

**Equipment Transfer Agreement Instructions**

**DO NOT TRANSFER EQUIPMENT UNTIL** the Equipment Transfer Agreement has been signed by UHN and the Recipient Institution/Recipient Scientist.

1. Complete the fields indicated by **bold instructions** in the attached template MTA – in particular:
   * Date
   * Recipient Institution name, jurisdiction & address
   * Recipient Scientist name
   * Description of “Equipment” to be transferred
   * Particulars of “Permitted Use”
   * UHN Transferring Scientist(s) name
   * Recipient notification information
   * Recipient Authorized Official name & title
   * Recipient Scientist(s) details
2. Once reviewed and signed by the Recipient Institution and the Recipient Scientist – please email the partially signed MTA to the attention of The Technology Development & Commercialization Office at [MTAs@uhnresearch.ca](mailto:MTAs@uhnresearch.ca). Once the MTA is fully signed by UHN, a pdf version will be emailed to the recipient institution, the recipient scientist and the UHN transferring scientist so that the transfer of Equipment can be completed.
3. If you require originals to be signed, please forward 2 originals to the address below. One original of the fully signed MTA will be returned to the Recipient Institution while the second original will be retained by UHN for their records. A copy of the fully executed MTA will be e-mailed to the UHN Transferring Scientist at which time s/he can release the Equipment.

University Health Network

Technology Development & Commercialization

101 College Street – Suite 150

Heritage Building – MaRS Centre

Toronto, Ontario M5G 1L7 Canada

T: 416-581-7400 F: 416-977-4765

PLEASE NOTE:

UHN’s TDC office receives a tremendous number of requests for materials and has limited resources available to address them. Any suggested changes to the proposed terms of transfer will cause a substantial delay in the processing of your request.



EQUIPMENT TRANSFER AGREEMENT

This Equipment Transfer Agreement (“**Agreement**”) is made as of **[Insert Date]** and is between the following parties:

**University Health Network**

An Ontario not-for-profit corporation incorporated under the *University Health Network Act, 1997*, having a business office at 101 College Street, Suite 150, Heritage Building, MaRS Centre, Toronto, Ontario M5G 1L7 Canada

(“**UHN**”)

AND

**Insert Institution Name**

**Insert Institution Particulars**

**Insert Institution Address**

(“**Recipient Institution**”)

AND

**Insert Recipient Scientist Name**

(“**Recipient Scientist**”)

(As used in this Agreement, “**Recipient**” shall mean both Recipient Scientist and Recipient Institution collectively.)

**WHEREAS** the Recipient desires to obtain the Equipment from UHN for the Permitted Use (as these terms are defined below) and UHN is willing to allow the transfer of such Equipment to the Recipient in accordance with the terms and conditions of this Agreement.

**IN CONSIDERATION** of the mutual covenants made in this Agreement and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the parties agree as follows:

**1. DEFINITIONS.** For the purposes of this Agreement, the following terms shall have the respective meanings set out below and grammatical variations of such terms shall have corresponding meanings:

1. “**Commercial Use**” means (i) the sale, lease or other transfer of the Equipment and/or Modification(s) to a for-profit organization, or (ii) use of the Equipment and/or Modification(s) by any organization, including the Recipient, to perform contract research or to produce or manufacture products for general sale, or (iii) to conduct research activities that result in any sale, lease, license or transfer of the Equipment and/or Modification(s) to a for-profit organization, or (iv) any activity which commercially exploits the Equipment and/or Modification(s). Industry-sponsored academic research shall not be considered a Commercial Use of the Equipment and/or Modification(s) unless one or more of the above conditions of this definition are also met;
2. “**Equipment**” means [**Insert a description of the Equipment to be transferred]** *and further includes* any accompanying documentation and related proprietary know-how, data or information that is transferred by UHN to the Recipient;
3. “**Modification(s)**” means equipment, materials and components created by Recipient which contain or otherwise incorporate (in whole or in part) the Equipment, is otherwise made by making changes or alterations to the Equipment, or is otherwise a derivative of the Equipment;
4. “**Permitted Use**” means **[Insert a description of the research to be conducted with Equipment]** for other than Commercial Use purposes; and
5. “**Transferring Scientist**”: means **[Insert name of UHN transferring scientist]**.
6. **USE OF EQUIPMENT.**

