

**ILLUSTRATIVE MATERIALS TRANSFER AGREEMENT –
NON-BINDING AND NOT FOR EXECUTION**

This Agreement is made and entered into as of _____, 2015 (the "Effective Date"), by and between The University of Tennessee, having a place of business at _____ ("UNIVERSITY"), The University of Tennessee Research Foundation, having a place of business at 600 Henley Street, Conference Center Suite 211, Knoxville, Tennessee 37996-1527 ("UTRF") and _____ having a place of business at _____ ("RECIPIENT").

This Agreement provides the terms and conditions under which UNIVERSITY will transfer to RECIPIENT and UTRF will approve RECIPIENT's use of:

"(Insert description of the provided material)"

(the "Material") and the method (*Insert description of method, if applicable*) (the "Method") developed by _____ ("Originator") at The University of Tennessee ("University"). RECIPIENT's use of Material and Method shall be in accordance with the terms of both that Confidentiality Agreement accepted by RECIPIENT on _____ and this Agreement.

1. The Material and Method shall include any associated know-how and data transferred therewith and any replications, progeny, derivatives, or products, whether provided to or made by RECIPIENT. The Material and Method in their existing form shall be retained in confidence by RECIPIENT and will not be transferred or disclosed to any person, corporation, or entity other than those employees of RECIPIENT who have been made aware of this Agreement and who are bound by its terms and who are necessary for the performance of the Study as set out in Paragraph 2 below. Upon completion of RECIPIENT's Study, any remaining Material and documentation of the Method will be properly destroyed or returned to the UNIVERSITY, at UTRF's option.

2. The Material and Method will be used solely for research purposes and the Material will not be subject to any mechanical or structural analysis other than as required to fulfill the purpose set forth in this Agreement. The Material and Method will not be used in any studies, trials, or evaluations except specifically as follows (the "Study"):

3. RECIPIENT's approval to use the Material and Method will expire _____ from the Effective Date of this Agreement. If RECIPIENT and UTRF enter a license agreement which involves the use of the Material and/or Method, then RECIPIENT's approval to use the Material shall expire at the end of the term set forth in the license agreement. *The Materials shall not be used in humans under any circumstances.*

4. In the case where animal studies have been proposed, RECIPIENT has considered *in vitro* approaches to the research and has followed NIH guidelines regarding such work in the United States.

5. RECIPIENT will provide Originator and UTRF with the results of the Study hereunder and will promptly disclose to UTRF all discoveries, inventions, and modifications pertaining to the Material and/or Method and/or the use of the Material and/or Method, conceived and/or reduced to practice in the course, or as a result, of the Study or as a result of RECIPIENT's access to the Material and/or Method.
6. RECIPIENT agrees that all discoveries, inventions, improvements and modifications pertaining to the Material and/or Method (whether or not patented or patentable) and any new uses thereof which are conceived and/or reduced to practice in the course, or as a result, of the Study or as a result of RECIPIENT's access to the Material and/or Method, and any associated patent applications and issued patents pertaining to such discoveries, inventions, improvements or modifications, shall belong to UTRF.
7. RECIPIENT agrees to hold in confidence the results of the work carried out hereunder and any information supplied with or generated through the utilization of the Material and Method (hereinafter "Information") and further agrees not to disclose or permit such Information to be disclosed to any other person or entity, other than those employees of RECIPIENT who have a need to know such Information and who have been made aware of this Agreement and are bound by its terms. RECIPIENT agrees not to use 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 RECIPIENT; or
 - b. at the time of receipt by RECIPIENT was legally known to RECIPIENT and was not acquired, directly or indirectly, from UTRF, the UNIVERSITY or Originator as evidenced by its written records;
 - c. at any time is received in good faith by RECIPIENT from a third party, which was lawfully in possession of the same and had the right to disclose the same;
 - d. is developed by employees of RECIPIENT independently of and without access to information received from Originator, UTRF or UNIVERSITY as may be shown by written records; or
 - e. is required by order of a court of law to be disclosed provided, however, that RECIPIENT shall give UTRF written notice prior to transferring Information to a third party under this provisions.
8. RECIPIENT will indemnify, defend, and hold harmless UTRF and UNIVERSITY, as well as their respective employees, directors, or board members, from any claims or liability resulting from RECIPIENT's use of the Material excluding any liability, claims, charges, causes of action, damages or expenses arising from the negligence of Originator, UTRF or UNIVERSITY.

9. ANY MATERIAL 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.
10. Neither UTRF nor the UNIVERSITY shall incur any liability to RECIPIENT if for any reason the Material is not available for use by RECIPIENT or the Methods are not disclosed to the RECIPIENT.
11. It is understood that the Material and Method shall be supplied, if at all, at the option of the UNIVERSITY and that UTRF shall have no responsibility to arrange with the UNIVERSITY for the transfer of the Material and Method to RECIPIENT.
12. The Material and Method shall remain the property of UTRF and UNIVERSITY and this Agreement shall not be construed to grant to RECIPIENT any express or implied option, license or other right, title or interest in or to the Material and Method except for the purpose set forth in this Agreement in Paragraph 2, nor shall this Agreement obligate UTRF to enter into any agreement granting any such rights.
13. This Agreement is not intended to be exclusive. The UNIVERSITY and UTRF shall be free, at their sole discretion, to use the Material for their own purposes and to distribute the Material to other parties.
14. RECIPIENT hereby acknowledges 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. Failure to obtain such export control license is not a breach of this contract by the UNIVERSITY or UTRF. 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. RECIPIENT agrees to pay any fees or expenses incurred by UNIVERSITY or UTRF to obtain an export license, if required. RECIPIENT agrees 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 the RECIPIENT has obtained prior written authorization first with the U.S. Office of Export Control or other authority responsible for such matters. Neither UNIVERSITY nor UTRF represents that a license(s) shall not be required nor that, if required, it (they) shall be issued.
15. 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.

(SIGNATURES ON FOLLOWING PAGE)

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.

THE UNIVERSITY OF TENNESSEE

THE UNIVERSITY OF TENNESSEE
RESEARCH FOUNDATION

By: _____
(signature)

By: _____
(signature)

Name: _____
(print or type)

Name: _____
(print or type)

Title: _____

Title: _____

Date: _____

Date: _____

(FULL NAME OF RECIPIENT)

By: _____
(Signature)

Name: _____
(print or type)

Title: _____

Date: _____