

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] ("RECIPIENT"), having its principal place of business at _____, and **The National Institute of Standards and Technology** ("NIST"), having its principal place of business at _____(Group Name), (Division Name), Gaithersburg, Maryland 20899.

1. The Material concerned, which belongs to **NIST** and which is being provided to the **RECIPIENT**, is: _____, ("**the Material**"). The Material will be used by the **RECIPIENT** only for the purposes of research and experiment relating to use of the Material in connection with the following research project described with specificity as follows (use an attachment page if necessary): _____, ("**the Research Project**") and that the Material not be further proliferated by the **RECIPIENT**. 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 **NIST**'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 **NIST**'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 NIST has given RECIPIENT within said publication.**
3. The Material represents a significant investment on the part of **NIST**, and remains under development at **NIST**. **RECIPIENT** therefore agrees to retain control over the Material and not to transfer the Material to others without prior written approval by **NIST**. **NIST** 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 **NIST** 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. **NIST** 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. **RECIPIENT** 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, NIST'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, NIST 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 governed by and construed in accordance with the laws of the United States. All Actions concerning this agreement shall be brought in the federal district courts of the United States.

COMPANY NAME

By: _____ (date)

Print Name: _____

Title: _____

Company Mailing Address for Notices:

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

NIST Counsel (date)

Laboratory Director (date)

Director, Office of Technology Partnerships (date)

Mailing Address for Notices:
National Institute of Standards and Technology
Attention: Dr. Bruce E. Mattson
Building 820, Room 213
Gaithersburg, MD 20899