**2.1 Permitted Use of Equipment.** The Recipient agrees to use the Equipment and Modification(s) solely for the Permitted Use by the Recipient Scientist (and others working under his/her supervision in the Recipient Scientist’s laboratory) and in accordance with all terms and conditions contained in this Agreement. Subject to the terms and conditions of this Agreement, all other uses of the Equipment are strictly prohibited. **UNLESS AN OTHERWISE EXPLICIT “PERMITTED USE”, THE EQUIPMENT MAY NOT BE USED IN OR ON HUMANS, INCLUDING FOR PURPOSES OF DIAGNOSTIC, TREATMENT OR ANY OTHER TESTING PUPOSES.**

**2.2 Prohibited Uses.** For purposes of certainty and clarity, unless specifically outlined as part of the Permitted Use, the Recipient shall not engage in (i) any Commercial Use of the Equipment and/or Modification(s), (ii) any research utilizing the Equipment that is subject to consulting or licensing obligations to any third party, (iii) any attempts (whether directly or indirectly) to reverse engineer the Equipment, (iv) the creation or generation of Modification(s), or (v) otherwise any other research utilizing the Equipment and/or Modification(s), without the express written permission of, and an appropriate license from, UHN. However, UHN shall be under no obligation to grant any such permission or execute any such license.

**2.3 Transfer of Equipment.** Neither the Recipient, nor any other person authorized to use the Equipment under this Agreement shall make available, distribute or transfer the Equipment to any person or entity other than laboratory personnel or contractors under the immediate and direct control of the Recipient Scientist. No person authorized to use the Equipment shall be allowed to take, send or otherwise provide the Equipment to any location other than the Recipient Scientist's laboratory without UHN's prior written consent.

1. **LEGAL TITLE TO EQUIPMENT.** Legal title to the Equipment shall be unaffected by this Agreement or the transfer of any Equipment hereunder. As between UHN and the Recipient, UHN shall be the sole owner of all rights and title to the Equipment, including (without limitation) any Equipment contained within or otherwise incorporated into Modification(s).
2. **NON-EXCLUSIVE LICENSE.** The transfer of the Equipment constitutes a non-exclusive license to use the Equipment solely for the Permitted Use. The transfer of the Equipment does not grant to the Recipient any additional rights in the Equipment other than as specifically set forth in this Agreement.
3. **RETURN OF EQUIPMENT**. Upon the expiration or earlier termination of this Agreement, the Recipient shall (at UHN’s direction) destroy or return to UHN the Equipment.
4. **FURTHER RECIPIENT COVENANTS.** The Recipient covenants that it will use the Equipment in compliance with all applicable laws, governmental regulations and guidelines, including, without limitation, any applicable Canadian Institute of Health Research or National Institute of Health guidelines.
5. **PUBLICATIONS.** The Recipient agrees to furnish UHN with a preprint publication or an advance copy of any other disclosure encompassing research findings and results arising from the use of the Equipment and Modification(s). The Recipient agrees that any confidential information of UHN and/or Transferring Scientist(s) will be removed from any such disclosure/publication. The Recipient shall acknowledge UHN and Transferring Scientist(s) as the provider of the Equipment in any such publication or disclosure.
6. **NEW INTELLECTUAL PROPERTY.** Recipient shall promptly inform UHN of the creation of any intellectual property arising from any use of the Equipment (including, without limitation, the creation of Modification(s)). Recipient shall grant, and does hereby grant, UHN a non-exclusive, perpetual, royalty–free license to use any such intellectual property for teaching and/or academic research purposes.
7. **DISCLAIMER. Any Equipment delivered pursuant to this Agreement is understood to be experimental in nature and** **is provided “as is”. The Recipient shall use Equipment with prudence and appropriate caution and safeguards since not all of its characteristics may be known. UHN makes no representations and extends no warranties of any kind, either expressed or implied, whatsoever in respect of the Equipment. There are no express or implied warranties of merchantability, safety, efficiency, effectiveness for a purpose and function, or fitness for a particular purpose of the Equipment, or that the use of the Equipment will not infringe any patent or other proprietary rights of UHN or any third party.**
8. **WAIVER AND INDEMINIFICATION. To the full extent permitted by the laws of the province or state and country by which the Recipient is governed, the Recipient assumes all liability for damages which may arise from the Recipient’s acceptance, use, handling, storage, function and/or disposal of the Equipment and in respect of all matters associated with Recipient’s use of research results arising from the use or function of Equipment or Recipient’s use of modification(s). UHN will not be liable to the Recipient for any loss, claim or demand made by the Recipient or any other party, or made against the Recipient by any other party, due to or arising from any acceptance, use, handling, storage, function and/or disposal of the Equipment by the Recipient, or in any matter associated with Recipient’s use of research results arising from the use or function of Equipment or recipient’s use of modification(s), except to the extent permitted by law when caused by the gross negligence or wilful misconduct of UHN. the Recipient Institution agrees to indemnify, defend and hold harmless UHN and corporate affiliates of UHN and their respective Boards of Governors, trustees, directors, officers, employees, staff, representatives and agents against all liability, damages, expenses (including without limitation legal expenses), claims, demands, judgements, awards or other losses based upon or arising from the Recipient's acceptance, use, handling, storage and/or disposal of the Equipment, and in respect of all matters associated with Recipient’s use of research results arising from the use or function of Equipment or Recipient’s use of modification(s), except to the extent permitted by law when caused by the gross negligence or wilful misconduct of UHN.**
9. **TERM AND TERMINATION.** This Agreement shall expire at the conclusion of the performance of the activities conducted pursuant to the Permitted Use. This Agreement may be earlier terminated by either party upon fourteen (14) days’ notice to the other party, or immediately upon notice from UHN in the event that Recipient is in material breach of this Agreement. Upon the expiration or earlier termination of the Agreement, the Recipient’s rights to use the Equipment shall end.
10. **GENERAL.**

