MATERIAL TRANSFER AGREEMENT

 **THIS MATERIAL TRANSFER AGREEMENT** ("Agreement") effective this the XX Day of MONTH, YYYY **(“Effective Date”)** by and between **THE UNIVERSITY OF MISSISSIPPI, [INSERT UNIT NAME],** **("**MISSISSIPPI**")** having a principal address at P.O. Box 1848, 100 Barr Hall, University, Mississippi 38677 and [**INSERT ORGANIZATION NAME] ("NAME")** having a principal address at **[INSERT Street, City, State, Zip]**.

 WHEREAS, MISSISSIPPI agrees to provide **NAME** with one or more Materials (as hereinafter defined) solely for ***research use in biological assays*** as specified in the attached Exhibit A herein the (“Research”), and incorporated herein by reference, and **NAME** agrees to provide MISSISSIPPI with the results of all such biological assays.

 NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants set forth below, **NAME** and MISSISSIPPI (individually “Party”; collectively “Parties”) hereby agree as follows:

1. Materials. ”Material” or “Materials” as used herein refers to any and all compounds or extracts as defined in Exhibit B, including any derivative or modification thereof that is substantially based upon or incorporates one or more essential elements of any of the Materials.
2. Use in Accordance with Agreement. **NAME** will not provide to third persons or entities access to the Materials and will use Materials solely for the research purposes specified in this Agreement and in compliance with all applicable laws and regulations. **NAME** agrees not to attempt to identify or determine in any way the chemical, physical, or structural characteristics or composition of the Materials without MISSISSIPPI’s prior written consent. **NAME** acknowledges and agrees that the Materials may have biological and/or chemical properties that are unpredictable and unknown and that such Materials should be used with caution and prudence. **NAME** agrees to send MISSISSIPPI the results of all biological testing within thirty (30) days of completion of such testing. **NAME** WILL NOT USE MATERIAL IN HUMAN SUBJECTS OR FOR CLINICAL OR DIAGNOSTIC PURPOSES.
3. Confidential Information. Except as provided below, **NAME** agrees to treat in confidence and not disclose to any third Party for a period of five (5) years from the Effective Date any Materials or any information accompanying or relating to the Materials (hereinafter "MISSISSIPPI Confidential Information"). Except as provided below, MISSISSIPPI agrees to treat in confidence and not disclose to any third Party, for a period of five (5) years from the Effective Date the Research results and data (hereinafter "**NAME** Confidential Information"). For purposes of this Agreement, **NAME** and MISSISSIPPI are each “Recipient” as to Confidential Information. Notwithstanding the aforementioned requirements of confidentiality, **NAME** Confidential Information and MISSISSIPPI Confidential Information do not include:
4. Information subsequently disclosed to Recipient by a third Party who has a right to disclose such information; or
5. Information that is now in the public domain or which subsequently enters the public domain through no fault or omission on the part of Recipient; or
6. Information independently discovered by the Recipient without any reference to MISSISSIPPI Confidential Information or **NAME** Confidential Information as evidenced by its written documents; or
7. Information that is required by law, regulation or a court of competent jurisdiction to be disclosed.

Notwithstanding any provision to the contrary contained herein, it is recognized that MISSISSIPPI is a public agency of the State of Mississippi and is subject to the Mississippi Public Records Act, §§25‑61‑1, et. seq., Miss. Code Ann. If a public records request is made for any Information provided to MISSISSIPPI pursuant to this agreement, MISSISSIPPI shall promptly notify the disclosing party of such request. The disclosing party shall promptly institute appropriate legal proceedings to protect its Confidential Information. No Party to this agreement shall be liable to the other Party for disclosures of Confidential Information required by Court order or required by law.

1. Intellectual Property.

**[Inventor Keeps Rights and Joint Ownership]**

All of MISSISSIPPI’s intellectual property rights to the Materials and Confidential Information in existence prior to this Agreement, including without limitation issued patents, filed patent applications or demonstrable trade secrets, and shall remain the property of MISSISSIPPI. All of **NAME’s** intellectual property rights to the biological assays in existence prior to this Agreement, including without limitation issued patents, filed patent applications or demonstrable trade secrets, and shall remain the property of **NAME**. If an invention, new use, or a product (collectively, an “Invention”) results from **NAME’s** Research under this Agreement, **NAME** agrees promptly to disclose the invention to MISSISSIPPI on a confidential basis. Inventorship under this Agreement shall be determined in accordance with United States patent law (if patentable) or by mutual agreement between the Parties hereto (if not patentable), taking into account the role and contributions of individuals involved in the development of the Invention. Any Invention made solely by employees of one of the Parties hereto shall be owned by the Party making the Invention. Any Invention made jointly by the Parties hereto shall be owned jointly by them.

