Agreement No.

THE CLEVELAND CLINIC FOUNDATION
MATERIAL TRANSFER AGREEMENT
OUTGOING HUMAN TISSUES/MATERIALS

THIS MATERIAL TRANSFER AGREEMENT ("Agreement") is dated as of February 18, 2010 ("Effective Date"), and is by and between **The Cleveland Clinic Foundation** ("CCF"), an Ohio nonprofit, corporation located at 9500 Euclid Avenue, Cleveland, Ohio 44195, USA and _____("Recipient") located at _____.

The Material defined below is the result of the research efforts of _____**,** a researcher at CCF, working either alone or together with other researchers at CCF (Dr. _____ and the other researchers are collectively referred to as "CCF Researchers"). CCF holds a proprietary interest relating to the Material.

For purposes of this Agreement, the following definitions will apply:

Original Material: **Original Material means the** material being transferred, which is:

De-identified _____ [type of tissue]
Collected under CCF IRB approval
If applicable: [Tissue is part of CCF Tissue Bank**: IRB** _____]

Material: Original Material plus Progeny and Unmodified Derivatives.

Progeny: Unmodified descendant from the Material, such as virus from virus, cell from cell, or organism from organism.

Unmodified Derivatives: Substances created by Recipient which constitute an unmodified functional sub-unit or product of the Original Material. Some examples include: subclones of unmodified cell lines, purified or fractionated sub-sets of the Original Material, proteins expressed by DNA or RNA, supplied by the provider, or monoclonal antibodies secreted by a hybridoma cell line.

Modifications: Substances created by the Recipient which contain/incorporate any form of the Material (Original Material, Progeny or Unmodified Derivatives).

Information: Information shall mean all proprietary and confidential information which is related to the Material disclosed to Recipient by CCF.

It is CCF's understanding that _____may provide to Recipient a sample of the Material. Recipient agrees to receive the Material subject to the following obligations and provisions:

1. Recipient shall receive and use the Material solely for application of the Material in the research of _____ ("Recipient Scientist"), in the _____at the _____. Said research shall consist of [collaborative research with CCF studying] _____ [please insert brief description of research] ("Research"). The Research with the Materials shall be conducted by Recipient Scientist and under Recipient Scientist's direct supervision. Access to the Materials will be limited to those under the supervision of the Recipient Scientist.

Recipient shall use the Material in compliance with any and all United States and/or _____applicable governmental rules and regulations relating to the handling or use of such Material and under Recipient's Institutional Review Board ("IRB"), or equivalent ethics committee, approved protocol. The Material shall not be used in humans or for human diagnostic purposes. As tissue samples, the Materials are potentially biohazardous and shall be handled in compliance with the Occupational Safety and Health Act and/or any other applicable regulations. Recipient **shall take reasonable care to handle, store and use the Material so as to avoid loss, contamination and waste.**

The Material provided pursuant to this Agreement were collected in accordance with the directives of the CCF Institutional Review Board ("IRB"), and are provided to Recipient in accordance with appropriate Federal, state and local laws and regulations relating to the protection of human subjects. The Materials are supplied as De-identified Samples, **devoid of protected health information.** ***The identities of the sample donors will not be released to Recipient under any circumstances.***

2. The Material is to be used solely for teaching and academic research purposes, as described in Section 1 above. Except as may be authorized in advance in writing by CCF, Recipient shall retain all Material in its secure possession and will not transfer possession of such Material to any third party for any purpose. If Recipient becomes aware of any unauthorized use by employees or agents of Recipient, Recipient shall promptly (a) discontinue such unauthorized use, and (b) notify CCF.

[Notwithstanding the foregoing, if Recipient and Recipient Scientist exports or reexports, directly or indirectly, the Material, the Recipient and Recipient Scientist acknowledge their understanding that the Material, may be subject to export control laws and regulations including, without limitation, the United States of America, including the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR), and the Foreign Assets Control regulations. Recipient agrees to strictly comply with all such laws, rules and regulations.]

3. In the event that Recipient is not using and does not intend to use the Material, it shall be returned to CCF or destroyed, at CCF's direction. If this Agreement is terminated or upon the earlier request of CCF, Recipient shall promptly return to CCF the Material furnished to

Recipient under this Agreement. Alternatively, all of the Material shall be entirely destroyed, unless provision for its preservation is expressly made by written agreement with CCF.

4. It is understood and agreed that both CCF and Recipient may have inventions, discoveries, innovations, copyrights, trade secrets, or other intellectual property rights, whether patentable or not, prior to engaging in this Agreement, or developed independently of this Agreement, and that such inventions, discoveries, innovations, copyrights, trade secrets, or intellectual property rights remain the sole property of CCF and Recipient, respectively. Inventorship of all other inventions shall be determined according to U.S. patent law. Ownership shall follow inventorship.

5. Recipient agrees that neither the Material, nor Information will be used by Recipient or its employees or agents as the basis for any patent application disclosing or claiming any of the same without CCF's written consent. Recipient further agrees that CCF retains ownership of any Material incorporated in Modifications, and no express or implied licenses or other rights are provided to Recipient under any patents, patent applications, or other proprietary rights of CCF. Further, Recipient agrees to notify CCF and to provide CCF with a copy of any patent application on a confidential basis claiming results of any research performed hereunder within sixty (60) days of filing of such patent application.

