

## **PLASMID DEPOSIT AGREEMENT**

THIS PLASMID DEPOSIT AGREEMENT (the “**Agreement**”), effective as of \_\_\_\_\_, 2014 (the “**Effective Date**”), is entered into by and between \_\_\_\_\_, an academic institution, non-profit organization, for-profit company at \_\_\_\_\_ (the “**Depositor Institution**”), and the Arizona Board of Regents, an instrumentality of the state of Arizona, acting for and on behalf of Arizona State University (“**ASU**”), each individually referred to as a “**Party**” and collectively referred to as the “**Parties**”.

### **RECITALS**

**WHEREAS**, ASU received a grant from the National Institutes of Health (the “**Grant**”) to form a new repository of Plasmids (the “**Repository**”);

**WHEREAS**, the goal of the Repository is to store, maintain, and facilitate the collection and exchange of Plasmids among researchers at academic, profit, and non-profit institutions for non-commercial, basic biological and biomedical research; and

**WHEREAS**, the Depositor Institution wishes to deposit certain Plasmids into the Repository and to authorize ASU to receive, store, replicate, and distribute such Depositor Material pursuant to the terms of this Agreement.

**NOW THEREFORE**, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

### **ARTICLE 1** **Definitions**

1.1 **Defined Terms.** Capitalized words and expressions in this Agreement shall have the meanings set forth herein and in this Article 1.

- 1.1.1 “Depositor Material” means Proposed Material that is accepted by ASU for inclusion in the Repository as set forth in Section 3.2.3.
- 1.1.2 “Depositor Scientist” means any scientist affiliated with the Depositor Institution wishing to deposit Depositor Material.
- 1.1.3 “Depositor Authorized Representative” means individual[s] identified by the Depositor Institution to authorize dispositions of Depositor Material on the Depositor Institution’s behalf into the Repository.
- 1.1.4 “Standard Material Transfer Agreement with Addendum” means the material transfer agreement to be used when the Proposed Material meets the specifications of Section 3.3.

- 1.1.5 “Expedited Process Agreement” shall mean the agreement set forth as Exhibit A-1 for Plasmids subject to the Standard Plasmid Transfer Agreement.
- 1.1.6 “Plasmids” means non-toxic, non-hazardous, non-infectious plasmids that are de-identified or not identifiable in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996, and their implementing regulations (“**HIPAA**”), as well as any unmodified derivatives (including substances which constitute an unmodified functional subunit or biological product expressed by the original material) or replications thereof and their progeny.
- 1.1.7 “Proposed Material” means Plasmids provided by the Depositor Institution to ASU for ASU’s consideration for inclusion in the Repository.
- 1.1.8 “Recipient Institution” means any institution that wishes to order and receive Depositor Material from the Repository.
- 1.1.9 “Recipient Scientist” means any scientist affiliated with the Recipient Institution wishing to order and receive Depositor Material from the Repository.
- 1.1.10 “Standard Plasmid Transfer Agreement” shall mean the material transfer agreement set forth as Exhibit B.

## **ARTICLE 2**

### **Obligations of the Depositor Institution**

- 2.1 Depositor Institutions Representations. As of the Effective Date and throughout the term of this Agreement, the Depositor Institution represents and warrants that:
- 2.1.1 The execution and delivery of this Agreement and the performance of the Depositor Institution’s respective obligations hereunder do not conflict with any obligation of the Depositor Institution.
- 2.1.2 The execution and performance of this Agreement has been duly authorized by all necessary officials of Depositor Institution.
- 2.1.3 It (a) possesses the legal right and authority to enter into this Agreement, (b) possesses all of the necessary rights to transfer the Proposed Material to ASU for reproduction, use, and distribution as contemplated under this Agreement; and (c) has authorized the individual[s] listed on Exhibit D (which may be updated from time to time) to authorize dispositions of Depositor Material on Depositor Institution’s behalf into the Repository.
- 2.1.4 It will not submit for deposit any toxic, hazardous, pathogenic, infectious or identifiable, as that term is understood by HIPAA, Proposed Material without the prior written consent of ASU.

