

Non-Biological MATERIAL Transfer Agreement

Definitions:

PROVIDER: Florida Atlantic University Board of Trustees
777 Glades Road
Boca Raton, FL 33431

*PROVIDER
SCIENTIST:*

RECIPIENT:

*RECIPIENT
SCIENTIST:*

MATERIAL:

COMMERCIAL PURPOSES: The sale, lease, license, or other transfer of the MATERIAL. COMMERCIAL PURPOSES shall also include uses of the MATERIAL by any organization, including RECIPIENT, to produce or manufacture products for general sale, to conduct research activities that result in any sale, lease, license, or transfer of the MATERIAL, or to perform contract research.

Terms and Conditions

1. The PROVIDER retains ownership of the MATERIAL. The material is defined in Exhibit A, attached hereto and incorporated by this reference.
2. The RECIPIENT agrees that the MATERIAL and any modification which incorporates the material:
 - (a) is to be used solely for internal testing, research or evaluation purposes in the following areas or fields:
 - (b) is to be used only at the RECIPIENT organization and only under the direction of RECIPIENT SCIENTIST, and others working under their direct supervision; and
 - (c) is **not to be used** for COMMERCIAL PURPOSES without a license from PROVIDER; and

- (d) will not be transferred to anyone else within the RECIPIENT organization without the prior written consent of the PROVIDER.
 - (e) will not be incorporated into another product which product will be used for COMMERCIAL PURPOSES without a license from Provider.
3. The period of this agreement shall be _ through .
 4. This MATERIAL is being provided to the RECIPIENT at a cost of \$. No cost shall be assessed to PROVIDER for the evaluation associated with/or through the authorized usage of PROVIDER's MATERIAL. All costs incurred through the evaluation of the MATERIAL will be the sole responsibility of RECIPIENT
 5. The RECIPIENT acknowledges that the MATERIAL is owned by PROVIDER and is the subject of a copyright and/or owned by PROVIDER. Except as provided in this Agreement, no express or implied licenses or other rights are provided to the RECIPIENT under any patents, patent applications, trade secrets, copyrights or other proprietary rights of the PROVIDER.
 6. RECIPIENT agrees to respect and not to remove, obliterate, or cancel from view any copyright, trademark, confidentiality or other proprietary notice, mark, or legend appearing on any of the MATERIAL or output generated by the MATERIAL, and to reproduce and include same on each copy of the MATERIAL.
 7. RECIPIENT hereby acknowledges and agrees that the MATERIAL constitutes and contain valuable trade secrets of PROVIDER, embodying substantial creative efforts and confidential information, ideas, and expressions. Accordingly, RECIPIENT agrees to treat (and take precautions to ensure that its employees treat) the MATERIAL as confidential in accordance with the confidentiality requirements and conditions set forth in Section 7.
 8. RECIPIENT agrees to keep confidential the Material and all confidential information disclosed to it by PROVIDER in accordance herewith, for a period of five (5) years from the effective date of this agreement or if terminated, for a period of five (5) years from the date of termination and to protect the confidentiality thereof in the same manner it protects the confidentiality of similar information and data of its own (at all times exercising at least a reasonable degree of care in the protection of confidential information); provided, however, that RECIPIENT shall not have any such obligation with respect to use or disclosure to others not parties to this Agreement of such confidential information as can be established to: (i) have been known publicly; (ii) have been known generally in the industry before communication to RECIPIENT; (iii) have become known publicly, without fault on the part of the RECIPIENT, subsequent to disclosure by PROVIDER; (iv) have been known otherwise by the RECIPIENT before communication by PROVIDER; (v) have been received by the RECIPIENT without any obligation of confidentiality from a source (other than the PROVIDER) lawfully having possession of such information;. (vi) is required to be disclosed in accordance with

applicable law or pursuant to a lawful court order, provided that RECIPIENT promptly notifies PROVIDER of the information RECIPIENT intends to disclose and RECIPIENT shall give PROVIDER an opportunity to contest such findings if PROVIDER believes, at the time such disclosure is requested, that any of the information RECIPIENT intends to disclose is exempt from such court order.

9. RECIPIENT shall exercise prudent care and maintenance of MATERIAL while in the RECIPIENT's possession during the term of this agreement. The current condition of the MATERIAL will be determined by the PROVIDER and forwarded to the RECIPIENT in writing following the execution of this agreement. RECIPIENT will be responsible for any loss, damage or problems incurred during the period the MATERIAL is in the possession of the RECIPIENT.

10. RECIPIENT agrees not to modify, reverse engineer, disassemble, or decompile the MATERIAL, or any portion thereof.

11. PROVIDER shall be permitted to inspect on-site the MATERIAL and undertake periodic on-site reviews of the progress of the RECIPIENT's evaluation. PROVIDER will provide verbal notice to the RECIPIENT of when these visits are to occur, if applicable.

12. Upon TERMINATION of this agreement the RECIPIENT will return all materials to the PROVIDER. Should the PROVIDER require the return of the MATERIAL prior to the TERMINATION, three (30) days advanced notice will be given. RECIPIENT shall assist and provide full cooperation in returning MATERIAL in a timely manner.

13. RECIPIENT will provide the PROVIDER copies of any MATERIAL RECIPIENT generates. This should include but is not limited to; compact discs, working prototypes, demos, or any type of replication of original MATERIAL.

14. If RECIPIENT breaches any of its obligations with respect to the use or confidentiality of the MATERIAL, PROVIDER shall be entitled to seek equitable relief to protect its interests therein, including, but not limited to, preliminary and permanent injunctive relief.

15. This agreement constitutes the entire agreement between the parties and no representation oral or written not specifically incorporated into this Agreement shall be binding.

16. This Agreement will be governed by the laws of the state of Florida. In the event of litigation, venue shall be in Palm Beach County, Florida.

17. Any 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 expressed or implied warranties or merchantability or fitness for a particular purpose, or that the use of the MATERIAL will nor infringe any patent, copyright, trademark, or other proprietary rights.

18. Except to the extent prohibited by law, the RECIPIENT assumes all liability for damages which may arise from its use, storage or disposal of the MATERIAL. The PROVIDER will not be liable to the RECIPIENT for any loss, claim or demand made by the RECIPIENT, or made against the RECIPIENT by any other party, due to arising from the MATERIAL by the RECIPIENT, except to the extent permitted by law when caused by the gross negligence or willful misconduct of the PROVIDER.

This is agreed to by the following parties:

PROVIDER

RECIPIENT

Signature
Director of Sponsored Programs

Date

Date

PROVIDER SCIENTIST

RECIPIENT SCIENTIST

Name]
[Title]