6. All Information supplied by CCF or CCF Researchers shall be deemed to belong to CCF and will be disclosed or provided to Recipient in confidence. Recipient agrees to exert its best efforts to preserve the confidential status of the Information, following procedures with regard thereto at least as stringent as it follows with respect to its own proprietary information. Recipient shall not disclose to any third party, any Information without the prior written consent of CCF. Recipient may disclose Information to those of its employees, agents, and all others acting on its behalf ("Representatives") who have a need to know such Information in the course of the performance of the research as set forth herein; provided all such Representatives, agree to be bound by this Agreement to protect the confidentiality of such Information. These confidentiality obligations shall not apply to any Information that:

(a) was known to Recipient prior to the receipt of the Information or that is developed independently of the Information;

(b) becomes known to the public not as a result of any action or inaction by Recipient;

(c) Recipient acquires from a third party who has the right to disclose to Recipient; or

(d) is required to be disclosed by Recipient pursuant to law or by order of a court of competent jurisdiction, provided that prompt notice is given to CCF of the requirement of such disclosure to afford CCF adequate opportunity, to the extent legally permissible, to review and if CCF deems appropriate, to contest such disclosure.

The obligations of confidentiality under this Section shall extend for a period of five (5) years after the effective date of this Agreement.

7. None of the Materials or Modifications will be manufactured by or for Recipient in commercially significant quantities or offered for sale to others without a license to do so from CCF. It is understood that under this Agreement, no implied or express license is granted by CCF to Recipient for any of the Material, Modifications or Information.

8. Recipient acknowledges that the Material is experimental and is supplied to Recipient "AS IS" WITHOUT ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF TITLE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Neither CCF, nor the CCF Researchers make any representations that the use of the Material will not infringe any patent or proprietary rights of any third parties. Recipient agrees to rely solely upon its own opinion of the Material with regard to its safety and suitability for any purpose.

9. Recipient agrees to assume all liability for all claims and/or damages which may arise from Recipient's use, storage or disposal of the Material. Neither CCF, nor the CCF Researchers shall be liable to Recipient for any loss, claim or demand made by Recipient or made against Recipient by any other party, due to or arising from the use of the Material by Recipient, except to the extent permitted by law when such loss, claim or demand is caused by the negligence or willful misconduct of CCF or the CCF Researchers.

10. Recipient agrees to indemnify, hold harmless and defend CCF and the CCF Researchers, its trustees, officers, employees, and agents from and against any and all claims suits, losses, damages, costs, fees, expenses (including attorneys' fees), and other liabilities asserted by third parties arising from Recipient's (a) acceptance, use, handling, storage or disposal of the material, (b) breach of a material term or condition of this agreement, or (c) violation of federal, state or local statutes, laws or regulations, or export control laws. Upon its receipt of any claim hereunder, CCF and/or the CCF Researchers shall give prompt notice to Recipient of such claim and shall reasonably cooperate with Recipient at Recipient's expense, in the defense of such claim. The obligations under this provision shall survive the termination of this Agreement.

11. Recipient shall submit to CCF for its review a copy of any proposed presentation or manuscript resulting from the research thirty (30) days prior to the estimated date of submission for publication or presentation, for the purpose of protecting CCF proprietary information. If CCF reasonably determines that the proposed publication contains patentable subject matter which requires protection, CCF may require the delay of publication for a period of time not to exceed sixty (60) days for the purpose of filing patent applications. If no written response is received from CCF within the thirty (30) day review period, it may be conclusively presumed that publication may proceed without delay. Recipient agrees that any reports, publications, or other disclosure of results obtained with the Material will acknowledge its use by an appropriate citation. The appropriate reference for the Material is "Material was provided by _____ of The Cleveland Clinic Foundation. All rights, title, and interest in the Material are owned by The Cleveland Clinic Foundation (CCF)."

12. To the extent permitted by law, Recipient agrees to communicate to CCF all publications and/or research results made public by Recipient based on Recipient's research using the Material.

13. Neither party will, without the prior written consent of the other party, use in advertising, publicity, or in any manner, the name, trademark, logo, symbol, or other image of the party or that party's employee or agent, or disclose the existence of this Agreement or the status of any discussions or negotiations with the other party.

14. This Agreement is nonassignable, is governed by the laws of the State of Ohio and United States Federal Law and may be amended only with the mutual written consent of both parties.

15. This Agreement will expire two (2) years from the Effective Date, unless extended by written agreement between the parties. At the end of the term, this Agreement shall expire; provided however, either party may earlier terminate this Agreement at any time prior to expiration, following thirty (30) days written notice of such termination to the other party. Upon expiration or such termination, whichever occurs first, Recipient shall, at CCF's written direction, return or destroy any remaining Materials.

16. The obligations under the provisions relating to Intellectual Property, Confidential Information, Warranty, Liability, Indemnification, Publication and Use of Name shall survive any termination of this Agreement.

17. This Agreement embodies the entire understanding between the parties and supersedes all prior agreements, written or oral, between Recipient and CCF relating to the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement effective as of the date first written above.

THE CLEVELAND CLINIC FOUNDATION:

By: _____ Date: _____

Name: Paul E. DiCorleto, Ph.D.

Title: Chairman, Lerner Research Institute

RECIPIENT:

By: _____ Date: _____

Name: _____

Title: _____

READ AND ACKNOWLEDGED BY:

Recipient Scientist:

By: _____ Date: _____

Name:

Title: _____