Research Data and Records TRANSFER AGREEMENT

Between

and

RECIPIENT:

Name and Address:

RECIPIENT REPRESENTATIVE:

PROVIDER (“ECU”)

East Carolina University Department/Office

Greenville, NC 27858 ECU Representative

1. **Definitions:**
2. ORIGINAL RESEARCH DATA AND RECORDS (description of RESEARCH DATA and RECORDS to be transferred to RECIPIENT, including the time period over which the data and records were acquired): Click here to enter text.
3. PURPOSE (Describe proposed use for Material; a proposal may be attached):
	* Research (Attach proposal describing research)
	* Evaluation
	* Other
4. CONFIDENTIAL INFORMATION: Information related to MATERIAL that is not generally known to the public, considered non- releasable without prior approval, and conveyed in written, graphic, oral, or physical form including but not limited to specifications, scientific knowledge, know-how, processes, inventions, techniques, formulae, products, data, materials or other records. CONFIDENTIAL INFORMATION consists of, but is not limited to, any innovative concepts/ideas or trade secrets, disclosure of which outside of the parties hereto would result in irreparable damage to the respective Party. Therefore, due to the sensitive nature of CONFIDENTIAL INFORMATION, dissemination of CONFIDENTIAL INFORMATION shall be restricted in accordance with the provisions of this Agreement.

In accepting RESEARCH DATA and RECORDS generated and owned by ECU, RECIPIENT agrees to the following terms and conditions.

# Terms and Conditions:

1. This Agreement shall be effective and commence on the last signature date below (“Effective Date”).
2. ECU and RECIPIENT acknowledge that use of MATERIAL is provided solely for the PURPOSE defined herein, shall be used under the direct control of RECIPIENT REPRESENTATIVE, and shall not be used for any products or processes for profit making or commercial purposes.
3. ECU hereby transfers and assigns to RECIPIENT all right, title and interest in RESEARCH DATA AND RECORDS in ECU’s possession to RECIPIENT is support of RECIPIENT REPRESENTATIVE establishing a faculty research program at RECIPIENT.
4. ECU relinquishes all rights to publish, present, or use RESEARCH DATA and RECORDS.
5. Except as provided in this Agreement, no express or implied licenses or other rights are provided to RECIPIENT under any patents, patent applications, copyrights, trademarks, trade secrets, or other proprietary rights of ECU.
6. ECU DOES NOT MAKE ANY WARRANTIES, REPRESENTATIONS OR UNDERTAKINGS WITH RESPECT TO UTILITY, EFFICACY, SAFETY, OR FITNESS FOR A PARTICULAR PURPOSE OF CONFIDENTIAL INFORMATION, THAT INFORMATION WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER PROPRIETARY RIGHTS, OR THAT USE OF INFORMATION WILL NOT REQUIRE AN EXPORT CONTROL LICENSE FROM A COGNIZANT AGENCY OF THE U.S. GOVERNMENT.
7. In no event shall ECU be liable for any use by RECIPIENT, its employees or agents of the RESEARCH DATA and RECORDS or any loss, claim, damage or liability, of whatsoever kind of nature, which may arise from or in connection with this Agreement or the use, handling, or storage of the RESEARCH DATA and RECORDS. Furthermore, RECIPIENT agrees to indemnify ECU and any of its employees and hold it and them harmless from any action, claim or liability arising directly or indirectly from RECIPIENT’s possession, distribution, or other use of the RESEARCH DATA and RECORDS provided under this Agreement, and from RECIPIENT’s publication or distribution of test reports, data, or other information relating to said RESEARCH DATA and RECORDS.
8. RECIPIENT agrees to comply with all state and federal laws and regulatory requirements, including those applicable to the use, transmission, storage and disposition of RESEARCH DATA and RECORDS, NIH guidelines on the use of animals and recombinant DNA, the transfer of human data and individual human subject derived information, and the control and export of technical data, computer software, laboratory prototypes and other commodities and technology.
9. RESEARCH DATA and RECORDS is provided at no cost to RECIPIENT, except that at the discretion of ECU, RECIPIENT will be responsible for costs of shipping or transmission of RESEARCH DATA and RECORDS.
10. This Agreement is made subject to all United States laws and regulations which may be enacted or promulgated from time to time concerning the export of products, technical information, computer software, laboratory prototypes and other commodities and technology. It is understood that ECU is subject to United States laws and regulations concerning the export of products, technical information, computer software, laboratory prototypes and other commodities and technology (including those implemented by the

U.S. Department of Commerce through the Bureau of Industry and Security’s Export Administration Regulations (EAR) (trade and dual use protection); the U.S. Department of State through its International Traffic in Arms Regulations (ITAR) (national security); and the U.S. Treasury Department through its Office of Foreign Assets (OFAC) (trade embargo)), and ECU’s obligations under this Agreement are contingent on RECIPIENT’s compliance with United States export control laws and regulations. The export or deemed export of certain commodities and technical information may require a license or other approval from one or more agencies of the United States government. RECIPIENT will not export any such commodities or technical information without first obtaining necessary governmental licenses or other approvals. ECU expressly disclaims any representation, certification or warranty that no governmental licenses or other approvals are required for export or that, if required, they will be.

1. This Agreement is entered into in the State of North Carolina and shall be interpreted in accordance with and its performance governed by the laws of the State of North Carolina and the United States of America.
2. The failure of ECU to require the performance by RECIPIENT of any provision of this Agreement shall in no way affect the rights of ECU to enforce the same in the future, nor shall the waiver by ECU of any breach, violation, or threatened breach or violation of any provision of the Agreement be construed as a waiver of any subsequent breach, violation, or threatened breach or violation of this Agreement by RECIPIENT. The waiver of a breach of any term or condition of this Agreement will not constitute the waiver of any other beach of the same or any other term.
3. In the event any provision of this Agreement is found by any court or tribunal to be partially or wholly invalid or unenforceable, the remainder of the Agreement nevertheless shall be enforceable and binding, and the invalid or unenforceable provision shall be modified or restricted to the extent and in the manner necessary to render the same valid and enforceable, or, if such provision cannot under any circumstances be so modified or restricted, it shall be excised from the Agreement without affecting the validity or enforceability of any remaining provisions. The parties agree that any modification, restriction or excision may be accomplished by their mutual written agreement.
4. ECU and RECIPIENT agree that a copy of the original signature (including electronic copy) may be used for any and all purposes for which the original signature may have been used.

# Signatures:

In Witness Thereof, this AGREEMENT entered the day and the month indicated assigned below, ECU and RECIPIENT hereby accept the terms and conditions of this AGREEMENT.

# East Carolina University: Recipient:

 Signature Signature

Print Name: Print Name:

Title:

Title:

Date Date

# Read and Understood: Read and Understood:

ECU Representative Recipient Representative