MATERIAL TRANSFER AGREEMENT

ENTERED INTO BETWEEN

THE SOUTH AFRICAN MEDICAL RESEARCH COUNCIL

a statutory science council established in terms of Section 2 of the Medical Research Council Act 58 of 1991 with its principal place of business situated at: Francie Van Zyl Drive, Parow Cape Town **as the Recipient of biological samples**

Herein after referred to as "the SAMRC and/ or Provider"

AND

INSTRUCTIONS:
Name of other entity with full legal citation, company registration or governing statute and registered head-office/ administrative head-office has to be placed here AS THE CUSTODIAN AND PROVIDER

Herein after referred to as "the Institution and/ or Provider"

Collectively referred to as "the Parties" or Individually referred to as "the Party"

1. **Definitions**

The following terms shall, for the purpose of this Agreement, bear the following definitions:

1.1 **Custodian**: the entity entrusted by the Donor with safeguarding, protecting and utilizing for health research and / or teaching purposes the Biological Materials, which Custodian is also the Provider for the purposes of this Material Transfer Agreement;

1.2 **Data**: any information, including personal information in any form derived directly or indirectly during the conduct of research or clinical care;

1.3 **Donor**: a person who has donated materials to be used for health research and / or teaching purposes;

1.4 **Biological Material**: means any material, including without limitation, blood, serum, fluid and tissue biopsy samples, collected from study subjects and any tangible material directly or indirectly derived there from. In the case of human and animal biological material this means, biological material *(as defined)* and includes, however is not limited to Deoxyribonucleic Acid (DNA), Ribonucleic Acid (RNA), blastomeres, polar bodies, cultured cells, embryos, gametes, progenitor stem cells, tissues and growth factors and any modifications or derivatives thereof.

2. **Effective date and Duration**

This Material Transfer Agreement *(MTA)* will commence on the date of last signature and endure until such time as the Recipient has performed the Purpose in clause 3.3 and the conditions set out at clause 3.9 have been met.

3. **The Biological Materials and Purpose**

3.1 During the term of this Agreement the Provider will provide samples of the **Biological Materials** to the Recipient for the **Purpose** set forth below.

3.2 The **Biological Materials** that will be provided in terms hereof are:

INSTRUCTIONS: The Institution / Provider must fill in the kind of material being delivered and the quantity and state whether the material has been cataloged and all other relevant details here

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3.3 The **Purpose** for which these samples are being delivered to the Recipient is as follows:

INSTRUCTIONS: The Institution / Provider must fill in here what kind of testing is required:

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3.4 The Biological Materials will be used for the purpose specified herein and for no other purpose. The Recipient will **acquire no rights or interest and will have no responsibilities** beyond that which has been stated in this MTA in relation to the Biological Materials. The Parties hereto, undertake to engage with the other in the utmost good faith and to conduct themselves with the highest ethical standards and **comply with all applicable legislation**, including but not limited to, the legislative ban on the sale of or trade in tissues, gametes, blood or blood products.

3.5 The Provider warrants that *if applicable* it has obtained the requisite approval from the relevant **Human Research Ethics Committee(s)** for the protocol(s) in terms of which the Biological Materials were collected and for the use of the Biological Materials for the purpose specified herein. **The Provider will attach a copy of the approval letter from the relevant Human Research Ethics Committee(s) for such prior to signing and returning this MTA to the SAMRC.**

3.6 The Provider understands that it remains at all times the **Custodian** of the Biological Material(s) that it is providing and that the **Donor remains the owner** of such materials until such materials are destroyed. The Provider warrants that for each sample that it is providing it has obtained the **informed consent** of each Donor prior to providing the sample and in accordance with the forms and procedures as provided for in the protocol approved by the relevant Human Research Ethics Committee. The Provider warrants that each sample has been **anonymized.**

3.7 The Provider undertakes that it will obtain the necessary **permits and authorizations** to transport any Biological Material to the Recipient. The Provider bears all the risk and liability in relation to the samples.