2.1.5 Depositor Material is not subject to a licensing requirement under U.S. export laws. If there is any possibility that Depositor Material is or may become subject to the licensing or other authorization requirements of U.S. export laws and regulations, Depositor Institution shall advise ASU and shall be responsible for the cost of determining whether a license is required, and, if so, shall also be responsible for the expense of any licenses or authorizations that ASU is required to obtain in order to comply with the U.S. export laws. If Depositor Institution does not advise ASU of the possibility of the export-controlled status of Depositor Material at the time of Proposed Material Assessment (further detailed in Section 3.2) and ASU is held liable for violating the U.S. export laws for exporting such material, or ASU agrees to a settlement of charges of unauthorized export of such material, Depositor Institution shall reimburse ASU for the full amount of any penalties, settlement, and/or the costs of defense against or settlement of such charges, including reasonable attorney's fees.

### **ARTICLE 3** **Deposit Process**

3.1 Deposit Submission. From time to time, Depositor Scientists may identify Proposed Material that they wish to store in the Repository. In order to store any Depositor Material in the Repository, the Depositor Authorized Representative or Depositor Scientist must first submit a completed Plasmid Deposit Form, in a form set forth as Exhibit C, to ASU. Upon receipt of a Plasmid Deposit Form, ASU will send the Depositor Authorized Representative an e-mail alert requesting permission for ASU's receipt, testing, replication, and distribution of the Proposed Material identified in the Plasmid Deposit Form.

3.2 Proposed Material Assessment. Upon receipt of the Depositor Authorized Representative's written permission (which may be provided via email), ASU will notify the Depositor Scientist and/or Depositor Authorized Representative who submitted the Plasmid Deposit Form that he/she may submit the Proposed Material to the Repository to be assessed by ASU. Upon receipt of the Proposed Material, ASU will, in accordance with its policies, procedures, and standard laboratory practices:

- 3.2.1 Review the Proposed Material that it receives to confirm that the Proposed Material received matches the sample labels. ASU will notify the Depositor Scientist if (a) unexpected samples were received; or (b) if expected sample containers were not received. If unexpected samples were received, ASU will either return the samples at Depositor Institution's expense or destroy them. If expected sample containers were not received, ASU will notify the Depositor Scientist, so that he or she can send a replacement;
- 3.2.2 Perform a diagnostic analysis of each Plasmid to confirm a partial or complete nucleotide sequence identity of the Proposed Material submitted by Depositor Scientist; ASU will return or destroy any Proposed Material that does not pass the diagnostic analysis at Depositor Scientist's request and expense;

- 3.2.3 Following completion of steps in Sections 3.2.1 and 3.2.2, notify the Depositor Scientist and/or Depositor Authorized Representative that the Proposed Material was accepted and has become Depositor Material or rejected in whole or in part; and
- 3.2.4 Replicate samples of the Depositor Material for subsequent distribution and archival storage.

3.3 Special Proposed Material. From time to time, Depositor Institution may wish to provide Proposed Material to the Repository that is subject to (a) material transfer agreements with third parties, (b) license agreements with third parties, or (c) other limitations such as time limits for testing by Recipient Institution pursuant to which the Depositor Material can only be provided to Recipient Institutions subject to the Standard Plasmid Transfer Agreement attached as Exhibit B with appropriate addendum. In such cases, the Depositor Institution shall request the use of the Standard Plasmid Transfer Agreement with Addendum in the Plasmid Deposit Form, described in Section 3.1. ASU and the Depositor Institution shall work in good faith to reach an agreement regarding the specific terms of the Addendum, provided, however, that such terms are consistent with ASU's obligations to NIH with respect to the Repository and the Grant.