**12.1** This Agreement shall be construed in accordance with the laws of Ontario and the federal laws of Canada applicable therein, and each party consents to the non-exclusive jurisdiction of the courts of Ontario and all courts competent to hear appeals therefrom.

**12.2** This Agreement is not alterable or assignable without the prior written consent of UHN.

**12.3** Section 2.3, and Articles 3, 5-10 and 12 in their entirety shall survive expiration or earlier termination of this Agreement until such time as the parties agree to the release of the obligations (in whole or in part) contained therein.

**12.4** This Agreement represents the entire agreement between the parties with regard to the Equipment and supersedes any previous understandings, commitments or agreements, whether written or oral. If any provision of this Agreement is wholly or partially unenforceable for any reason, all other provisions will continue in full force and effect.

**12.5** This Agreement may be executed by the parties in counterparts by facsimile or electronically, each of which who so executed or delivered will be deemed to be an original and all will constitute one agreement.

**12.6** All notices given under this Agreement must be in writing and delivered by courier or registered mail, return receipt requested, or facsimile, to the following:

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| --- | --- |
| For UHN: |  |
|  | Director, Technology Development & Commercialization  University Health Network  101 College Street – Suite 150  Heritage Building – MaRS Centre  Toronto, Ontario M5G 1L7 Canada  Facsimile: 416-977-4765  Email: [tdc@uhnresearch.ca](mailto:tdc@uhnresearch.ca) |
| For Recipient: |  |
|  | **Insert Recipient Notification Information** |

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| --- | --- |
| **The parties are signing this Agreement so as to be effective as of the date stated in the introductory clause.** | |
| **University Health Network**  Authorised Official: **Franco E. Rossetto, PhD, JD**  Title: **Deputy** **Director and Legal Counsel, Technology Development & Commercialization**  Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date:\_\_\_\_\_\_\_\_\_\_ | Recipient Institution Authorised Official:  Title:  Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date:\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **ACKNOWLEDGMENT**  I have read and understood this Agreement and agree to be bound by the terms and conditions herein. RECIPIENT SCIENTIST Name:  Title:  Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Telephone:  Fax:  E-mail:  Shipping Address:  Courier Company & Account #: | |