

### MATERIAL TRANSFER AGREEMENT

**THIS MATERIAL TRANSFER AGREEMENT** (the “Agreement”), effective as of the last date of signature below (the “Effective Date”), by and between The Regents of the University of California, through the Ernest Orlando Lawrence Berkeley National Laboratory, One Cyclotron Road, Berkeley, California 94720 (“Recipient”), and the entity listed below ("Provider"):

|  |               |
|--|---------------|
| Company/University/Institution Name: _____   |               |
| Name of responsible Provider employee: _____ |               |
| Title or position: _____                     |               |
| Address: _____                               |               |
| Tel: _____                                   | E-mail: _____ |

**“Material”** means material provided by Provider to Recipient consisting of \_\_\_\_\_ developed by Provider.

**“Purpose of Transfer”** means the use of the Material in connection with research on... OR a potential collaborative research and development agreement between the parties.

**“Term”** means \_\_\_\_\_ from the Effective Date of this Agreement.

With regard to Material, Recipient hereby agrees:

- (1) not to use Material except to the extent required to accomplish the Purpose of Transfer;
- (2) not to transfer Material to others (except to its employees with a need to know and who are bound by the terms of this Agreement) without the express written permission of Provider;
- (3) to safeguard Material against disclosure and transmission to others with the same degree of care as it exercises with its own materials of a similar nature;
- (4) at Recipient's expense, to destroy or return, as directed by Provider, all Material upon Provider’s request;
- (5) *that the Material is experimental in nature, and is provided by Provider "as is" without warranty of any kind, express or implied; that except to the extent prohibited by law, Recipient assumes all liability for damages which may arise from its use, storage, or disposal of the Material,*

*except to the extent that such liability arises from the negligence or willful misconduct of Provider;*

(6) that the furnishing of Material to Recipient constitutes neither any transfer of ownership nor any grant or license to Recipient under any patent or other proprietary rights now or in the future held by Provider.

(7) This Agreement embodies the entire and final understanding of the parties on this subject. It supersedes any previous representations, agreements, or understandings, whether oral or written. No amendment or modification hereof shall be valid or binding upon the parties unless made in writing and signed by an authorized representative on behalf of each party.

(8) This Agreement shall be interpreted and enforced under the laws of California, without giving effect to any choice of law rules that would result in the application of laws of any jurisdiction other than California.

(9) In view of its management by an institution of higher education operating under the Fundamental Research Exclusion, Berkeley Lab hereby notifies the other parties that it has many foreign nationals who are students or employees to whom a transfer of Material and/or export-controlled items, including without limitation, products, materials, software or technical information (“items”), may be in violation of U.S. export control and sanction regulations. Accordingly, parties should not transfer to Berkeley Lab any Material and/or items with a U.S. Export Control Classification Number (“U.S. ECCN”) other than EAR99 under the Export Administration Regulations, without prior written authorization from Berkeley Lab’s Export Compliance Office. Berkeley Lab bears no responsibility for unauthorized exports of non-EAR99 items by a

party under this Agreement to Berkeley Lab’s foreign students or employees when such written authorization is not obtained. Each party shall abide by the applicable U.S. export and sanction regulations.

(10) This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Signatures provided by facsimile transmission or in Adobe™ Portable Document Format (PDF) sent by electronic mail shall be deemed to be original signatures.

PROVIDER

LAWRENCE BERKELEY NATIONAL LABORATORY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_