- 3.3.1 If the Parties are able to agree upon an appropriate Addendum, and such Proposed Material has become Depositor Material as set forth in Section 3.2.3, ASU shall flag the specific Depositor Material in the Repository that is subject to the Standard Plasmid Transfer Agreement with Addendum and shall only transfer such Depositor Material to Recipient Institutions who agree to execute, in writing, the applicable Standard Plasmid Transfer Agreement with Addendum.
- 3.3.2 If the Parties are unable to agree upon an appropriate Addendum, such Proposed Material shall not be deposited in the Repository.

3.4 Withdrawal of Depositor Material. The Depositor Institution may request, in writing, the withdrawal or return of the Depositor Material in ASU's possession in the Repository. In the event of such a request, ASU will within:

- 3.4.1 Thirty (30) days of the receipt of such request, cease distributing the specified Depositor Material and remove the specified Depositor Material from the distribution website for the Repository;
- 3.4.2 Ninety (90) days of the receipt of such request, destroy the specified Depositor Material, or return the Depositor Material to the Depositor Institution at the Depositor Institution's expense; and
- 3.4.3 One-hundred and eighty (180) days of such request, destroy or return the specified Depositor Material maintained in ASU's off-site archive, at Depositor Institution's expense.

3.4.4 Notwithstanding the foregoing, once ASU has provided the Depositor Material to a Recipient Institution, the future use of Depositor Material shall be governed by the terms of the Standard Plasmid Transfer Agreement or Standard Plasmid Transfer Agreement with Addendum as applicable. Upon request, ASU will provide Depositor Institution with a list of Recipient Institutions who have received Depositor Material.

3.5 Disclaimer of Warranty. Depositor Institution acknowledges that ASU's ability to replicate Depositor Material is dependent on the accuracy of the information included in the Plasmid Material Deposit Form. ASU EXPRESSLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE REPLICATION OR DISTRIBUTION OF THE DEPOSITOR MATERIAL. EXCEPT AS PROVIDED IN SECTION 2.1, DEPOSITOR INSTITUTION EXPRESSLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE DEPOSITOR MATERIAL.

#### **ARTICLE 4** **ASU Obligations**

4.1 Generally. ASU will:

4.1.1 Store Depositor Material in such a way that it can be identified, isolated, and removed from the Repository, and in accordance with guidelines standard to storage of materials in the nature of Depositor Materials.

4.1.2 Produce unmodified replications of Depositor Material for use by Recipient Institutions and distribute the Depositor Material to Recipient Institutions under the Standard Plasmid Transfer Agreement or Standard Plasmid Transfer Agreement with Addendum, as applicable.

4.2 Standard Plasmid Transfer Agreement. In order for a Recipient Scientist to receive Plasmids, including Depositor Material, such Recipient Institution shall execute the Standard Plasmid Transfer Agreement, attached as Exhibit B. Unless the Recipient Institution elects the expedited process set forth in Section 4.3, the Recipient Institution must execute a Standard Plasmid Transfer Agreement for each order of Plasmids placed by a Recipient Scientist from such Recipient Institution.

4.3 Expedited Process Agreement. ASU has established an online expedited process whereby Recipient Scientists may place orders for Depositor Materials and electronically agree to the terms of such transfer. In order to participate in the expedited online process, the Recipient Institution must execute the following:

4.3.1 An Expedited Process Agreement, attached hereto as Exhibit A-1, including the Standard Plasmid Transfer Agreement included as a schedule thereto, pursuant to which the Recipient Institution acknowledges and agrees that all Plasmids in the Repository, including Depositor Material, subsequently ordered by Recipient Scientists from such Recipient Institution through the expedited electronic order

and approval process, shall be subject to the terms of the Standard Plasmid Transfer Agreement and addendum if applicable. Thereafter, Recipient Scientists from such Recipient Institution will be permitted to place orders for Plasmids, including Depositor Materials, that are subject to the Standard Plasmid Transfer Agreement electronically; in placing such order Recipient Scientist will also be requested to electronically accept and agree to be bound by the terms of the Standard Plasmid Transfer Agreement already agreed to and accepted by their institution.

4.4 Limitations. The Parties agree that ASU, in providing the services set forth in this Article 4, without more, is not acting as an investigator, IRB or other oversight body over the activities undertaken by Depositor Institution to prepare the Depositor Material or otherwise comply with this Agreement.

