

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], having its principal place of business at _____, and The National Institute of Standards and Technology (“Recipient”), having its principal place of business at Systems and Network Security Group, Computer Security Division, Information Technology Laboratory, Gaithersburg, Maryland 20899. This Agreement is entered into by NIST pursuant to the authorities granted under Title 15 United States Code section 3710(a).

1. The Material concerned, which belongs to (Company Name) and which is being provided to the Recipient, is: 1) documentation of the ISO/IEC 7816 command sequence implementing the Secure Biometric Match-On-Card (SBMOC) protocol including a complete protocol sequence as an example; 2) three smart cards capable of performing the SBMOC protocol; 3) documentation of the loading process for biometric templates onto the smart cards, both initially and as a replacement after the initial load; 4) optionally, additional software tools or examples, (“the Material”). The Material will be used 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: Secure Biometric Match-On-Card (SBMOC) Feasibility Study, see attached Test Approach, (“the Research Project”) and that the Material 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. The Recipient may, in its sole judgment and at any time after receipt, decide that it is unable to test the Material as described in “Test Approach.” In this event, Recipient will notify (Company Name) of the decision, and will not acknowledge (Company Name) as a participant in the SBMOC Feasibility Study.

3. In conformance with NIST’s “no endorsement” policy, Recipient will not acknowledge (Company Name)’s contribution of the Material in oral presentations or written publications concerning the Research Project. To the extent permitted by law, Recipient agrees to treat in confidence, for a period of five years (5) years from the date of its disclosure, the Material and any of (Company Name)’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. To the extent permitted by law, Recipient agrees to hold as confidential for a period of five (5) years product-specific technical data created by Employees of Recipient during conduct of research under the Research Project. However, Recipient may publish or otherwise publicly disclose the results of the Research Project in an anonymous, blind manner, in such a way as to not reveal the identity of (Company Name) or (Company Name)’s Material, unless otherwise agreed to in advance. (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. 12958; 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. 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.

4. The Material represents a significant investment on the part of (Company Name), and is considered proprietary to (Company Name). Recipient therefore agrees to retain control over the Material and not to transfer the Material to others without advance written approval of (Company Name). (Company Name) 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 Name) and Recipient.

5. 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 Name) makes no representations that the use of the Material will not infringe any patent or proprietary rights of third parties.

6. The parties to this Agreement do not anticipate the creation of new Intellectual Property created pursuant to research conducted under this Agreement. However, should Intellectual Property be created solely by Employees of Recipient or jointly by Employees of RECIPIENT and Employees of (Company Name), Recipient shall place such IP into the public domain and (Company Name) declines the option to negotiate a license. 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 Name) 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.

7. This MTA shall be construed in accordance with the laws of the United States.

(Company Name)

By: _____ (date)

Print Name: _____

Title: _____

Company Mailing Address for Notices:

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

Chief Counsel for Technology

(date)

Laboratory Director

(date)

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