



EXPRESS LICENSE AGREEMENT FOR BIOLOGICAL MATERIALS

This Express License Agreement for Biological Materials (“**Agreement**”) is effective as of the date of the last signature on the signature page (“**Effective Date**”), and is made by and between the UNIVERSITY OF MARYLAND, BALTIMORE (“**UMB**”), a constituent institution of the University System of Maryland (“**USM**”) (which is a public corporation and an instrumentality of the State of Maryland), and _____ (“**Licensee**”).

ARTICLE 1. TERMS OF LICENSE

1.1 Valuable biological material has been made by UMB personnel in the research laboratories of UMB (the “**Biological Material**”, as described in **Schedule A**). Subject to the terms and conditions of this Agreement, UMB grants to Licensee, and Licensee accepts, a non-exclusive, worldwide, non-sublicenseable, and non-transferable license during the Term to use the Biological Material, but only for Licensee’s own non-human internal research purposes to be conducted solely at the research facilities of Licensee (the “**Licensed Field**”). All uses which are not expressly and specifically included within the Licensed Field (including without limitation contract research services on behalf of any third party) are specifically excluded and are not licensed under this Agreement.

1.2 UMB owns all right, title and interest in and to the Biological Material, including without limitation any and all progeny, unmodified derivatives, and any Biological Material contained or incorporated in a modification. The license granted under this Agreement does not confer any rights upon Licensee: by implication, estoppel, or otherwise as to any technology not specifically encompassed by this Agreement; to use the Biological Material outside of the Licensed Field; or to grant, convey, assign, or transfer the Biological Material to any person, other than as specified in this Agreement.

1.3 Licensee shall retain control over the Biological Material, and shall not distribute the Biological Material to any third party. Licensee shall not use the Biological Material in humans or for research involving human subjects or clinical trials. Licensee shall comply with all applicable laws, guidelines, and standards in using the Biological Material, including without limitation regarding humane care of laboratory animals.

1.4 Licensee shall cite UMB as the source of the Biological Material in any publication by Licensee of the results of its use of the Biological Material. Otherwise, Licensee shall not identify UMB or USM in any promotional advertising or other promotional materials to be disseminated to the public or any portion thereof or to use the name of any UMB or USM faculty member, employee, or student or any trademark, service mark, trade name, or symbol of UMB or USM, without UMB’s or USM’s prior written consent.

1.5 Neither party shall have any obligation to take any action with regard to an infringement by a third party of the intellectual property licensed hereunder. Licensee shall promptly notify UMB of any actual or potential infringement of which it becomes aware during the Term.

1.6 Any “**Confidential Information**” (as defined on **Schedule B**) that is provided by one party to another shall be subject to the terms and conditions of **Schedule B**.

1.7 Licensee acknowledges that the Biological Material is valuable to UMB, and that a breach of this Agreement could result in irreparable harm to UMB. Therefore, in the event of such a breach, UMB may seek temporary or permanent injunctive relief, in addition to any other legal remedies available.

1.8 No provision of this Agreement shall constitute or be construed as a limitation, abrogation, or waiver of any defense or limitation of liability available to the State of Maryland or its units (including without limitation USM and UMB), officials, or employees under Maryland or Federal law, including without limitation the defense of sovereign immunity or any other governmental immunity.

1.9 If the Biological Material was made with U.S government support, the U.S. Government retains certain rights in the Biological Material, and this Agreement is subject in all respects to U.S. law applicable to intellectual property funded in whole or in part by the U.S. Government.

ARTICLE 2: LICENSE FEES

2.1 Licensee shall pay UMB an annual license fee of Five Thousand Dollars (\$5,000.00). The first annual license fee is due within ten (10) days from the Effective Date. Subsequent payments are due on each anniversary of the Effective Date during the Term.

2.2 All payments under this Agreement shall be paid in U.S. dollars. The conversion rate of foreign currency to U.S. dollars shall be the New York foreign exchange rate quoted in The Wall Street Journal on the day that the payment is due. Any loss of exchange, value, taxes, or other expenses incurred in the transfer or conversion to U.S. dollars shall be paid entirely by Licensee. Interest at the rate of one and one-half percent (1.5%) per month is due on any payments that are more than thirty (30) days late.

