

# MATERIAL TRANSFER AGREEMENT

This Agreement is between \_\_\_\_\_, a corporation having a place of business at \_\_\_\_\_ ("RECIPIENT"), and Youngstown State University ("YSU") having an address at One University Plaza, Youngstown, Ohio 44555. This Agreement shall govern the conditions of disclosure by YSU to RECIPIENT of certain biological or other Materials ("MATERIALS") relating to:

developed by \_\_\_\_\_  
("INVESTIGATOR")

of YSU and further identified as \_\_\_\_\_ . YSU retains ownership of the MATERIALS including any material contained or incorporated in Modifications.

\_\_\_\_\_ ("SCIENTIST") in SCIENTIST'S laboratory. MATERIALS include all such biological or other samples actually provided to RECIPIENT, plus any Progeny and/or any Unmodified Derivatives of the original biological samples.

A. DEFINITIONS. The following definitions shall apply to this Agreement:

1. Progeny: Unmodified descendant from the MATERIAL, such as virus from virus, cell from cell, or organism from organism.
2. Unmodified Derivatives: Substances created by RECIPIENT that constitutes an unmodified functional sub-unit or an expression product of the MATERIALS. Some examples include: sub clones of unmodified cell lines, purified or fractionated sub-sets of the MATERIALS, proteins expressed by DNA/RNA supplied by YSU, monoclonal antibodies secreted by a hybridoma cell line, subsets of the MATERIALS such as novel plasmids or vectors.
3. Modifications: Substances created by RECIPIENT that contain or incorporate the MATERIALS.
4. Commercial Purposes: The sale, lease, license, or other transfer of the MATERIALS or Modifications to a for-profit organization. Commercial Purposes shall also include uses of the MATERIALS or Modifications by any organization, including RECIPIENT, to perform contract research, to screen compound libraries, to produce or manufacture products for general sale, or to conduct research activities that result in any sale, lease, license or transfer of the MATERIALS or Modifications to a for-profit organization. However, industrially sponsored academic research shall not be considered a use of the MATERIALS or Modifications for Commercial Purposes per se, unless any of the above conditions are met.

B. PRICE. RECIPIENT shall pay YSU (\$) \_\_\_\_\_ ) due upon execution of this Agreement.

C. USE OF MATERIALS. RECIPIENT agrees:

1. that the MATERIALS will be used only in SCIENTIST'S laboratory and only by SCIENTIST and laboratory personnel under SCIENTIST'S immediate and direct control;
2. to use MATERIALS for the sole purpose of teaching and academic research and NOT for any Commercial Purposes;

3. that MATERIALS will be received, handled, stored, used and disposed of in compliance with all applicable laws, regulations and guidelines, and in accordance with safe and prudent practices, and will not be administered to human subjects or provided to any third parties, nor will any animals or plants exposed to MATERIALS, or products of such animals or plants, be used for food; and
4. that RECIPIENT has adequate systems, procedures and personnel to review and oversee arrangements for the receipt, handling, storage, use and disposal of experimental materials of the nature of MATERIALS and that it will ensure that all persons involved in receiving, handling, storing, using or disposing of MATERIALS are adequately qualified by training and experience to do so safely and legally.

- D. TRANSFER OF MATERIALS. RECIPIENT shall not transfer MATERIALS to any others (except to its employees, agents or consultants who are bound to RECIPIENT by like obligations conditioning and restricting access, use, and continued use of MATERIALS) without the express written consent of YSU.
- E. WARRANTIES. RECIPIENT acknowledges that MATERIALS are experimental products of research that may not have been fully characterized, and will accept MATERIALS as is and entirely at its own risk and without exculpatory reliance on any information or representation/s that may be, or have been, furnished or made by or on behalf of YSU, including without limitation information or representation/s as to (i) the composition, characterization, purity, stability, safety or utility of MATERIALS, (ii) the applicability, efficacy or safety of any method/s of preparing, handling, storing, using or disposing of MATERIALS, or (iii) the freedom from claims by others of intellectual or other property rights in MATERIALS or in any such methods. All warranties, express or implied, in respect of MATERIALS, including warranties of merchantability and of fitness for any particular purpose, are disclaimed by YSU.
- F. LIMITATION ON DAMAGES. YSU shall not be liable for any indirect or consequential damages attributable in any way to the subject matter of this Agreement, whether or not it had actual or constructive notice of the potential for such damages occurring, nor in any event shall YSU be liable for any damages attributable in any way to the subject matter of this Agreement which exceed the amount of any payment received by YSU under this Agreement.
- G. TERM. YSU may terminate this Agreement and require return or destruction of the MATERIALS by RECIPIENT upon thirty (30) days written notice. RECIPIENT shall otherwise destroy all copies of MATERIALS within one year of the effective date of this Agreement, unless:
1. this deadline is extended by YSU in writing; or
  2. RECIPIENT has indicated to YSU in writing its desire to obtain a commercial license to MATERIALS and negotiations to that end have begun.

- H. INDEMNIFICATION. Except to the extent prohibited by law, RECIPIENT shall indemnify YSU against any claims, costs, or other liabilities which may arise as a result of RECIPIENT'S use of MATERIALS.
- I. NOTIFICATION. RECIPIENT may file patent applications claiming inventions made by RECIPIENT through the use of the MATERIALS but agrees to notify YSU and INVESTIGATOR upon filing a patent application claiming Modifications or uses of the MATERIALS. SCIENTIST will inform INVESTIGATOR in confidence of research results related to the MATERIALS, by personal communication or by providing copies of manuscripts describing the results of such research at the time the manuscripts are submitted for publication.
- J. USE OF NAME. RECIPIENT shall acknowledge the source of MATERIALS in any descriptions of experiments and/or results involving MATERIALS. However, neither RECIPIENT nor its personnel will otherwise use, or authorize or permit the use of, the name of any YSU organization or personnel in connection with any commercial or promotional activities relating to MATERIALS, nor in such a way as to imply any endorsement by YSU or YSU personnel of any Material, product or method.
- K. RIGHTS TO MATERIAL. The furnishing of MATERIALS to RECIPIENT shall not constitute any grant or license to RECIPIENT under any legal rights now or later held by YSU other than as stated in this Agreement. The provision of the Material to RECIPIENT shall not alter any pre-existing right to the MATERIALS. Without written consent from YSU, RECIPIENT may NOT provide Modifications for Commercial Purposes. It is recognized by RECIPIENT that such Commercial Purposes may require a commercial license from YSU and YSU has no obligation to grant a commercial license to its ownership interest in MATERIALS incorporated in any Modifications. Nothing in this paragraph, however, shall prevent RECIPIENT from granting commercial licenses under RECIPIENT'S intellectual property rights claiming such Modifications, or methods of manufacture or their use.
- L. ENTIRE AGREEMENT. This Agreement reflects the entire agreement between YSU and RECIPIENT, and the Agreement may be modified or altered only in writing.
- M. INTERPRETATION AND JURISDICTION. The interpretation and validity of this Agreement and the rights of the parties shall be governed by the laws of the State of Ohio. Any action brought to enforce this Agreement shall be brought in Ohio.

This Agreement shall be executed in duplicate and be effective as of the date signed by the party last to sign.

YOUNGSTOWN STATE UNIVERSITY

RECIPIENT

By:

By:

Name: Severine Van slambrouck

Name:

Title: Director of Research Services

Title:

Date:

Date:

Signature:

Signature:

Name:

Name:

Title: Investigator

Title: Scientist

Date:

Date: