

# MATERIALS TRANSFER AGREEMENT

between

COMPANY NAME

and

THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

This Material Transfer Agreement (“MTA”) is by and between **COMPANY NAME** (“**Company**”) having its principal place of business at STREET ADDRESS, and **The National Institute of Standards and Technology** (“**RECIPIENT**”), having its principal place of business at Group, division, OU Gaithersburg, Maryland 20899.

1. The Material concerned, which belongs to (**Company Name**) and which is being provided to the **Recipient**, is: \_\_\_\_\_, (“**the Material**”). The Material will only be used for \_\_\_\_\_ (use an attachment page if necessary) \_\_\_\_\_, (“the Research Project”) for the purposes of research and experimentation and will not be further proliferated. The Material will not be used for commercial purposes such as screening, production or sale, for which a commercialization license may be required, and it may not be used in human subjects. **Recipient** agrees to comply with all Federal rules and regulations applicable to the Research Project and the handling of the Material.

2. In all oral presentations or written publications concerning the Research Project, **RECIPIENT** will acknowledge **COMPANY’S** contribution of the Material unless requested otherwise. To the extent permitted by law, **RECIPIENT** agrees to treat in confidence, for a period of three (3) years from the date of its disclosure, the Material and any of **COMPANY’S** written information about the Material that is stamped "CONFIDENTIAL" (the "**Confidential Information**") except for information that was previously known to **RECIPIENT**, that is or becomes publicly available, that is disclosed to **RECIPIENT** by a third party under no obligation of confidentiality, or that is independently developed by **RECIPIENT** or its agents or consultants who had no access to the Confidential Information. **RECIPIENT may publish or otherwise publicly disclose the results of the Research Project, but will not acknowledge, use or otherwise refer to in any manner any confidential information and/or Material which COMPANY has given RECIPIENT within said publication.**

These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 13526; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act

of 1982 (50 U.S.C. 421 et seq.)(governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive order and listed statutes are incorporated into this agreement and are controlling.

3. The Material represents a significant investment on the part of **COMPANY**, and is considered proprietary to **COMPANY**. **RECIPIENT** therefore agrees to retain control over the Material and not to transfer the Material to others without advance written approval of **COMPANY**. **COMPANY** reserves the right to distribute the Materials to others and to use it for its own purposes. When the Research Project is completed, or three (3) years have elapsed from the date this agreement was fully executed, whichever occurs first, the Material will be destroyed by **RECIPIENT** or otherwise disposed of as mutually agreed by **COMPANY** and **RECIPIENT**.

4. The Material is provided as a service to the research community. IT IS BEING SUPPLIED TO RECIPIENT WITH NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. **COMPANY** makes no representations that the use of the Material will not infringe any patent or proprietary rights of third parties.

5. **RECIPIENT** shall retain title to any patent or other intellectual property rights in inventions made by its employees in the course of the Research Project. **COMPANY** agrees not to claim, infer, or imply Governmental endorsement of the Research Project, personnel conducting the Research Project or any resulting commercial product(s). *As an agency of the federal government, RECIPIENT'S responsibility for the payment of claims for the loss of property, personal injury or death, or otherwise arising out of any negligent act or omission of its employees in connection with the performance of work under this Agreement shall be governed by the Federal Torts Claims Act. Further, according to the proscriptions of the Anti-Deficiency Act, 31 U.S.C. §1341, RECIPIENT can only be responsible for the actions or omissions of its employees and cannot agree to specific, future (prospective) remedies or a limitation thereof.*

6. This MTA shall be construed in accordance with Federal law as applied by the Federal courts in the United States.

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7. Nothing in this Agreement bars disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

COMPANY

By: \_\_\_\_\_ (date)

Name:

Title:

Company Mailing Address for Notices:

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

\_\_\_\_\_  
Chief Counsel for NIST (date)

\_\_\_\_\_  
OU Director (date)

\_\_\_\_\_  
TPO Director (date)

Mailing Address for Notices:  
NIST Technology Partnerships Office  
100 Bureau Drive  
Gaithersburg, MD 20899-2200

**Attachment 1**  
**Research Project**  
**TITLE**

**Principal Investigator (NIST):**

**Purpose/Background:**

**Methodology:**