ARTICLE 3: WARRANTY DISCLAIMER AND INDEMNIFICATION

3.1 THE BIOLOGICAL MATERIAL AND ANY CONFIDENTIAL INFORMATION PROVIDED BY UMB ARE PROVIDED "AS IS." UMB DISCLAIMS ALL EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES REGARDING THE BIOLOGICAL MATERIAL, INCLUDING WITHOUT LIMITATION: RELIABILITY, COMPLETENESS, OR ACCURACY OF UMB'S CONFIDENTIAL INFORMATION; INFRINGEMENT OR NON-INFRINGEMENT; THE PERFORMANCE OF THE BIOLOGICAL MATERIAL, INCLUDING WITHOUT LIMITATION AS TO SAFETY, EFFECTIVENESS, OR COMMERCIAL VIABILITY; AND THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING, OR USAGE OF TRADE. UMB MAKES NO REPRESENTATION THAT THE BIOLOGICAL MATERIAL, UMB'S CONFIDENTIAL INFORMATION, OR THE METHODS USED IN MAKING OR USING THE BIOLOGICAL MATERIAL IS OR WILL BE FREE FROM INFRINGEMENT OF PATENTS, COPYRIGHTS, TRADEMARKS, OR OTHER INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES.

3.2 Licensee shall indemnify and hold harmless UMB, USM, and the State of Maryland and each of their respective current and future regents, directors, trustees, officers, faculty, medical and professional staff, employees, students, trainees, and agents, and their respective successors, heirs, and assigns against any claim, liability, cost, damage, deficiency, loss, expense or obligation of any kind or nature (including without limitation reasonable attorneys' fees, expert witness fees, court costs and other costs and expenses of litigation at trial and appellate levels) incurred by or imposed upon any one of them in connection with any claims, suits, actions, demands or judgments that may arise from the use of the Biological Material by Licensee, its personnel, or any other person acting on behalf of or under authorization from Licensee.

ARTICLE 4: TERM AND TERMINATION

4.1 This Agreement shall commence as of the Effective Date. Unless sooner terminated in accordance with this Article, this Agreement shall expire three (3) years from the Effective Date (the "**Term**").

4.2 Upon any default or material breach of this Agreement by Licensee, UMB may terminate this Agreement and the license granted hereunder, if not cured within ten (10) days of written notice.

4.3 Licensee may terminate this Agreement upon at least thirty (30) days prior written notice.

4.4 Upon termination or expiration of this Agreement, all rights granted hereunder shall revert to UMB and Licensee will cease the use of the Biological Material. As directed by UMB, in its sole discretion, Licensee shall either: (a) transfer to UMB any remaining amounts of the Biological Material in its possession; or (b) destroy any remaining amounts of the Biological Material, and promptly confirm the same in writing.

4.5 Expiration or termination of this Agreement does not relieve either party of any obligation which arises before expiration or termination, including without limitation payment obligations. Any provision of this Agreement which contemplates performance or observance subsequent to any termination or expiration of this Agreement shall survive any termination or expiration and shall continue in full force and effect.

ARTICLE 5: MISCELLANEOUS

5.1 This Agreement may not be amended, nor may any right or remedy of either party be waived, unless the amendment or waiver is in writing and signed by a duly authorized representative of each party.

5.2 Notices and invoices under this Agreement shall be in writing and shall be delivered by electronic mail, personally as proven by a signed receipt, sent by a reputable, national overnight delivery service, charges prepaid, or sent by certified mail return receipt requested. Notices shall be addressed to a party at the address specified below, or at such other place or places as shall from time to time be specified in a notice similarly given. All notices shall be effective upon receipt.

5.3 UMB and Licensee are not (and nothing in this Agreement may be construed to constitute them as) partners, joint venturers, agents, representatives or employees of the other, nor is there any status or relationship between them other than that of independent contractors. No party has any responsibility or liability for the actions of the other party except as specifically provided in this Agreement. No party has any right or authority to bind or obligate the other party in any manner or make any representation or warranty on behalf of the other party.

