NORTH CAROLINA STATE UNIVERSITY

# MATERIAL TRANSFER AGREEMENT

In accepting the following materials identified by **\_\_\_\_\_\_\_\_\_\_\_\_** ("COMPANY") as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the "Material"), **NORTH CAROLINA STATE UNIVERSITY** (the “Recipient" or “NCSU”) hereby agrees to the following terms and conditions:

1. All restrictions and obligations of this Agreement relate to the Material together with any progeny, mutants, or replicated forms thereof, and all cells and tissues containing the Material, including any replicated forms and unmodified derivatives thereof.
2. The Material is to be used only at Recipient's facilities by Recipient's principal investigator, \_\_\_\_\_\_\_\_\_\_\_ (the "P.I."), and by individuals and/or consultants working under the P.I.'s direction. The Material will be used solely for the purpose of \_\_\_\_\_\_\_\_\_\_\_\_\_.
3. No specimen of the Material will be given or made available to any other person, institution, firm or corporation without the expressed written consent of COMPANY.
4. This permission to use the Material shall be restricted to Recipient's internal research use only. The Material may not be used commercially or for research that is subject to consulting or licensing obligations to another commercial organization whether or not such obligations presently exist or are entered into in the future unless written permission is obtained from COMPANY.
5. Recipient will use the Material in compliance with all Laws and regulations applicable to the use, storage and disposition of the Material. The Material is experimental in nature, is not for human use, and is provided by COMPANY on an "as is" basis WITHOUT WARRANTIES OR REPRESENTATIONS OF ANY SORT, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.
6. No right or license under any COMPANY patent or patent application is granted hereby. Further, COMPANY does not warrant that the use of the Material will not infringe any valid patent or other proprietary rights or that the Material is safe and without hazards. Recipient assumes all risks associated with their use of the Material.
7. Recipient will inform COMPANY of research results related to the Material and will provide COMPANY a copy of any proposed publication describing the results of such research at the time the manuscript is submitted for publication.
8. If NCSU makes an Invention, whether patentable or not, as a result of its use of the Material, it will promptly inform COMPANY of such Invention. Inventorship shall be determined in accordance with 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 research and ownership follows inventorship. In the case of a joint Invention, NCSU and COMPANY agree to negotiate a joint invention agreement which shall provide, *inter alia*, for the sharing of patent costs, income, and invention management responsibilities.
9. Material will be sent to the Recipient upon receipt by COMPANY of a signed and executed copy of this agreement.
10. This Agreement shall terminate 24 months from the latest date entered below (the "Termination Date"). At the Termination Date, Recipient will, upon written request of COMPANY, either return the Material to COMPANY, or certify in writing to COMPANY that it has destroyed all samples of the Material in Recipient's possession.
11. COMPANY represents that to its present knowledge it has the full right and authority to release the Material to NCSU, and to its present knowledge, there has been no sale, assignment, license or transfer to any person, firm or corporation which would be inconsistent with said representations.
12. This Agreement and the Parties to this Agreement are subject to all of the United States laws and regulations controlling the export of technical data, computer software, laboratory prototypes and other commodities and technology and this Agreement requires compliance with applicable United States export laws and regulations. Provider acknowledges that if it desires to disclose export controlled information or materials there exists a strong likelihood that faculty and/or students involved in receiving the information and carrying out the purpose of this agreement may be foreign nationals, non-US permanent residents, or on the denied persons/entity list.  Provider certifies that any information that it discloses to NCSU shall not be controlled by US export laws and if Provider wishes to disclose information or materials controlled by US export control laws, Provider shall notify NCSU prior to disclosure and shall not disclose said information or materials until Provider receives authorization from NCSU, Office of Research Commercialization that it intends to accept said information or materials. Notification of intent to disclose controlled information or materials shall be made to Director, Office of Research Commercialization, Campus Box 8210, Raleigh, NC 27695-8210.

1. This Agreement is entered into in the State of North Carolina and must be interpreted in accordance with and its performance governed by the laws of the State of North Carolina, without reference to its conflicts of laws provisions. Any and all litigation relating to this Agreement or the parties' performance hereunder must be in the State Courts of North Carolina with the venue being Wake County. The parties consent to the jurisdiction of those courts.
2. For the purpose of all written communications and notices between the parties, their addresses are:

NCSU Notice COMPANY Notice

#### For delivery via the U.S. Postal Service

Office of Technology Licensing **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

North Carolina State University **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Attn: Senior Agreements Manager **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Campus Box 8210 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Raleigh, NC 27695-8210 USA \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

For delivery via courier

Office of Technology Licensing

North Carolina State University

Attn: Senior Agreements Manager

Poulton Innovation Center

1021 Main Campus Drive

Raleigh, NC 27606 USA

NCSU Technical/Scientific Contact

1. The parties to this document agree that a copy of the original signature (including an electronic copy) may be used for any and all purposes for which the original signature may have been used. The parties further waive any right to challenge the admissibility or authenticity of this document in a court of law based solely on the absence of an original signature.

Approved for NCSU: Approved for \_\_\_\_\_\_\_\_\_\_\_\_\_\_:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Brian Eller By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Interim Assistant Vice Chancellor (Authorized Representative)

Office of Technology Licensing Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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