**[Inclusion of an Option to License]**

MISSISSIPPI hereby grants to the **NAME** an exclusive option to acquire an exclusive worldwide license to any Invention in which the MISSISSIPPI has ownership rights under this Agreement on terms to be negotiated in good faith by the Parties hereto. The period of such option shall be for ninety (90) days following completion of the Research under this agreement. This option period may be extended by agreement of the Parties hereto.

1. Publication. It is anticipated that no public disclosure of information related to the Materials and the Research will occur until the appropriate patent applications have been filed and that such public disclosure will be a joint effort of **NAME** and MISSISSIPPI. Neither Party will present at seminars, symposia, national, regional or local professional meetings, or publish or otherwise publicly disclose any information or results relating to the Research without the other Party’s prior written consent.
2. Disclaimer of Warranties. THE MATERIALS ARE BEING SUPPLIED TO **NAME** FOR EXPERIMENTAL USE ONLY AND IS PROVIDED "AS IS" WITH NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
3. Term; Termination; Surviving Rights. The term of this Agreement will commence on the Effective Date and will terminate two (2) years from the Effective Date, provided, however, that either Party may terminate this Agreement upon thirty (30) days written notice to the other. Upon any termination of this Agreement, **NAME** will promptly return or, upon written request by MISSISSIPPI, destroy any unused Materials. The following provisions will survive the termination of this Agreement: Paragraphs 2 through 7 and Paragraph 9, as well as any other provisions that by their intent or meaning are intended to have a validity beyond the termination of this Agreement.
4. No Conflicts. Both Parties represent that they are authorized to enter into this Agreement and that no other contract or other obligation conflicts with the obligations to be assumed under this Agreement.
5. Liability. MISSISSIPPI is an agency of the State of Mississippi under the management and control of the Board of Trustees of the State Institutions of Higher Learning (IHL). As authorized by law, IHL maintains a program of self-insurance for purposes of workers’ compensation and general liability, pursuant to the Mississippi Tort Claims Act as set forth in Chapter 46, Title 11, Mississippi Code 1972, as amended. Accordingly, any liability of MISSISSIPPI for any damages, losses, or costs arising out of or related to acts performed by MISSISSIPPI or it employees under this Subcontract is governed by the Tort Claims Act.
6. Governing Law. This Agreement will be governed by the laws of the State of Mississippi. **[STRIKE IF MISSISSIPPI IS UNACCEPTABLE]**
7. Executed Counterpart. Delivery of an executed counterpart of a signature page to this Agreement by e-mail shall be effective as delivery of a manually executed counterpart of this Agreement.
8. Official Capacity. **NAME** acknowledges that the individual executing this Agreement on behalf of the University of Mississippi is doing so only in his/her official capacity only, and to the extent that any provision contained in this Agreement exceeds his/her authority, **NAME** agrees that it will not look to that individual in his/her personal capacity or otherwise seek to hold him/her individually liable for exceeding such authority.
9. Entire Understanding. This Agreement constitutes the entire understanding between **NAME** and MISSISSIPPI and supersedes all prior agreements and understandings with respect to the Materials, and may be modified only with written permission of both Parties. **[IF THERE IS A RELATED MOU , REFERENCE IN SECTION 13 AND IN RECITALS]**

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals by the proper officers as of the Effective Date.

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| **PARTY FULL NAME** | **THE UNIVERSITY OF MISSISSIPPI** |
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| By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| DATE | DATE |
| Name: | PARTY SIGNEE NAME | Name: | Allyson M. Best |
| Title: | PARTY SIGNEE TITLE | Title: | Director, Office of Technology Commercialization Office of Research & Sponsored Programs |
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| **Acknowledged (optional):** | **Acknowledged:** |
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| By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| DATE | DATE |
| Name: |  | Name: | UM WITNESS NAME |
| Title: |  | Title: | UM WITNESS TITLE |

EXHIBIT A

Research Plan

EXHIBIT B

Materials