5.4 This Agreement, and the license granted hereunder, may not be assigned by Licensee in whole or in part to any third party without the prior written consent of UMB.

5.5 This Agreement is made and construed in accordance with the laws of the State of Maryland without regard to choice of law issues. Each party consents to the jurisdiction of the Circuit Court of Baltimore City or Anne Arundel County, Maryland for any suit against the other party relating to this Agreement, and agrees to file any such suit in one of those courts. UMB AND LICENSEE WAIVE THEIR RIGHTS TO TRIAL BY JURY IN ANY LITIGATION BETWEEN THEM RELATING TO THIS AGREEMENT.

5.6 This Agreement embodies the entire understanding between Licensee and UMB. There are no contracts, understandings, conditions, warranties or representations, oral or written, express or implied, with reference to the subject matter of this Agreement that are not merged in this Agreement.

5.7 This Agreement may be executed in any number of counterparts, each of which shall be an original, and all of which shall together constitute one agreement. This Agreement may be signed and delivered, or a signature may be transmitted or communicated, by means of facsimile or other electronic transmission (such as a Portable Document Format (PDF) copy of an original signature).

The parties have caused this Agreement to be executed by their duly authorized representatives.

LICENSEE

UNIVERSITY OF MARYLAND, BALTIMORE

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

Licensee's Address for Notices:

Attn: _____
Email: _____

UMB's Address for Notices:

Commercial Ventures & Intellectual Property
Office of Research and Development
University of Maryland, Baltimore
620 West Lexington Street, 4th Floor
Baltimore, Maryland 21201-1508
Email: cvip@umaryland.edu

**SCHEDULE A
BIOLOGICAL MATERIAL**

Description of Biological Material:

Developed in the following UMB research laboratory:



SCHEDULE B

STANDARD CONFIDENTIALITY PROVISIONS

1. General Restrictions on Use and Disclosure.

1.1 A party (“**Provider**”) may disclose Confidential Information to the other party (“**Recipient**”). “**Confidential Information**”: Information (including without limitation documents, notes, drawings, models, designs, data, results, memoranda, tapes, records, hardware, software, formulae and algorithms, marketing data, business planning, or financial information, in hard copy form or in electronic form) which is not generally available to the public and which is disclosed by a party to the other party in connection with this Agreement, including without limitation information that is related to, results from, or arises out of use of the Biological Material.

1.2 For a period of five (5) years following the Effective Date, Recipient shall hold the Confidential Information in confidence, and may disclose or use the Confidential Information only as permitted by this Agreement. Recipient shall not use Provider’s Confidential Information for any other purpose without the prior written consent of Provider.

1.3 Recipient shall use the level of care to prevent the unauthorized use or disclosure of Provider’s Confidential Information that Recipient exercises in preventing the unauthorized use or disclosure of its own Confidential Information. Recipient may disclose Provider’s Confidential Information only to its personnel who have a need to know the Confidential Information for the purposes permitted by this Agreement.

1.4 Any Confidential Information that would identify human research subjects or patients shall be maintained confidentially in accordance with applicable law.

2. Permitted Use and Disclosure.

2.1 The confidentiality obligations created by this Agreement shall not apply, and the Recipient may disclose or use Provider’s Confidential Information, if and to the extent that: (a) the Confidential Information is generally available to the public (other than through Recipient’s breach of this Agreement, any other agreement, or applicable law, or any unauthorized act by the Recipient); (b) the Confidential Information was already in the possession of Recipient at the time of the disclosure (other than pursuant to a confidential disclosure agreement or any unauthorized act by Recipient); (c) the Confidential Information is or was developed by Recipient independent of and with no reliance upon Confidential Information of Provider or any other information furnished to Recipient by Provider under obligation of confidentiality; (d) the disclosure or use is reasonably necessary to fulfill or comply with requirements of governmental authorities having jurisdiction; or (e) disclosure is required by law.