## **ARTICLE 5** **Term and Termination**

5.1 Term. This Agreement shall commence on the Effective Date and continue until otherwise terminated (the “**Term**”).

5.2 Termination Without Cause. Either Party may terminate this Agreement without cause upon sixty (60) days prior, written notice.

5.3 Termination for Cause. This Agreement will immediately terminate if a Party is unable to meet its obligations under this Agreement within thirty (30) days of being notified in writing of a breach by the non-breaching Party. If the Grant expires or terminates, ASU shall have the right to terminate this Agreement upon thirty (30) days written notice.

5.4 Effect of Termination. In the event of termination or expiration of this Agreement for any reason, the Depositor Institution can direct the future use, withdrawal or removal of the Depositor Material in accordance with Section 3.4.

5.5 Remedies in Addition. The termination provisions of this Article 5 shall be the sole and exclusive remedy for the Depositor Institution.

## **ARTICLE 6** **Ownership of Depositor Material**

6.1 Ownership of Depositor Material. The Depositor Institution will own and have all intellectual property rights to all Depositor Material. The Depositor hereby grants to ASU a non-exclusive, royalty-free, transferable, worldwide license (with the right to sublicense) under which ASU may receive, store, replicate and distribute Distributor Material in accordance with the purposes of the Repository as described in Exhibit A-1 to this Agreement. Depository agrees to execute all documents and to perform other proper acts as ASU may deem necessary to secure the rights granted to ASU in this Agreement.

**ARTICLE 7**  
**Insurance**

7.1. Governmental Depositor Institutions. If the Depositor Institution is a Governmental entity, the Depositor Institution shall have and maintain insurance coverage as required by applicable state or federal law.

7.2 Non-Governmental Depositor Institutions. If the Depositor Institution is a non-governmental entity, the Depositor Institution shall, at its own cost, procure and continue in effect during the Term of this Agreement and for five (5) years thereafter, comprehensive general liability insurance that includes coverage for claims related to the research using the Depositor Material, with limits of not less than one million dollars (\$1,000,000.00) per occurrence for death or bodily injury and not less than five hundred thousand dollars (\$500,000.00) for property damage. Evidence of such insurance and its renewal shall be provided to ASU upon request. The Depositor Institution shall notify the ASU in writing no less than thirty (30) days prior to any cancellation, reduction in coverage, or non-renewal of such policy.

**ARTICLE 8**  
**Liability**

8.1 Indemnification. Except as provided in subsections 8.1.1 and 8.1.2 below, Depositor Institution agrees to indemnify and hold ASU harmless for the vicarious liability of ASU as a result of entering into this Agreement. However, the parties further agree that ASU shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

8.1.1 If the Depositor Institution is a non-federal governmental entity, each party (as 'Indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'Indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the Indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officer, officials, agents, employees, or volunteers. The Indemnitor shall not make any settlement of any claim admitting fault or incurring any liability on the part of the Indemnitee without the Indemnitee's prior written consent, such consent not to be unreasonably withheld.

8.1.2 If Depositor Institution is a U.S. federal agency, then no indemnification for any loss, claim, damage or liability is intended or provided by any party under this agreement; each party shall be liable for any loss, claim, damage or liability that it incurs as a result of its activities under this agreement only to the extent provided under the Federal Tort Claims Act (28 U.S.C. Chapter 171).

8.2 Limitations on ASU's Authority to Indemnify. Any other provision of this Agreement to the contrary notwithstanding, the parties acknowledge that ASU is a public institution and any indemnification or hold harmless obligation hereunder shall be limited as required by Arizona law, including without limitation [Article 9, Sections 5 and 7](#) of the Arizona Constitution and [Sections 35-154](#) and [41-621 of the Arizona Revised Statutes](#).

## **ARTICLE 9** **Standard Business Terms & Conditions**

9.1 Relationship of the Parties. The Parties acknowledge that this Agreement does not create a fiduciary relationship between them, that each Party shall be an independent contractor of the other, and that nothing in this Agreement is intended to make either Party an agent, legal representative, subsidiary, joint venture, partner, employee or servant of the other for any purpose whatsoever. Neither Party has the authority to bind the other Party.

9.2 Assignment. This Agreement shall not be assignable by any Party to any third party hereto without the written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed, except that Depositor Institution shall have the right to assign this Agreement to its affiliates or the successor of its business without such consent. This Agreement shall be binding upon and inure to the benefit of the Parties and their permitted successors and assigns.

9.3 Construction. The language in all parts of this Agreement shall be in all cases construed as a whole according to its fair meaning and not strictly for or against any Party nor for or against its drafter.

9.4 Entire Agreement. This Agreement, together with all Exhibits and Schedules constitute the entire agreement, both written and oral, between the Parties with respect to the subject matter hereof, and that all prior agreements respecting the subject matter hereof, either written or oral, expressed or implied, are merged and canceled, and are null and void and of no effect. No amendment or change hereof or addition hereto shall be effective or binding on either of the Parties hereto unless reduced to writing and duly executed on behalf of both Parties.

9.5 Execution. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and both of which together shall constitute one instrument.

9.6 Force Majeure. No Party shall lose any rights hereunder or be liable to the other Party for damages or losses on account of failure of performance by a defaulting Party if the failure is occasioned by war, strike, fire, Act of God, earthquake, flood, lockout, acts of terrorism, embargo, governmental acts or orders or restrictions, failure of suppliers or third parties, or any other reason where failure to perform is beyond the reasonable control and not caused by the negligence or misconduct of the nonperforming Party and the nonperforming Party has exerted reasonable efforts to avoid or remedy such force majeure.



9.7 Governing Law and Jurisdiction. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Arizona, without giving effect to any choice of laws or conflict of law provision. Each Party consents to service of process in any action by mailing a copy of such process by United States mail, registered or certified, postage prepaid, return receipt requested, to the addresses as provided under Section 9.9 herein.

9.8 Information. Subject to applicable law, each Party shall furnish to the other Party any information requested or required by that Party during the Term of this Agreement or any extensions hereof to enable the requesting Party to comply with the requirements of any United States or foreign federal, state and/or government agency.

9.9 Notices. All notices under this Agreement shall be in writing and shall be personally delivered or sent by telecopy or other electronic facsimile transmission or by registered or certified mail, return receipt requested, postage prepaid, in each case to the respective address specified below. Any notice given by mail shall be deemed effective three (3) days after the time when deposited in the United States mail if sent by registered or certified mail, and if given by other means shall be deemed given when received. Any Party may, by notice to the other pursuant to this Section, specify additional or different addresses for notice purposes.

To ASU:  
Office of Industry Research & Collaborations  
Arizona State University, SkySong – Suite  
200  
1475 N. Scottsdale Road  
Scottsdale, Arizona 85257-3538  
Attn: Manager Corporate Research Affairs  
E-mail: Sharon.Koath@asu.edu  
Fax: (480) 884-1984

To Depositor Institution:  
**ADDRESS**  
**Attention: XXX**

9.10 Severability. In the event that any provisions of this Agreement are determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect without that provision. In such event, the Parties shall in good faith negotiate a substitute clause for any provision declared invalid or unenforceable, which shall most nearly approximate the intent of the parties in entering this Agreement.

9.11 Survival. The following Sections of this Agreement shall survive its Term and termination for as long as necessary to permit their full discharge: Sections 2.1.5, 3.4, 3.5, Articles 5, 6, 7, 8 and 9.

9.12 Dispute Resolution. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or the breach thereof, the Parties hereto shall use their reasonable efforts to settle the dispute, claim, question, or disagreement. To this effect, they

shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. Further, pursuant to Arizona Revised Statutes Section 12-1518, the Parties acknowledge and agree, subject to the Arizona Board of Regents' Policy 3-809, that they will be required to make use of mandatory arbitration of any legal action that is filed in the Arizona superior court concerning a controversy arising out of this Agreement if required by Section 12-133 of the Arizona Revised Statutes.

