

Material Transfer Agreement
For the Transfer of Patented/Patent Pending Material(s) and Proprietary Information
To a Non-profit Organization
UT Tyler Ref. No. _____

This Material Transfer Agreement (“MTA”) has been adopted for use by the University of Texas at Tyler, a component institution of The University of Texas System, an agency of the State of Texas (“PROVIDER”) in transfers of research material to non-profit organizations for teaching and/or research purposes.

PROVIDER: **THE UNIVERSITY OF TEXAS AT TYLER**

RECIPIENT:

PROVIDER agrees to transfer to RECIPIENT’s investigator named below the following material(s), including ORIGINAL MATERIAL, PROGENY and UNMODIFIED DERIVATIVES thereof (“RESEARCH MATERIAL”):

RESEARCH MATERIAL: ORIGINAL MATERIAL, PROGENY, and UNMODIFIED DERIVATIVES.

The RESEARCH MATERIAL shall not include: (a) MODIFICATIONS, or (b) other substances created by the RECIPIENT through the use of the MATERIAL which are not MODIFICATIONS, PROGENY, or UNMODIFIED DERIVATIVES.

a) ORIGINAL MATERIAL: The description of the material specified above.

b) PROGENY: Unmodified descendant from the MATERIAL, such as virus from virus, cell from cell, or organism from organism.

c) UNMODIFIED DERIVATIVES: Substances created by the RECIPIENT which constitute an unmodified functional sub-unit or product expressed by the ORIGINAL MATERIAL. Some examples include: subclones of unmodified cell lines, purified or fractionated subsets of the ORIGINAL MATERIAL, proteins expressed by DNA/RNA supplied by the PROVIDER, or monoclonal antibodies secreted by a hybridoma cell line.

d) MODIFICATIONS: Substances created by the RECIPIENT which contain/incorporate the MATERIAL.

Are the RESEARCH MATERIALS of human origin? Yes No.

If Yes, were RESEARCH MATERIALS collected according to 45 CFR Part 46, “Protection of Human Subjects”? Yes No.

If Yes, please provide Assurance Number:

RECIPIENT and the RECIPIENT SCIENTIST agree to the following:

1. The above RESEARCH MATERIAL is the property of the PROVIDER and is made available as a service to the research community. The RESEARCH MATERIAL and methods of using the RESEARCH MATERIAL are/may be the subject of U.S. and foreign patent applications. Please contact OTM, UTA, if information is desired concerning the present status of this invention or how to license the RESEARCH MATERIAL and/or patents covering the RESEARCH MATERIAL. The references to these inventions are:

2. THE RESEARCH MATERIAL MAY NOT BE USED IN HUMAN SUBJECTS.

3. The RESEARCH MATERIAL will be used for teaching or not-for-profit research purposes only, as described in Paragraph 4. The RESEARCH MATERIAL will not be used in research projects:

(a) involving collaboration with a for-profit organization;

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- (b) sponsored or funded by a for-profit organization;
- (c) in which the RECIPIENT or the RECIPIENT SCIENTIST is obligated to assign inventions containing the RESEARCH MATERIAL or offer an exclusive license to inventions containing the RESEARCH MATERIAL to an organization other than the RECIPIENT or a contractor of the RECIPIENT that manages the RECIPIENT's inventions on behalf of the RECIPIENT; or
- (d) in which the RECIPIENT or the RECIPIENT SCIENTIST is obligated to receive permission from an organization other than the RECIPIENT before publicly disclosing results of research involving the RESEARCH MATERIAL.

NOTE: If the RECIPIENT wishes to use the RESEARCH MATERIAL in a research project that is forbidden above, RECIPIENT should contact the Office of Sponsored Research (OSR), the University of Texas at Tyler (UTT), to discuss whether permission to use the RESEARCH MATERIAL in such project can be obtained.

