreement.

2. The Material and the Research

The Receiver acknowledges that the Provider owns the Material/Data. The research using the Material/Data will be conducted by the Receiver at its facilities. None of the Material/Data will be assigned or sold to third parties. The Receiver will not conduct reverse engineering, decompile, or analyze the material/data in any way to attempt to infringe upon the Provider's rights in the Material/Data. The Receiver acknowledges that use of the Material/Data will comply with all laws and regulations applicable to its handling and use.

3. "Field of Use"

Field of Use means testing and evaluation of Material/Data for the purpose of:

4. License

The Provider hereby grants a non-exclusive license for research purposes only to test and evaluate the Material/Data or products derived from the Material/Data used in the Field of Use during the term of this Agreement.

5. Inventions

The Receiver acknowledges that the Material/Data is or may be the subject of a patent application. Except as provided in this Agreement, no express or implied licenses or other rights are provided to the Receiver under any currently existing patents, patent application, trade secrets, or other proprietary rights of the Provider.

Within thirty (30) days of discovery of an invention by the Receiver pertaining to inventions made during the conduct of this research by the Receiver, the Receiver will inform the Provider of any potentially patentable inventions arising out of research performed under this Agreement. Title to any invention or discovery conceived or reduced to practice solely by the Receiver personnel in the performance of this research shall remain with the Receiver provided, however, that the Receiver grants to the Provider a nonexclusive, noncommercial, nontransferable (except to the Provider's affiliates), royalty-free license for research purposes under any inventions conceived or reduced to practice by Receiver hereunder. Inventions created hereunder by the Provider's personnel jointly with employees of the Receiver shall be jointly owned.

6. Confidential Information

If the Receiver and the Provider agree that confidential or proprietary information of the Provider is necessary for the research, the information should be submitted to the Receiver in writing and clearly marked as confidential.

7. No Warranty

The Material/Data is provided to the Receiver as-is and with no warranty, express or implied, including any warranty of merchantability, title, or fitness for particular purpose.

8. Indemnification

To the extent permitted under governing law, the Receiver will indemnify and hold the Provider harmless from any claims or liability resulting from the Receiver's use of the Material/Data.

9. Term and Termination

After two (2) years, either the Receiver or the Provider may terminate this Agreement on (30) days prior written notice to the other party. Upon termination, all Parties shall immediately return to the other Parties its Confidential Information, with the exception of one copy that may be retained by the receiving Party's counsel to confirm compliance with the non-use and non-disclosure provisions of this Agreement. The Receiver shall return to Provider any unused samples of the Material/Data, and all of the Receiver's rights to use the Material/Data shall end, other than those rights negotiated in accordance with section (4) of this Agreement. Following termination, neither Party shall have any further obligations under this Agreement, except that Sections 4 through 8 shall survive termination of the Agreement.

10. Miscellaneous

- a. Entire Agreement.** This Agreement sets forth the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior agreements, written and oral, between the Parties. No modification of any of the terms of this Agreement shall be deemed to be valid, unless it is in writing and signed by the Party against whom enforcement is sought.
- b. Force Majeure.** No Party shall be held liable or responsible to any other Party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any term of this Agreement when such failure or delay is caused by or results from causes, beyond the reasonable control of the affected Party, including but not limited to fire, floods, embargoes, war, acts of war (whether war is declared or not), insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances, acts of God or acts, omissions, or delays in acting by any court or governmental authority.
- c. Waiver.** No waiver by either Party of any default, right or remedy shall be effective unless in writing, nor shall any such waiver operate as a waiver of any other or of the same default, right or remedy, respectively, on a future occasion.
- d. Severability.** This Agreement and any amendment hereto may be executed in counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument. If any term, condition, or provision in this Agreement is found to be invalid, unlawful, or unenforceable to any extent, such invalid term, condition, or provision will be severed from the remaining terms condition, or provision which shall continue to be valid and enforceable to the fullest extent permitted by law.
- e. Independent Parties.** This Agreement shall not be deemed to create any partnership, joint venture, or agency relation between the Parties. Each Party shall act hereunder as an independent contractor.
- f. Relationship of the Parties.** Neither Party, nor any of its employees, customers, or agents shall be deemed to be a representative, agency, or employee of any other Party for any purpose, nor shall they or any of them have the right or authority to assume or create an obligation of any kind, either expressed or implied, on behalf of the others.
- g. Notices.** All notices or other communications required or permitted to be made or given hereunder shall be deemed so made or given when hand-delivered or sent in writing by registered or certified mail, postage prepaid and return-receipt requested or by a nationally-recognized courier service guaranteeing next-day delivery, charges prepaid, and properly addressed to such other Party as set forth above or at such other address as may be specified by either Party hereto by written notice similarly

sent or delivered. Notices required to be sent to the Receiver under this Agreement shall be addressed to the Recipient at the address set forth below.

- h. Delaware State University Personnel will comply with all university policies and procedures governing biosafety.

IN WITNESS WHEREOF, Provider and Receiver, Chairperson of DSU, and General Counsel of DSU have signed this Agreement as a document under seal as of the Effective Date.

PROVIDER

By: _____

Print Name: _____

Title: _____

Date: _____

RECIPIENT

By: _____

Print Name: _____

Address: _____

Date: _____

Chairperson:

By: _____

Print Name: _____

Date: _____

General Counsel:

By: _____

Print Name: _____

Date: _____