2.2 In the event of disclosure pursuant to clauses (d) or (e) of Section 2.1, Recipient shall make a reasonable effort to give Provider prior written notice of disclosure. Recipient, consistent with its counsel’s advice, shall take reasonable and lawful actions to obtain confidential treatment for disclosed Confidential Information of the Provider and to minimize the extent of the disclosure, or allow Provider the opportunity to take those actions. In the event of a dispute as to the applicability of this Section 2, the burden of proof shall be upon the Recipient to demonstrate permissibility of disclosure or use.

3. Markings and Legends. Provider shall use reasonable efforts to mark all Confidential Information disclosed to Recipient as “Confidential.” If the Confidential Information is not in written or tangible form and marked “Confidential” when disclosed, Provider shall use reasonable efforts to summarize the information in writing, marked as “Confidential,” and to provide the summary to Recipient within thirty (30) days after disclosure of the Confidential Information to Recipient. To the extent Recipient has actual knowledge that information is Confidential Information, failure to meet the marking requirements shall not affect Recipient’s confidentiality obligations under this Agreement.

4. UMB Practices. UMB is an educational institution with practices for protection of Confidential Information which may differ from Licensee’s standards and practices. UMB shall only be required to use reasonable efforts to protect the confidentiality of Licensee’s Confidential Information in a manner consistent with the efforts used by UMB to protect its own confidential information. Provided that those efforts are made, UMB, UMB employees, students, and trainees, and other persons using UMB facilities, shall not be liable in the event of disclosure or use of Licensee’s Confidential Information.

5. Public Information Act. This Agreement and Confidential Information provided to UMB under this Agreement is a public record when in the possession of UMB. It may be subject to inspection pursuant to the Public Information Act (§10-611 *et seq.*, State Government Article, Annotated Code of Maryland) (the “**Public Information Act**”). Licensee asserts that any Confidential Information provided to UMB under this Agreement is a trade secret, confidential financial information, or confidential commercial information exempt from disclosure under the Public Information Act. UMB shall notify Licensee upon receipt of a request for inspection of Licensee’s Confidential Information. UMB shall assert in response to any request for inspection of Licensee’s Confidential Information that inspection should be denied pursuant to §10-617(d) of the Public Information Act, unless UMB determines on the advice of its counsel that Licensee’s position is not reasonable.

6. Government and Sponsor Rights. UMB’s Confidential Information may have been developed under a grant or contract or in collaboration with the government of the United States, the government of the State of Maryland, or other entities or research sponsors. The entities or sponsors may have rights in UMB’s Confidential Information and may have the right to license or use UMB’s Confidential Information. UMB shall provide Licensee with further information about any sponsor’s rights if Licensee requests this information in writing, subject to confidentiality obligations.

7. Export Control Laws. To the best of its knowledge, the Discloser shall notify the Recipient, prior to disclosing any Confidential Information, whether the information being disclosed is subject to any restrictions or controls imposed by the Arms Export Control Act; the Export Administration Act of 1979; the International Traffic in Arms Regulations; the Export Administration Regulations; or any other rules or regulations pertaining to restrictions on use or disclosure of goods, information, or technology, of any applicable governmental agency (collectively, the “**Export Control Laws**”). Recipient shall use reasonable efforts to prevent Confidential Information and any direct product thereof from being used for any purpose prohibited by the Export Control Laws, and to cause uses of that Confidential Information to comply with the Export Control Laws. In addition, Licensee shall obtain the express written consent of UMB prior to export of any technical data or products received. That written consent does not constitute governmental license or authorization.

8. Return of Confidential Information. Upon expiration or termination of this Agreement for any reason, each party shall return the other party’s Confidential Information, together with all copies and other forms of reproduction, except that each party may retain one copy of the other party’s Confidential Information subsequent to its return in the event of any question or dispute concerning a party’s obligations under this Agreement. Each party agrees that termination of this Agreement does not alter the five (5) year obligation of confidentiality set forth in this **Schedule A**.

9. Licensee Affiliates. In the event of any disclosure of Confidential Information to a Licensee Affiliate, Licensee and any such Licensee Affiliate shall be jointly and severally liable for all of Licensee’s and Licensee Affiliates’ obligations with respect to this Agreement. Licensee shall promptly identify to UMB by name and address all Licensee Affiliates to whom Licensee has disclosed Confidential Information.