9.14 Waiver. The waiver of or failure to enforce by any Party any breach of any term, covenant, or condition contained in this Agreement shall not be deemed to be a waiver of any subsequent or similar breach of the same or any other term, covenant, representation, warranty, or condition.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed by its duly authorized representatives on the respective dates entered below.

**The Arizona Board of Regents for and on  
Behalf of Arizona State University**

**XXX**

By: \_\_\_\_\_  
Print Name: Carlos Encinas Ph.D., MBA  
Title: Assistant Director, ORSPA

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Exhibit A-1**

**Expedited Process Agreement**

**Background/Overview:**

Arizona State University (“ASU”) received a grant from the National Institutes of Health (the “Grant”) to form a new repository of plasmids (the “Repository”) to store, maintain, and facilitate the collection and exchange of plasmids (the “Plasmids”) among researchers at academic, profit, and non-profit institutions for non-commercial, basic biological and biomedical research. Plasmids were shared with ASU by researchers at one or more institutions (each, a “Depositor Institution”) for distribution in accordance with a Standard Material Transfer Agreement. ASU has established a process, which is more fully detailed below, to effectuate the most efficient distribution of the Plasmids. An institution wishing to be eligible to receive Plasmids from the Repository (a “Recipient Institution”) by this more efficient distribution process is required to complete and submit this document to ASU.

**General Information:**

Organization Name:	_____ (“Recipient Institution”)
Contact:	_____ Title: _____
Address:	_____ Address 2: _____
City:	_____ State/Province: _____
Country:	_____ Postal Code: _____
Phone & Extension (inc. country code):	_____ FAX: _____
Email:	_____ Website URL: _____

**Material Transfer Process:**

ASU has established an online process for request of Plasmids that will permit scientists affiliated with the Recipient Institution (i.e. with a lab address at the Recipient Institution) (each a “Recipient Scientist”) to place orders for Plasmids online and agree to the terms of such transfer electronically. In order to participate, the Recipient Institution must first complete and execute, in writing, this Plasmid Transfer Application and Agreement, attached as Schedule 1, thereby acknowledging that all transfers of Plasmids, except as otherwise agreed to in writing between ASU and Recipient Institution, shall be subject to the process described herein and provided under the terms and conditions set forth in the Standard Plasmid Transfer Agreement, attached as **Schedule 1**. Thereafter, Recipient Scientists from such Recipient Institution will be permitted to place orders for Plasmids

online; and upon placing the order will electronically accept and agree to be bound by the terms and conditions of the Standard Plasmid Transfer Agreement already agreed and accepted by their institution. If, however, a Recipient Institution does not agree to the expedited process, but wishes to receive Plasmids, then in order for a Recipient Scientist from such Recipient Institution to receive Plasmids, such Recipient Institution will have to approve in writing the Standard Plasmid Transfer Agreement for each order of Plasmids by a Recipient Scientist.

**Recipient Institution Authorization:**

Recipient Institution represents and agrees that:

1. The information provided in this document is current, complete and accurate.
2. The execution of this Plasmid Transfer Application and Agreement shall bind the Recipient Institution to the expedited Material Transfer Process (described above); Recipient Institution further agrees that all orders for Plasmids by Recipient Scientists, except as otherwise agreed in writing by ASU and Recipient Institution, will be subject to the Standard Plasmid Transfer Agreement.
3. The execution and performance of the obligations contemplated herein have been duly authorized by all appropriate necessary officials, and Recipient Institution possesses the legal right and authority to assume the obligations contained herein and to be bound by the terms of this Plasmid Transfer Application and Agreement.

_____	_____	_____
Organization Official's Name (print)		Title
_____	_____	_____
Organization Official's Signature		Date

The Plasmid Transfer Application and Agreement shall both be completed and signed with original ink signatures by an official capable of legally binding the Recipient Institution and together shall be deemed and constitute a binding agreement.

