

For illustrative purposes only. This sample contains terms representative of a Material Transfer Agreement, but any such agreement may be subject to change.

MATERIAL TRANSFER AGREEMENT

President and Fellows of Harvard College, with offices at Richard A. and Susan F. Smith Campus Center, Suite 727E, 1350 Massachusetts Avenue, Cambridge, Massachusetts 02138 (“Harvard”), agrees to provide [REDACTED], a [REDACTED] corporation with offices at [REDACTED] (“Company”), with certain material for its internal research use, subject to the terms and conditions set forth in this Material Transfer Agreement (this “Agreement”). The effective date of this Agreement is [REDACTED] (the “Effective Date”).

1. This Agreement applies to [REDACTED] and any progeny and unmodified derivatives thereof (collectively, the “Material”). This Agreement also applies to substances created by Company that contain or incorporate the Material (“Modifications”). The Material will be provided to Company by Harvard through its investigator, Dr. [REDACTED] (“Investigator”), following the execution of this Agreement.
2. The Material and Modifications will be used by Company solely for the internal basic research as specifically described in the attached Appendix A to this Agreement (the “Research”) and for no other purpose. In addition, the Material and Modifications will be used only at the Company facilities and only by or under the direct supervision of Dr. [REDACTED] (“Company Scientist”). Company shall not provide the Material or Modifications to any third party without the prior written consent of Harvard and shall ensure that the Material and Modifications remain under Company’s immediate and direct control.
3. The Material and Modifications shall not be used for Commercial Purposes or for any other purpose except for performance of the Research. “Commercial Purposes” means any activity conducted in exchange for consideration including, but not limited to, (a) use in manufacturing, (b) use to provide a service, (c) use for therapeutic, diagnostic, screening or prophylactic purposes and/or (d) resale, whether or not resold for use in research. Company shall not undertake any additional analyses of the Material, chemical or biological, including, without limitation, any attempt to determine the composition, formula, structure or properties of the Material, without the express written permission of Harvard.
4. The Material is provided to Company for use only in in vitro experiments. **THE MATERIAL AND MODIFICATIONS SHALL NOT BE USED IN HUMANS.**
5. Company agrees to reimburse Harvard the non-refundable sum of _____ US Dollars (\$_____.00) solely for the costs of preparation and shipment of the Material. The foregoing sum shall be paid immediately upon execution of this Agreement. **IF NO CHARGE FOR MATERIALS**: Omitted.
6. Company shall promptly provide Harvard and Investigator with written reports of all results of the Research and related data. Harvard may use such results and data for its internal research and education purposes. Company will own Modifications, except for any Material

contained or incorporated in a Modification. Inventorship of any invention relating to the Material conceived or reduced to practice in the performance of the Research will be determined in accordance with applicable patent laws; ownership shall follow inventorship.

7. Company will use the Material and Modifications in compliance with all laws, governmental regulations and guidelines, including current National Institute of Health guidelines and any regulations or guidelines pertaining to research with animals that may be applicable to the Material. **[INSERT APPROPRIATE EXPORT CONTROL LANGUAGE]**

8. As between the parties, all rights, title and interest in and to the Material (including any Material contained or incorporated in Modifications) and all intellectual property rights in the Material shall be owned solely and exclusively by Harvard. Company acknowledges that the Material is or may be covered by patents and/or patent applications. Except as provided in this Agreement, no express or implied licenses or other rights are provided to Company under any patents, patent applications or other intellectual property rights of Harvard. Nothing in this Agreement shall be construed to restrict Harvard's right to make and use the Material or to distribute the Material to other commercial and noncommercial entities. Moreover, the provision of the Material to Company in no way prevents or restricts Harvard's or Investigator's right to publish any document relating to the Material.

9. In any publication by Company relating to its research using the Material or Modifications, Harvard and Investigator will be acknowledged as the source of the Material and Investigator and other Harvard researchers will be given full credit for their contributions to the Research, if any.

10. The Material is experimental in nature and will be used with prudence and appropriate caution, since not all of its characteristics are known. Company acknowledges and agrees that the Material is being provided "AS IS" with no warranties of any kind, express or implied. HARVARD EXPRESSLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. HARVARD MAKES NO REPRESENTATION OR WARRANTY THAT THE USE OF THE MATERIAL WILL NOT INFRINGE ANY PATENT OR OTHER PROPRIETARY RIGHT.

11. Company shall indemnify, defend and hold harmless Harvard and its current or former directors, governing board members, trustees, officers, faculty, medical and professional staff, employees, students and agents and their respective successors, heirs and assigns (collectively, the "Indemnitees") from and against any claim, liability, cost, expense, damage, deficiency, loss or obligation of any kind or nature (including, without limitation, reasonable attorneys' fees and other costs and expenses of litigation) (collectively, "Claims") based upon, arising out of or otherwise relating to this Agreement or to Company's use of the Material, Modifications or the results of the Research, including without limitation any cause of action relating to product

liability, except insofar as such claims or liability result from Harvard's gross negligence or willful misconduct.

12. This Agreement is not assignable by either party without the express written consent of the other.

13. This Agreement will be governed by, and construed in accordance with, the substantive laws of the Commonwealth of Massachusetts, without giving effect to any choice or conflict of law provision, except that questions affecting the construction and effect of any patent shall be determined by the law of the country in which the patent shall have been granted. Any dispute will be resolved by the state courts of the Commonwealth of Massachusetts or the federal courts of the District of Massachusetts, without restricting any right of appeal.

14. Company shall not use or register the name "Harvard" (alone or as part of another name) or any logos, seals, insignia or other words, names, symbols or devices that identify Harvard or any Harvard school, unit, division or affiliate ("Harvard Names") for any purpose except with the prior written approval of, and in accordance with restrictions required by, Harvard. Without limiting the foregoing, Company shall cease all use of Harvard Names on the termination or expiration of this Agreement except as otherwise approved by Harvard. This restriction shall not apply to any information required by law to be disclosed to any governmental entity.

15. The term of this Agreement shall commence on the Effective Date and, unless earlier terminated as provided in this Section 15, shall continue in full force and effect for **one (1) year** from the Effective Date. Notwithstanding the foregoing, either party may terminate this Agreement upon thirty (30) days prior written notice to the other. If either party commits a material breach of its obligations under this Agreement and fails to cure that breach within thirty (30) days after receiving written notice thereof, the other party may terminate this Agreement immediately upon written notice to the party in breach. Upon termination or expiration of this Agreement, Company will immediately cease all use of the Material and Modifications and will, at the request of Harvard, return or destroy all unused Material and Modifications. Sections 6, 9, 10, 11, 13, 14 and 15 will survive termination of this Agreement.

[SIGNATURES BEGIN ON NEXT PAGE]

PRESIDENT AND FELLOWS
OF HARVARD COLLEGE

[COMPANY NAME]

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Read and Acknowledged:

Company Scientist

SAMPLE

Appendix A – Research

(Please insert a short description)

SAMPLE