4. This RESEARCH MATERIAL will be used by RECIPIENT solely in connection with the following research project:

5. The RESEARCH MATERIAL will not be further distributed to others without the PROVIDER's written consent. The RECIPIENT shall refer any request for the RESEARCH MATERIAL to the PROVIDER. To the extent supplies are available, the PROVIDER or the PROVIDER SCIENTIST agree to make the RESEARCH MATERIAL available under a separate Material Transfer Agreement.

6. To the extent permitted by law, RECIPIENT agrees to treat in confidence, for a period of three(3) years from the date of its disclosure, any of PROVIDER's written information about this RESEARCH MATERIAL that is stamped "CONFIDENTIAL," except for information that was previously known to RECIPIENT or that is or becomes publicly available or which is disclosed to RECIPIENT without a confidentiality obligation. Any oral disclosures from PROVIDER to RECIPIENT shall be identified as being CONFIDENTIAL by notice delivered to RECIPIENT within ten (10) days after the date of the oral disclosure. RECIPIENT may publish or otherwise publicly disclose the results of the RESEARCH PROJECT, but if PROVIDER has given CONFIDENTIAL information to RECIPIENT such public disclosure may be made only after PROVIDER has had thirty (30) days to review the proposed disclosure to determine if it includes any CONFIDENTIAL information, except when a shortened time period under court order or the Texas Open Records Act pertains.

7. This RESEARCH MATERIAL represents a significant investment on the part of PROVIDER and is considered proprietary to PROVIDER. RECIPIENT or the RECIPIENT SCIENTIST therefore agrees that RECIPIENT or the RECIPIENT SCIENTIST will retain control over this RESEARCH MATERIAL and further agrees that RECIPIENT will not transfer the RESEARCH MATERIAL to other people not under her or his direct supervision without advance written approval of PROVIDER. PROVIDER reserves the right to distribute the RESEARCH MATERIAL to others and to use it for its own purposes. When the RESEARCH PROJECT is completed, this Agreement is terminated pursuant to Paragraph 11 below, or six (6) months have elapsed, whichever occurs first, RECIPIENT will return to PROVIDER or destroy any remaining RESEARCH MATERIAL unless the term of this Agreement has been extended by written amendment or the RECIPIENT has obtained from UTTyler a suitable license to use the RESEARCH MATERIAL as described in Paragraph 1. If RECIPIENT depletes its supply of the RESEARCH MATERIAL or destroys the RESEARCH MATERIAL pursuant to this Paragraph 7, RECIPIENT will so notify PROVIDER in writing.

8. Any RESEARCH MATERIAL delivered pursuant to this Agreement is understood to be experimental in nature and may have hazardous properties. THE PROVIDER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR

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PURPOSE, OR THAT THE USE OF THE RESEARCH MATERIAL WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS. Unless prohibited by law, RECIPIENT assumes all liability for claims for damages against it by third parties which may arise from the use, storage or disposal of the RESEARCH MATERIAL except that, to the extent permitted by law, the PROVIDER shall be liable to the RECIPIENT when the damage is caused by the gross negligence or willful misconduct of the PROVIDER.

9. The RECIPIENT agrees to use the RESEARCH MATERIAL in compliance with all applicable statutes and regulations.

10. The RESEARCH MATERIAL is provided at no cost, or with an optional transmittal fee solely to reimburse the PROVIDER for its preparation and distribution costs. If a fee is requested, the amount will be indicated here: [insert fee]

11. Either PROVIDER or RECIPIENT may unilaterally terminate this Agreement at any time by giving written notice to the other Party at least thirty (30) days prior to the desired termination date.

12. RECIPIENT shall retain title to any patent or other intellectual property rights in MODIFICATIONS made by its employees using the RESEARCH MATERIALS in the course of the RESEARCH PROJECT. However, the PROVIDER shall retain title to any patents or other intellectual property rights in ORIGINAL MATERIAL, PROGENY, and UNMODIFIED DERIVATIVES.

13. This MTA shall be construed in accordance with Texas law.

14. The provisions of Paragraphs 6, 7, 8, 12, 13 and 17 of this Agreement will survive expiration or termination.

15. The undersigned PROVIDER and RECIPIENT expressly certify and affirm that the contents of any statements made herein are truthful and accurate.

16. Each Party hereto has caused this Agreement to be executed on its behalf in duplicate, each of which duplicate shall be deemed to be an original, to be effective when signed by duly authorized representatives of all Parties.

17. In consideration of receiving for review from PROVIDER a copy of unpublished documents relating to RESEARCH MATERIALS and bearing the title(s) indicated below and any other documents, data and knowledge pertaining to those RESEARCH MATERIALS or engaging in discussions with researchers at PROVIDER regarding those RESEARCH MATERIALS and further progress not yet published, (collectively referred to hereinafter as "PROPRIETARY INFORMATION"), RECIPIENT agrees as follows:

a. RECIPIENT agrees not to disclose any portion of the PROPRIETARY INFORMATION to any third party without prior written permission from PROVIDER, shall use reasonable care to maintain the confidentiality of the PROPRIETARY INFORMATION with at least the same degree of care as is exercised in respect of RECIPIENT'S own proprietary information, and shall disclose the PROPRIETARY INFORMATION only to those of RECIPIENT'S employees who have a need to review the PROPRIETARY INFORMATION for the purposes specified in paragraph 18d below.

b. The following information categories are excluded from the confidentiality obligation of Paragraph a:

i. Information that was known to RECIPIENT about the PROPRIETARY INFORMATION prior to disclosure under this Agreement;

ii. Information about the PROPRIETARY INFORMATION that is or becomes generally available to the public through no fault of RECIPIENT;

iii. Information about the PROPRIETARY INFORMATION that is subsequently made available to RECIPIENT from any third party that is not under a confidentiality obligation to PROVIDER.

c. This Agreement does not grant any license rights under the PROPRIETARY INFORMATION.

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d. RECIPIENT represents that the purpose of requesting the PROPRIETARY INFORMATION is only to perform non-profit research under the RESEARCH PROJECT. RECIPIENT further represents that its request for the PROPRIETARY INFORMATION is not to form the basis for filing a patent application or instituting any other proceeding in any patent office or court. RECIPIENT agrees not to use the PROPRIETARY INFORMATION except for the purposes stated in this Agreement.

e. RECIPIENT'S obligations under this Agreement shall remain in effect for three (e) years from the date specified above.

f. PROPRIETARY INFORMATION document title(s):

18. Any additional requirements:

a. The RECIPIENT agrees to acknowledge the source of the RESEARCH MATERIAL in any oral presentations or written publications concerning the RESEARCH PROJECT unless requested otherwise by PROVIDER.

b. No later than one month before a publication concerning results obtained with the RESEARCH MATERIAL is going to be submitted, RECIPIENT agrees to send a copy or draft of the paper to the PROVIDER's Investigator. If there is no publication, the RECIPIENT agrees to communicate the results of the studies concerning the RESEARCH MATERIAL to the PROVIDER's Investigator.

SIGNATURES BEGIN ON NEXT PAGE

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PROVIDER INFORMATION and AUTHORIZED SIGNATURE

PROVIDER Scientist:
Name of Authorized Official: Michael Odell, PhD
Title of Authorized Official: Director of Research
PROVIDER Organization: University of Texas at Tyler
Address for Notices: Office of Sponsored Research
Technology Commercialization Manager
3900 University Blvd, ADM 361
Tyler, TX 75799

PHONE: 903-565-5774
FAX: 903-565-5858

Michael Odell, PhD

Date

RECIPIENT INFORMATION and AUTHORIZED SIGNATURE

RECIPIENT Scientist:
Name of Authorized Official:
Title of Authorized Official:
RECIPIENT Organization:
Address for Notices:

Signature of Authorized Official

Date

Certification of RECIPIENT SCIENTIST: I have read and understood the conditions outlined in this Agreement and I agree to abide by them in the receipt and use of the RESEARCH MATERIAL.

RECIPIENT SCIENTIST:

Date