**Schedule 1**  
**Standard Plasmid Transfer Agreement**

**Note:** Schedule 1 to the Expedited Process Agreement will be identical to the Exhibit B of the Plasmid Deposit Agreement, except that the following signature block shall appear at the bottom:

<b>Recipient Institution acknowledgment of the Standard Plasmid Transfer Agreement:</b>		
BY SIGNING BELOW, I, THE DULY AUTHORIZED REPRESENTATIVE OF THE RECIPIENT INSTITUTION, ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THE PLASMID TRANSFER AGREEMENT AND AGREE TO ITS TERMS AND CONDITIONS AND THAT THE RECIPIENT INSTITUTION SHALL BE BOUND BY SUCH TERMS AND CONDITIONS WITH RESPECT TO ALL PLASMIDS ORDERED BY SCIENTISTS AFFILIATED WITH THE RECIPIENT INSTITUTION (I.E. WITH A LAB ADDRESS AT THE RECIPIENT INSTITUTION) USING THE EXPEDITED ELECTRONIC MATERIAL TRANSFER PROCESS.		
Printed	Name _____	Position/Title
_____		
Signature _____	Date	
_____		

**Exhibit B**  
**Standard Plasmid Transfer Agreement**

This Standard Plasmid Transfer Agreement (this "Agreement") is by and among you ("Recipient Institution" or "You"), and the Arizona Board of Regents, an instrumentality of the state of Arizona, acting for and on behalf of Arizona State University ("ASU"). You are being provided with Plasmids that were developed by researchers ("Depositor Scientists") working at one or more originating institutions (each, a "Depositor Institution"). The Depositor Institutions are the beneficiaries of, and may independently enforce, this Agreement. The Plasmids, together with any replicas and unmodified derivatives thereof, shall be referred to as the "Plasmids."

Recipient Institution hereby agrees as follows:

1. The Plasmids are the property of the Depositor Institution and are made available as a service to the research community.
2. The Plasmids may be used solely for teaching or internal, non-commercial biomedical or non-commercial biological research purposes.
3. THE PLASMIDS MAY NOT BE USED IN HUMAN SUBJECTS.
4. The Plasmids will not be further distributed to others without the Depositor Institution's prior written consent and in any event shall not be distributed in violation of any of the U.S. export laws including the Export Administration Regulations ("EAR"), U.S. Department of Commerce, 15 CFR Parts 730-774 ; International Traffic in Arms Regulations ("ITAR"), U.S. Department of State, 22 CFR Parts 120-130; and Office of Foreign Assets Control ("OFAC") Regulations, U.S. Department of the Treasury, 31 CFR Parts 500-599.
5. You shall refer any request for the Plasmids to ASU or the applicable Depositor Institution. To the extent supplies are available, ASU or the Depositor Institutions agree to make the Plasmids available, under a separate material transfer agreement to other scientists solely for teaching or internal, non-commercial biomedical research purposes.
6. You agree to acknowledge, or ensure that your scientists acknowledge, the Depositor Institution and respective Depositor Scientists as the source of the Plasmids and ASU as the provider of the Plasmids in any publications reporting use of Plasmids.
7. You understand that the Plasmids are experimental in nature and may be toxic, hazardous, infectious or otherwise dangerous to human beings, animals, property and/or the environment. ASU AND THE DEPOSITOR INSTITUTIONS MAKE NO REPRESENTATIONS AND DISCLAIM ANY WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE PLASMIDS WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS.

8. Except as provided in subsection 8.1 below, Recipient Institution assumes all liability for claims for damages against it by third parties which may arise from its or its scientists' use, storage, or disposal of the Plasmids.

To the extent permitted by law, Recipient Institution agrees to hold ASU and the Depositor Institutions harmless from and to indemnify ASU and the Depositor Institutions for all liabilities, demands, damages, expenses and losses arising out of Recipient Institution's or its Recipient Scientists' use of Plasmids for any purpose.

