**MATERIALS TRANSFER AGREEMENT**

 This Materials Transfer Agreement (MTA) is made and entered into by and between:

 The **UNIVERSITY OF THE PHILIPPINES**, the National University of the Philippines, a public and secular institution of higher learning, created by virtue of Act No. 1870, as amended and reorganized and operating by virtue of Republic Act No. 9500, through its constituent university, the UNIVERSITY OF THE PHILIPPINES \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, with principal office address at the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and represented herein by its Chancellor, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and hereinafter referred to as “**UP**”,

-and-

The\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of party), a corporation duly organized and existing by virtue of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, with principal office address at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, represented herein by its President, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and hereinafter referred to as the “\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”,

**RECITALS:**

WHEREAS, the parties hereto entered into a Research Collaboration Agreement (RCA) for the conduct and implementation of the collaborative research project entitled “\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_” (hereinafter referred to as the “Project”) which was approved for funding by the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and which RCA is integrated hereto by way of reference;

 WHEREAS, in the conduct and implementation of the Project, the parties are expected to transfer, exchange, use, and study tangible research materials as Provider and/or Recipient thereof, and thus, there is need to identify and determine their respective rights and interests on such research materials, including but not limited to their derivatives, alterations and modifications;

 NOW, THEREFORE, the foregoing premises considered, the parties hereby agree to the exchange and transfer of tangible research materials, subject to the following terms and conditions:

