MATERIAL TRANSFER AGREEMENT

***between***

**<<Collaborator>>**

***and***

**<<Air Force Activity>>**

**PREAMBLE**

This Material Transfer Agreement (“*Agreement*”) is a limited purpose Cooperative Research and Development Agreement, entered into under authority of the Stevenson-Wydler Technology Innovation Act of 1980, as amended and codified at 15 U.S.C. §3710a, *Cooperative Research and Development Agreements*; and implemented by Air Force Policy Directive 61-3, *Domestic Technology Transfer* (20 May 2013); and Air Force Instruction 61-302, *Cooperative Research and Development Agreements* (30 May 2001).

This *Agreement*is entered into between<<Collaborator>>, a [State of Incorporation] corporation having principal offices at <<Address of Collaborator>> (“*Collaborator*”), and the United States of America, as represented by the Secretary of the Air Force, acting through <<Air Force Activity>> (“*Air Force Activity*”), located at <<Address of Air Force Activity>>.

The activities conducted under this *Agreement*, described in paragraph B of Appendix A, are consistent with the mission of *Air Force Activity*.

1. **DEFINITIONS**
   1. “*Effective* *Date*” is the date this *Agreement* is signed by the Air Force Reviewing Official after having been signed by the duly authorized representatives of the parties.
   2. “*Material*” is the physical substance or product provided by *Air Force Activity* to *Collaborator,* as described in Appendix A.
   3. “*Material Information*” is documentation relating to the *Material* provided by *Air Force Activity* to *Collaborator* under this *Agreement,* as described in Appendix A.
   4. “*Test Data*” is information in any form that is created or developed by *Collaborator* as part of the test and evaluation activities conductedunder this *Agreement*.
2. **CONDUCT OF TEST AND EVALUATION**
   1. **Delivery of *Material/Material Information***. The *Air Force Activity* will deliver *Material* and *Material Information*, if any,to *Collaborator* within thirty (30) days of the *Effective Date* of this *Agreement.* If additional *Material* or *Material Information* not listed in Appendix A is provided by *Air Force Activity,* documentation of such *Material* or *Material Information* shall be appended to this *Agreement*.
   2. **Use of *Material/Material Information***. The *Collaborator* may use *Material* and *Material Information* only for the test and evaluation activities specified in Appendix A and in compliance with all applicable laws, regulations, and policies. [Optional Clause: The *Collaborator* will not attempt to reverse engineer, chemically analyze or otherwise identify the composition or construction of *Material.*]
   3. **Disclosure of *Material/Material Information***. The *Collaborator* may not transfer or disclose any *Material* or *Material Information* to any other person or party without prior written approval from *Air Force Activity*.
   4. **Disclosure of Public Information**. Nothing in this *Agreement* prevents *Collaborator* from disclosing *Material* or *Material Information* that: (1) is generally known, becomes known, or is available from another source without obligations concerning its confidentiality; (2) has been made available by the owners to others without obligation concerning its confidentiality; or (3) is described in an issued patent, published patent application, or published copyrighted work.
   5. **Third Party Requests for *Material* or *Material Information***. The *Collaborator* will inform *Air Force Activity* of any third party request for *Material* or *Material Information* that is made to *Collaborator* within a period of two (2) years after the *Effective Date* of this *Agreement*.
   6. **Publication**. If *Collaborator* chooses to publish test and evaluation activities conducted under this *Agreement*, *Collaborator* will provide, as a courtesy, a copy of the proposed publication (or, if not feasible, a summary of the proposed publication) to *Air Force Activity* prior to publication to ensure no *Material Information* is disclosed and to protect intellectual property rights. The *Air Force Activity* has the right to exclude its name, *Material,* and/or *Material Information* from the publication, or ask *Collaborator* to give appropriate credit to *Air Force Activity* for its contributions under this *Agreement,* by providing written notice to *Collaborator* within thirty (30) days of receiving the proposed publication. The *Air Force Activity* will provide *Collaborator* with a copy of any proposed publication that discloses or concerns any report or *Test Data* received from *Collaborator* under this *Agreement*.
   7. **Disposition of *Material/Material Information***. Upon expiration or termination of this *Agreement, Collaborator* may dispose of or retain any remaining *Material* in a manner that is mutually acceptable to both partiesand that complies with applicable laws, regulations, and policies. The *Collaborator* may retain one copy of all *Material Information* to document its obligations and activities under this *Agreement*.
   8. ***Test Data***. The *Collaborator* will promptly provide a final copy of its *Test Data or* report of its test and evaluation activities to *Air Force Activity*, but in no event later than ninety (90) days following the completion of the report or test and evaluation activities or the expiration or termination of this *Agreement.*
3. **INTELLECTUAL PROPERTY RIGHTS**
   1. **No Transfer of IP Rights**. Except as expressly set forth herein, this *Agreement* does not grant, confer, or otherwise transfer any right, title, or interest, by license or otherwise, in or to any invention, copyright, patent, *Material, Material Information, Test Data*, trademark, trade secret, know-how, or other intellectual property of either partyto the other party.
   2. ***Material/Material Information***. The *Air Force Activity* retains all rights, title, and interest in and to any intellectual property for *Material* and *Material Information* providedunder this *Agreement*.
   3. **Inventions**. The *Collaborator* shallown all inventions conceived or reduced to practice by its employees during the test and evaluation activities conducted under this *Agreement*.
   4. ***Test Data***. The *Collaborator* owns all rights, title, and interest in and to any *Test Data* developed under this *Agreement*. Subject to Paragraph 2.6., *Collaborator* grants *Air Force Activity* a perpetual, royalty free, non-exclusive license to use *Test Data* for any government purpose.
4. **EXPRESS DISCLAIMERS**
   1. **No Warranties**. All *Material,* *Material Information,* and *Test Data* delivered pursuant to this *Agreement* are provided AS IS. THE PARTIESMAKE NO REPRESENTATIONS AND EXTEND NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED*.* THE PARTIESMAKE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR REPRESENTATIONS THAT THE USE OF ANY *MATERIAL,* *MATERIAL INFORMATION,* OR *TEST DATA* WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, PROPRIETARY RIGHTS, OR OTHER INTELLECTUAL PROPERTY OR RIGHTS.
   2. **No Indemnity**. No indemnification for any damages is anticipated or provided for under this *Agreement*. The *Air Force Activity* and *Collaborator* are responsible for their own costs and any damages either partyincurs as a result of its activities under this *Agreement*. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES.
5. **TERM, MODIFICATION, AND TERMINATION OF AGREEMENT**
   1. **Term of *Agreement***. This *Agreement* will be in effect for two (2) years from the *Effective Date,* unless sooner terminated by either party. All rights and obligations accrued prior to expiration or termination of this *Agreement* shall survive the expiration or termination of this *Agreement*.
   2. **Termination**. Either partymay unilaterally terminate this *Agreement* for any reason and at any time by giving written notice of such termination to the other party. The partiesmay extend this *Agreement* by entering into a Modification signed by each party’s representative who is authorized to execute this *Agreement*. Each such Modification will be appended to this *Agreement*.
6. **GENERAL TERMS AND PROVISIONS**
   1. **Entire Agreement**. This *Agreement* represents the entire agreement of the parties and is the complete and exclusive statement of their agreement. No other collaboration between the partiesis contemplated or authorized under this *Agreement*.
   2. **No Endorsement**. The *Collaborator* shall not make any statement, claim, or inference regarding this *Agreement*, or any *Material,* *Material Information, Test Data* or products embodying or derived from *Material*, that states or implies any endorsement or recommendation of *Collaborator* by *Air Force Activity,* the United States Air Force, the Department of Defense,or the United States Government.
   3. **Relationship of Parties**. The partiesare independent entities and nothing in this *Agreement* creates or constitutes an agency, joint venture, partnership, or business entity of any kind between the parties. Neither partyis authorized to act on behalf of the other partyin any matter and each partywill maintain sole and exclusive control over its own personnel and operations.
   4. **No Funds Transfer**. Each partyshall bear its own costs and expenses in performing its activities and obligations under this *Agreement* and no funds may be transferred under this *Agreement*.
   5. **Force Majeure**. Neither partywill be in breach of this *Agreement* for the failure or omission of performance caused by any event beyond its reasonable control and not caused by the fault or negligence of the party. If such a *force majeure* event occurs, the partyunable to perform must promptly notify the other party*,* maintain in good faith such part performance as is reasonably possible, and thereafter resume full performance as soon as is reasonably practicable.
   6. **Choice of Laws**. The laws applicable to the United States Government shall govern this *Agreement* for all purposes.
7. **NOTICES**