8.1 If Recipient Institution is a U.S. state, federal M&O contractor or federal agency, or is operated by a state agency then no indemnification for any loss, claim, damage or liability is intended or provided under this agreement; each party shall be liable for any loss, claim, damage or liability that it incurs as a result of its activities under this agreement only to the extent provided under the Federal Tort Claims Act (28 U.S.C. Chapter 171).

9. You undertake to use the Plasmids in compliance with all applicable laws. Recipient Institution will have safety and security procedures and policies in place to ensure compliance with all obligations hereunder.

10. Additional requirements with respect to certain Plasmids are set forth in the Addendum attached to this Agreement. Such requirements are incorporated into and made a part of this Agreement.

**Note:** when this document is used as a stand-alone MTA (i.e. not in the context of the expedited process), the following signature block will appear.

**RECIPIENT INFORMATION and AUTHORIZED SIGNATURE**

Recipient Scientist: \_\_\_\_\_

Recipient Institution: \_\_\_\_\_

Address: \_\_\_\_\_

Name of Authorized Official: \_\_\_\_\_

Title of Authorized Official: \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Date

Certification of Recipient Scientist: I have read and understood the conditions outlined in this Agreement and I agree to abide by them in the receipt and use of the Plasmids.

\_\_\_\_\_  
Recipient Scientist

\_\_\_\_\_  
Date

Please have the Institution's authorized representative sign this Agreement and return one fully executed copy to:

DNASU Plasmid Repository  
Arizona State University Biodesign Institute  
Center for Personalized Diagnostics (CPD)  
PO Box 876401  
Tempe, AZ 85287-6401

## **Exhibit C Plasmid Deposit Form**

### **C.1. Scientific information about the Proposed Material.**

The following information is to be provided by the Depositor Scientist to ASU. ASU will subsequently notify and await written permission (to be sent to: ASU, Attn. DNASU Plasmid Repository, Biodesign Institute, Tempe, AZ from the Depositor Authorized Representative, as described in Article 3, Section 3.1.

*Please Note: The Repository defines a “plasmid” as comprising a “vector” that may or may not include a gene “insert.”*

#### **C.1.A. Vector Information**

Vector information will include at least the following:

1. Vector Name.
2. Vector description and/or list of significant features.
3. Vector author(s) (PSI site, researcher or organization).
4. If applicable, the PubMed ID(s) of relevant published references describing the vector.

#### **C.1.B. Plasmid and Plasmid Insert Information**

The following information should be provided by the Depositor Scientist to the Depository Authorized Representative for each *plasmid* (in writing or as a digital file).

Plasmid & Plasmid Insert information will include at least the following:

1. Any Unique Plasmid Identifier (e.g. the lab’s internal plasmid ID or name).
2. Name of the vector for this plasmid (using the same names used in Section C.1.A).
3. If applicable, the PubMed ID(s) of relevant published references describing the plasmid sample (excluding references that describe only the vector).
4. An indication that insert is present, *Yes* or *No*; noting that
  - a. **if Yes**, items B.5., B.6. and B.7. are also required.
  - b. **if No**, items B.5., B.6. and B.7. are not required.
5. The name of the species from which the insert was derived, designed or generated.
6. One or more applicable gene or protein identifiers for the insert (e.g. a gene name or gene symbol, NCBI GenBank Accession Number).
7. Plasmid Author(s) (PSI site, researcher or organization).

After review by the Depositor Authorized Representative, authorization to be sent to by email to [dnasuhelp@asu.edu](mailto:dnasuhelp@asu.edu) or by mail to Attention: DNASU Plasmid Repository, Arizona State University Biodesign Institute, Center for Personalized Diagnostics (CPD), 1001 S. McAllister Ave, Tempe, AZ 85287-6401.



**Exhibit D**

**Depositor Authorized Representatives**

**List of persons, along with their mailing addresses, telephone and fax numbers, and email addresses, who are authorized by the Depositor Institution to review and approve Proposed Material as outlined in Section 3.1:**

<b>Name</b>	<b>Title</b>	<b>Mailing Address</b>	<b>Phone</b>	<b>Fax</b>	<b>Email</b>