3.8 For the duration of this MTA the Recipient will retain the Biological Material at the SAMRC Genomic Laboratory situated at NVIS Building SAMRC, Francie van Zijl Drive, Tygerberg Hospital Campus, Parow Valley, Cape Town, 7503

3.9 Once the purpose set out at clause 3.3 has been performed or is completed, the Provider must give instructions to the Recipient to **destroy or return to the Recipient any remaining Biological Materials**. If, the Biological Materials **are to be destroyed**, the Recipient must ensure that destruction occurs in compliance with the applicable legislation. **The costs of the destruction and return will be for the Provider's account**. The Provider agrees to settle an account for destruction within 30 days have receiving such an account from the Recipient. The Recipient will ensure that the Provider is furnished with a certificate confirming destruction of the Biological Materials.

4. General Provisions

4. Payment

4.1 The Recipient will charge the Provider a fee of R ……..**excluding Value Added Tax** for performing the purpose. The Provider undertakes to pay the fee to the Recipient within 30 days of the Recipient performing the purpose and delivering the results to the Provider. Payment to the Recipient will be made into the bank account of the SAMRC of which the details are:

Bank	: ABSA
Branch Name	: ABS PBLCS W/C
Branch Address	: Retail and Business Banking, Western Cape, Bridge Park West, Bridge Way, Century City
Branch Code	: 632 005
Account Name	: South African Medical Research Council
Account Number	: 3-9000-0383
Swift Code	: ABSA ZA JJ
IBAN	: N/A
PI Key	: N/A

4.2 In the event that **payment is not received** within 30 days from the date of invoice by the SAMRC this shall be regarded as a **breach of this Agreement**. In this instance the SAMRC shall be entitled to claim payment as well as interest at the rate of interest applicable at the time and all legal fees and costs that may be incurred in the event that the SAMRC has to litigate to receive the payment.

5. The Parties shall have the right to **make publication** in relation to their activities conducted under this Agreement. In making such publication the Parties will acknowledge any contribution that either Party has made, including the sequencing conducted by the SAMRC. The SAMRC shall limit its publication in relation to this Agreement to the publishing of articles on the number of genomes sequenced by the laboratory, the sequencing methods used, and/or the quality of the sequencing runs and related matters but not in relation to the Biological Materials listed at 3.2; it being agreed that such Biological Material and the research associated therewith is the property of Institution.

6. The Biological Material and any associated information delivered in terms hereof is shared on a **confidential basis**. The SAMRC agrees to keep the Biological Material and associated information as confidential and restricted and not to transfer or disclose it to any other third party. The confidentiality will be maintained in relation, *but not limited,* to the following the properties; characteristics; content; composition; potential secondary uses; and methods of use of the Biological Material. The SAMRC may transfer or disclose the Biological Material and associated information to its employees, agents, consultants, review boards and affiliates, who have a **need to know** or a need to have knowledge of the Biological Material and associated information; limited and restricted to the **Purpose** only and are bound by obligations of confidentiality and non-use similar in substance and at least as restrictive to those herein.

7. In the event of a **dispute** arising from this Agreement, excluding a dispute in relation to clause 4, then the Parties shall make every effort to settle such dispute amicably. If the dispute is not capable of being settled amicably between the Parties, such dispute shall be elevated to the Senior Management / Executive or their

Provider Signatory Initials SAMRC Signatory Initials

Provider Witness Initials SAMRC Witness Initials

duly designated representatives for mediation purposes, within 7 (seven) days of the dispute having arisen. Should the dispute, despite such referral to the Senior Management / Executive, remain unresolved for a period of 30 (thirty) days after being so referred, it shall be finally settled under the Rules of Arbitration of the Arbitration Foundation of Southern Africa for arbitration by a single arbitrator appointed in accordance with the said Rules. Arbitration proceedings shall be conducted in Cape Town, South Africa and in the English language.

8. This MTA may only be **amended** or modified by the Parties negotiating a written addendum that will be signed by the duly authorised representatives of the Parties.

9. The Parties acknowledge that neither Party is justified in acting in reliance upon any promises nor representations of present intention purported to be contained in this MTA.

SIGNED FOR THE SOUTH AFRICAN MEDICAL RESEARCH COUNCIL

Signature:

Name:

Date:

Representative Capacity: Duly Authorized Member of the SAMRC Executive Management Committee

WITNESSED THE SOUTH AFRICAN MEDICAL RESEARCH COUNCIL

Signature:

Name:

Date:

SIGNED FOR THE ……..

Signature:

Name:

Date:

Representative Capacity:

WITNESSED FOR THE ……..

Signature:

Name:

Date: