CASE WESTERN RESERVE UNIVERSITY

BIOLOGICAL MATERIAL TRANSFER AGREEMENT

Parties to this Agreement:

Recipient Institution:
Recipient's Address:

Recipient's Scientist:
Recipient Scientist's Address:

Provider Institution: Case Western Reserve University
Provider's Address: 10900 Euclid Avenue
Cleveland, Ohio 44106-7219

Provider's Scientist:

Definitions:

Effective Date: The date of the last authorized signature**.**

Original Material: _____

Progeny: Unmodified descendant from the Original Material, such as virus from virus, cell from cell, or organism from organism, and any immediate or remote progeny of or descendant from organisms or cell lines containing the same genetic mutation(s) or lesion(s) as Original Material.

Unmodified Derivatives: Substances created by Recipient which constitute an unmodified functional sub-unit or expression product of the Original Material, e.g., subclones of unmodified cell lines, purified or fractionated sub-sets of the Original Material such as novel plasmids or vectors, proteins expressed by DNA or RNA, antibodies secreted by a hybridoma.

Material: Original Material plus Progeny and Unmodified Derivatives.

Modifications: Substances created by Recipient which contain/incorporate any form of the Material (Original Material, Progeny or Unmodified Derivatives).

Information: All information relating to Material or Modifications disclosed to Recipient by Provider.

Research Purpose: _____

Terms and Conditions of this Agreement:

1. (a) Subject to the provisions of this Agreement, Provider shall transfer to Recipient such amount of Materials as is mutually agreed upon and hereby grants Recipient a non-exclusive, royalty free license to use the intellectual property rights embodied in Materials for the sole purpose of enabling Recipient to perform the Research Purpose as described above. The Material as defined above is and remains the property of Provider and is to be used by Recipient only under the direction of Recipient's Scientist for the Research Purpose stated above. If Material includes animals, then such animals may not be bred with animals of another strain or animals which contain a different or additional genetic mutation or lesion without the express, prior written approval of Provider for each such cross-breeding.

(b) Provider does not claim ownership of substances produced as a result of Recipient's research with the Material that are not included in the definition of Material above; however, Provider does retain ownership of any form of the Material included in such substances or Modifications. No product incorporating the Material, including Modifications, shall be commercialized without a license from Provider.

(c) Except as expressly provided in this Agreement, no rights are provided to Recipient under any patent applications, trade secrets or other proprietary rights of Provider. In particular, no rights are provided to use the Material or Modifications for profit-making or commercial purposes, such as sale; use in manufacturing; use in drug screening, evaluation, and/or design programs; or provision of a commercial service based upon the Material or Modifications.

(d) If Recipient desires to use the Material or Modifications for such profit-making or commercial purposes, Recipient agrees that it must first negotiate a license or other appropriate agreement with Provider and third parties as may be required, and it is further understood by Recipient that Provider shall have no obligation to enter into such a license or agreement and in fact may grant exclusive or non-exclusive commercial licenses to others.

(e) Recipient agrees that it shall not enter into any agreement that provides rights (other than to the government) to intellectual property (including methods) arising from Recipient's research with the Material and/or Modifications without Provider's written approval.

2. The Recipient agrees not to transfer the Material or Modifications without the prior written consent of Provider to anyone who does not work under the Recipient Scientist's direct supervision. No person authorized to use the Material shall be allowed to take or send the Material to any location other than the Recipient Scientist's Address without Provider's written consent.

3. The Recipient agrees to use reasonable efforts to hold confidential all Information identified as confidential at the time of disclosure and, if orally disclosed, then confirmed in writing or other tangible medium within thirty (30) days, except for Information that: (a) is now or will enter the public domain as the result of its disclosure in a publication, the issuance of a patent, or otherwise without the legal fault of the Recipient; (b) the Recipient can prove was in its possession at the time of the disclosure other than by prior disclosure by Provider, or was developed by Recipient alone or in collaboration with a third party without knowledge of the Information; (c) comes into the hands of the Recipient by means of a third party who is entitled to make such disclosure and who has no obligation of confidentiality toward the Provider; or (d) must be disclosed pursuant to a court order or as otherwise required by law. Obligations of non-disclosure of Information shall terminate three (3) years from the Effective Date of this Agreement.