All formal notices, correspondence, and other communications under this *Agreement* will be effective if sent by First-Class Mail to the designated representative of each partyat theaddress indicated below.

|  |  |
| --- | --- |
| ***Collaborator*** | ***Air Force Activity*** |
| [Attn: ] | [Attn: ] |
| [Address] | [Address] |
|  |  |
| [Phone] | [Phone] |
| [Email] | [Email] |

**IN WITNESS WHEREOF**, the parties have executed this *Agreement* in duplicate through their duly authorized representatives as follows:

|  |  |  |
| --- | --- | --- |
| *COLLABORATOR* |  | *AIR FORCE ACTIVITY* |
| <<Collaborator>> |  | <<Air Force Activity>> |
|  |  |  |
| *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* |  | *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* |
| *Signature of Official*  [Title] |  | *Signature of Official*  [Title] |
| [Mailing Address] |  | [Mailing Address] |
| [Email Address]  *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* |  | [Email Address]  *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* |
| *Date* |  | *Date* |
| **REVIEWED AND APPROVED BY AIR FORCE REVIEWING OFFICIAL** | | |
| [Name of Reviewing Official] | | |
| [Title of Reviewing Official] | | |
| *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* | | |
| *Signature* |  | *Date* |

**APPENDIX A**

**TEST AND EVALUATION ACTIVITIES**

1. ***Material* and *Material Information* Provided By *Air Force Activity*.**

The *Air Force Activity* is providing the following *Material* and, if applicable, *Material Information*, to *Collaborator* for use in conducting the test and evaluation activities specified in paragraph B (below).

5. **Test and evaluation Activities of *Collaborator*.**

The *Collaborator* will conduct the following test and evaluation activities with *Material* provided by *Air Force Activity*.

[Describe the testing, analysis, and other activities *Collaborator* will conduct with *Material* provided by *Air Force Activity* under this *Agreement*]

**APPENDIX B**

**MARKING OF *MATERIAL* AND *MATERIAL INFORMATION***

The *Air Force Activity* will prominently mark all *Material* and *Material Information* (or container or media containing *Material* or *Material Information*)provided to *Collaborator* under this *Agreement* with the following label or substantially similar designation.

***UNITED STATES AIR FORCE***

***MATERIAL*/*MATERIAL INFORMATION***

The right to use, modify, reproduce, release, display, disclose or dispose of material or material information contained herein is restricted as specified in CRADA-MTA No. FY-###-LAB-##.

If you are not permitted to receive this material or material information under that agreement, you must immediately return it to an authorized representative. The reproduction or distribution of any material or material information marked with this legend, or any portion thereof, must be authorized under that agreement and must be marked with this legend.