

MATERIAL TRANSFER AGREEMENT

SAMPLE

THIS MATERIAL TRANSFER AGREEMENT (the "Agreement"), effective as of _____, by and between The Regents of the University of California, through the Ernest Orlando Lawrence Berkeley National Laboratory, One Cyclotron Road, Berkeley, California 94720 ("Berkeley Lab"), and the entity listed below ("Recipient"):

Company/University/Institution ("Recipient"): _____

Name of responsible Recipient employee: _____

Title or position: _____

Department (if applicable): _____

Address 1: _____

Address 2: _____

Tel: _____ Fax: _____ E-mail: _____

"Material" means material provided by Berkeley Lab to Recipient consisting of _____ [and its progeny and unmodified derivatives], Berkeley Lab case IB- _____, entitled _____, developed by _____ under Department of Energy Contract No. DE-AC05-CH11231.

"Purpose of Disclosure" means (i) the use and evaluation of the Material in connection with a potential licensing transaction or collaborative research and development with Berkeley Lab OR (ii) the use of the Material by an academic collaborator for non-commercial research and development.

"Term" means _____ months 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 Disclosure;
- (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 Berkeley Lab;
- (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) to inform Berkeley Lab of research results related to the Material;
- (5) to promptly disclose to Berkeley Lab any invention that results from research involving the Material that may be commercially useful;
- (6) at Recipient's expense, to destroy or return, as directed by Berkeley Lab, all Material upon expiration of the Term;
- (7) *that the Material is experimental in nature, and is provided by Berkeley Lab "as is" without warranty of any kind,*

express or implied. Berkeley Lab makes no representation that the use of the Material will not infringe any patent or other proprietary right. Recipient hereby indemnifies and shall hold harmless Berkeley Lab and the U.S. Government and its agencies from any claims or liabilities which might arise as a result of Recipient's use of the Material.

(8) 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 Berkeley Lab.

(9) 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.

(10) 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.

RECIPIENT

By: _____

Name: _____

Title: _____

Date: _____

ERNEST ORLANDO LAWRENCE
BERKELEY NATIONAL LABORATORY

By: _____

Name: _____

Title: _____

Date: _____