4. If Recipient's research results in a discovery, invention, new use, or a product (collectively referred to as "Invention"), Recipient agrees to disclose promptly such Invention(s) to Provider on a confidential basis. Inventorship shall be determined in accordance with United States patent law (if patentable) or by mutual agreement between the parties (if not patentable) taking into account the role and contributions of individuals involved in the development of the Invention. If Provider personnel are co-inventors of such inventions, the Recipient agrees to enter into an agreement with Provider that addresses use, patenting, commercialization and royalties of/from the Invention based on the respective parties' contributions. If either Provider or Recipient is the sole inventor of any Invention, that party shall be free to dispose of such Invention as it sees fit. Any non-profit research or educational institution which is a party to this Agreement shall have the right to use for its internal research purposes Inventions developed through use of the Material under this Agreement without payment of license or royalty fees.

5. This Agreement shall not be interpreted to prevent or unreasonably delay publication of research results using the Material or Modifications. Recipient's Scientist and Recipient agree to provide appropriate acknowledgment of the source of the Material in all publications and presentations based on use of the Material, and agrees to furnish Provider with a copy of the manuscript or abstract disclosing such results prior to submission thereof to publisher, and not less than thirty (30) days prior to publication to allow Provider an opportunity to protect proprietary or intellectual property rights relating to the Material that might be contained in such disclosure. Provider agrees to keep such copy confidential during the thirty (30) day period and until publication. Other than as specified above, Recipient will not use the Provider's name or the names of its schools or departments in any publication or marketing materials without prior written consent.

6. Any Material delivered pursuant to this Agreement is understood to be experimental in nature, and PROVIDER 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, OR THAT THE USE OF THE MATERIAL WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER RIGHTS.

7. In no event shall Provider be liable for any use by Recipient of the Material or for any loss, claim, damage, or liability, of any kind or nature, that may arise from or in connection with the Recipient's use, handling, storage, or disposal of the Material, except as such claims, demands, costs, or judgments may arise from Provider's gross negligence or willful misconduct. To the extent allowable by Recipient's state law, Recipient assumes responsibility for, and agrees to indemnify and hold harmless Provider and Provider's trustees, officers, agents, and employees from any liability, loss, or damage they may suffer as a result of any claims, demands, costs, or judgments against them arising out of the use, handling, storage, or disposal of the Material by Recipient, except as such claims, demands, costs, or judgments may arise from Provider's gross negligence or willful misconduct.

8. The Material shall in no event be used in human beings (including for diagnostic purposes). All research involving the Material (including but not limited to research involving the use of animals and recombinant DNA) and disposal of the Material shall be conducted in accordance with all federal, state, local, import/export and other laws, regulations, and ordinances governing such research including applicable NIH guidelines.

9. (a) This Agreement will terminate on the earliest of the following dates: (1) on completion of Recipient's proposed research studies with the Material, or (2) on thirty (30) days written notice by either party to the other, or (3) two years from the Effective Date of this Agreement.

(b) On termination of this Agreement, Recipient will discontinue its use of the Material and will, unless otherwise directed by Provider, return or destroy the Material. Recipient will also either destroy Modifications or remain bound by the terms of this Agreement as they apply to Modifications.

(c) Paragraphs 3, 4, 5, 6 and 7 shall survive termination.

10. This Agreement constitutes the complete and exclusive agreement between Provider and Recipient with respect to the subject matter hereof, and supersedes all prior oral or written understandings, communications or agreements not specifically incorporated herein. This Agreement may not be amended except in writing and executed by both parties.

11. This Agreement is not assignable without the prior written consent of Provider.

12. Recipient shall comply with all U.S. export laws and regulations pertaining to the export of technical data, services and commodities.

For Recipient Institution:

Authorized Official

Name: _____

Title: _____

Signature: _____

Date: _____

For Provider Institution:

Authorized Official

Name: _____

Title: _____

Signature: _____

Date: _____

Read and Acknowledged by Recipient's Scientist:

Signature: _____

Date: _____

Read and Acknowledged by Provider's Scientist:

Signature: _____

Date: _____

Approved by:
Office of General Counsel
CWRU – 9/30/2015