1. *Definitions.*- The following are the definitions of the terms used in this Agreement:
2. *Provider:* The party hereto providing the original research material to the other party.
3. *Recipient:*  The party receiving the original research material from the other party.
4. *Original Research Material/ Original Material***:**  The research material subject matter of the transfer between the parties, together with any Know-How associated with such materials, as well as any progeny or unmodified derivatives of that material.
5. *Progeny:* Unmodified descendant from the Original Material, such as virus from virus, cell from cell, or organism from organism.
6. *Unmodified Derivatives:*Substances created by the Recipient which constitute an unmodified functional subunit 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.
7. *Modifications:* Substances created by the Recipientwhich contain/incorporate the Original Material.
8. *Intellectual Property (IP) and Intellectual Property Rights (IPR).-* The parties expressly agree that the IP and IPR subject of this Agreement shall be those defined pursuant to the provisions of the following: Republic Act (RA) No. 8293, also known as the Intellectual Property Code of the Philippines, as amended; RA No. 10055, also known as the Philippine Technology Transfer Act of 2009; RA No. 8439, also known as the Magna Carta for Scientists, Engineers, Researchers and S&T Personnel in Government; and the 2011 IPR Policy of the UP.
9. *Know-How:* Any information, whether proprietary or not, including without limitation all chemical compositions and structures, databases and data collections, data (including clinical data), designs, diagrams, documentation, drawings, formulas, methods, plans, procedures, processes, protocols, results, schematics, specifications and techniques.
10. *Commercial Purposes****:*** The sale, lease, license, or other transfer of the  Original Material or Modifications to a for-profit organization or enterprise. Commercial Purposesshall also include uses of the Material or Modificationsby 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 Materialor Modificationsto a for-profit organization. However, industrially sponsored academic research shall not be considered a use of the Materialor Modificationsfor Commercial Purposes *per se* unless any of the above conditions of this definition are met.
11. *Ownership of Material*.- The transfer of the Original Material from the Provider to the Recipient notwithstanding, the former retains ownership of the Original Material and any Original Material contained or incorporated in Modifications. The Recipient retains ownership of: (a) Modifications , and (b) those substances created through the use of the Material or Modifications, but which are not Progeny, Unmodified Derivatives or Modifications ( i.e, do not contain the Original Material, Progeny, Unmodified Derivatives). Parties, however, expressly agree and hereby confirm that if either 2 (a) or 2 (b) results from the collaborative efforts of the Provider and the Recipient, they shall have joint and equal ownership thereof.
12. *Use of the Original Material*. – The Original Material is not for use in human subjects, in clinical trials and/or for diagnostic purposes involving human subjects. The Original Material is to be used solely and exclusively for and in the conduct and implementation of the Project. Additionally, the use of the Original Material by the Recipient shall be done only in its laboratory under the direction of its research scientists or others under his/her direct supervision.
13. *Non-disclosure and non-distribution of the Original Material to Third Parties*. - Except with the prior written approval of the Provider, the Recipient shall neither disclose nor distribute the Original Material to any and all third parties.
14. *Acknowledgment of Source.-* The Recipient agrees to acknowledge the Provider as the source of the Original Material in any publications reporting use of it.
15. *Disclosure, Management and Licensing/ Transfer of Intellectual Property and Intellectual Property Rights*.- The parties acknowledge that the Original Material and the Modifications thereof arising from and/or as a result of the implementation of the Project may be the subject of a patent application and/or protection of IP and IPR. Insofar as the Modifications hereof result from the implementation of the Project, the Recipient shall disclose the same to the Provider. Upon disclosure, both parties shall negotiate and thereafter jointly determine and agree in writing on whether or not to undertake the filing of patent application, the protection of IP and other IPR, and the management thereof, including the licensing and transfer thereof to third parties for commercial purposes.
16. *Inventorship on Products, Processes and/or Technologies with IP/IPR*.- The inventorship on any and all products, processes and /or technologies with IP/IPR arising from and/or a result of the conduct and implementation of the Project shall be subject to the provisions of RA Nos. 8439 and 10055 and the 2011 IPR Policy of UP. As may be necessary and/or required by law and the applicable institutional policies of the parties, the parties agree that their inventor or inventors shall sign, execute and deliver any and all such documents, including the Agreement on Inventorship, that identify with definiteness their contributions to the research and development of the product/s, process/es and/or technology/ ies which may be derived from or the result of the implementation of the Project.
17. *Non-exclusive, Royalty free Cross-licensing in the use of IP/ IPR of the Parties*.- In the interest of and for the good of the country and Filipinos in general, and the Philippine \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ industry in particular, both parties equally grant each other a non-exclusive, royalty-free technology license to use the Original Material and Modifications thereof that will be developed or derived arising from and/or as a result of the conduct and implementation of the Project for any and all of their respective academic, research, training and extension services. This license is strictly non-transferable and non-assignable and may not be subject of any sub-licensing. Except upon prior written approval by the parties, no licensing favour of any and all third parties for commercial or non-commercial purposes.
18. *Non-Warranty*.- An Original Material transferred or delivered pursuant to this Agreement is understood to be experimental in nature and may have toxic or hazardous properties. Accordingly, the Provider makes no representations and extends no warranties of any kind, either expressed or implied. There are also no express or implied warranties of merchantability or fitness for a particular purpose, or that the use of the Original 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, handling, storage or disposal of the Original 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 wilful misconduct of the Provider.
19. *Compliance with law.-* The Recipient agrees to use the original material in compliance with all applicable statutes and regulations. 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 Original 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 or arising from the use of the Original Material by the Recipient, except to the extent permitted by law when caused by the gross negligence or wilful misconduct of the Provider.
20. *Term of Agreement*.- This Agreement shall be valid and binding to the parties, their successors and/ or assigns-in-interest upon signing hereof and for a period equivalent to the protected term or period of the IP/ IPR unless sooner cancelled, revoked, rescinded or terminated. Accordingly, unless sooner cancelled, revoked, rescinded or terminated, this Agreement shall survive the implementation of the Project.

IN WITNESS WHEREOF, the parties have signed and executed this Agreement this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_ 2013 in\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Philippines.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ UNIVERSITY OF THE PHILIPPINES

 By:

By:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DR. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 *President Chancellor, \_\_\_\_\_\_*

*Witnesses:*

 *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

ACKNOWLEDGMENT

Republic of the Philippines)

Los Baños, Laguna ) s.s.

 BEFORE ME, a Notary Public for and in Los Baños, Laguna, personally appeared the following persons who exhibited to me their respective government-issued identification document, to wit:

|  |  |  |  |
| --- | --- | --- | --- |
| *Name*  | *ID Document No.* | *Issued by* | *Date/ Place of Issue* |
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Known to me and to me known as the same persons who executed the foregoing Material Transfer Agreement, and who acknowledged before me that the same is their free and voluntary act and deed, and the institutions herein represented.

 This document consisting of four (4) pages, including this acknowledgment portion, have been signed before me by the parties and their witnesses on each and every page hereof.

 WITNESS MY HAND AND SEAL this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_ 2013.

Doc. No. \_\_\_\_;

Page No. \_\_\_\_\_;

Book No. \_\_\_\_\_;

Series of \_\_\_\_\_\_.