**WiCell Agreement No.:**

**MSN**

**Biomaterial Addendum**

This Biomaterial Addendum (this “Addendum”) is issued by the University of Wisconsin-Madison (the “University”) and is acknowledged and agreed to by the undersigned Researcher as of \_\_\_\_\_\_\_\_\_\_\_\_, 2024.

Pursuant to the terms of that certain Master Biomaterials Depositing Agreement between WiCell Research Institute, Inc. (“WiCell”) and University, dated as of December 2, 2015 (the “Agreement”), WiCell and the University agreed upon the terms governing WiCell’s Distribution of certain Biomaterials provided by Researchers. In accordance with the terms of the Agreement, the University issues this Biomaterial Addendum to WiCell for the Biomaterial described herein. Capitalized terms used but not defined in this Biomaterial Addendum shall have the meanings given to them in the Agreement.

1. Confirmation. Researcher has reviewed the terms of the Agreement, and understands that the Agreement (including this Biomaterial Addendum, which is incorporated therein by reference) imposes certain responsibilities on the University and the Researcher relating to, and grants to WiCell certain rights with respect to, the Biomaterial and the Distribution thereof. By issuing this Biomaterial Addendum to WiCell, University agrees, and Researcher acknowledges, that the deposit of the Biomaterial with WiCell, and WiCell’s Distribution thereof, are subject to the University’s and the Researcher’s acknowledgements, representations, and obligations set forth in the Agreement and in this Biomaterial Addendum, and confirms that such deposit and Distribution can be performed in accordance with the terms of the Agreement and will not cause the University or Researcher to be in violation of any term thereof.
2. Authorization to Transfer Biomaterials. University, and Researcher to the extent Researcher owns or possesses any rights in the Biomaterial, hereby grant WiCell the right and authority necessary to directly transfer the Biomaterial to academic or non-profit research institutions. The Biomaterial covered by this Biomaterial Addendum may be amended from time to time as agreed upon by University and WiCell.
3. Description of Biomaterials/Deposit Form. The Description of Biomaterial attached to this Addendum as Exhibit A, and the information in the Deposit Form attached to this Addendum as Exhibit B, are true and correct in all materials respects.
4. Terms of Distribution. University hereby instructs WiCell to Distribute the Biomaterial in accordance with the terms of the Material Transfer Agreement (“MTA”) attached to this Addendum as Exhibit C. University represents and warrants that the MTA includes all provisions necessary to authorize WiCell to Distribute the Biomaterial in accordance with applicable laws and without violation of any third party rights. University agrees that WiCell shall not be required to communicate any further provisions on behalf of University or Researcher to Recipients governing the Distribution of the Biomaterial absent separate written agreement. University and/or Researcher agrees to promptly notify WiCell of any changes to the MTA applicable to the Biomaterial, so that WiCell may replace the MTA and Distribute the Biomaterial in accordance the most current version. University and/or Researcher agrees to immediately notify WiCell in writing of any information University or Researcher learns during the Term of the Agreement that suggests (a) the Biomaterial infringes or potentially infringes third party intellectual property or (b) that University otherwise does not have the right to transfer the Biomaterial to WiCell and Recipients and Recipient Scientists for the purposes set forth in the Agreement.
5. Informed Consent. For a Biomaterial that is human subjects-derived, University and Researcher confirm that (a) an Institutional Review Board or equivalent has reviewed and approved protocols associated with obtaining initial samples and derivation of Biomaterial, if applicable, and (b) the deposit of the Biomaterial in the WiCell cell bank, the terms of this Agreement, the terms of the Implementing Letter and MTA, and the subsequent distribution of Biomaterial for research purposes are consistent with the informed consent of the human subjects from whom the samples were derived.

**THE BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM**

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

Acknowledged and Agreed to by:

**RESEARCHER**

 Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print name:

**Exhibit A to Addendum**

**Description of Biomaterial**

(Provide a Description of the Biomaterial, including any and all Reference Numbers, the names of all of the individuals involved in creating the Materials, scientific name)

Is the Biomaterial subject to any restrictions as a result of a third party Material Transfer Agreement?

☐ Yes ☐No

Has the Biomaterial been formally disclosed to WARF and/or is patent protection being pursued on the Biomaterial by WARF?

☐ Yes ☐ No

If the answer is “yes” to either of the above questions, please provide an explanation below (including any known applicable MTA numbers and/or WARF “P numbers”):

**Exhibit B to Addendum**

**WiCell-UW Deposit Worksheet**

**Exhibit C to Addendum**

**UW MTA**

[see attached]

**Appendix B**

**WiCell Implementing Letter**

**Material Transfer Request – Implementing Letter**

Upon execution of this Implementing Letter agreement by RECIPIENT (identified below), the Implementing Letter agreement shall become effective between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“PROVIDER”), having its principal place of business at \_\_\_\_\_\_\_\_\_\_\_\_\_, and RECIPIENT as of the date of execution below by RECIPIENT.

PROVIDER has deposited certain ORIGINAL MATERIAL (identified below) with the WiCell Research Institute, Inc. (“WiCell”) distribution bank. WiCell is a third party non-profit organization that has established a central distribution bank to provide cell lines to academic and non-profit research institutions. The ORIGINAL MATERIAL has been made available by PROVIDER for distribution to RECIPIENT through WiCell, for academic and non-commercial research purposes. The purpose of this Implementing Letter is to provide a record of the biological material transfer and to memorialize the agreement between PROVIDER and RECIPIENT, and the agreement between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“PROVIDER SCIENTIST”) and the RECIPIENT SCIENTIST (identified below), to abide by all terms and conditions of the Materials Transfer Agreements (identified below) for the purposes of this transfer from PROVIDER to RECIPIENT.

Please fill in all of the blank lines below:

1. RECIPIENT: Organization receiving the ORIGINAL MATERIAL:

Organization:

Address:

2. RECIPIENT SCIENTIST

 Name:

 Title:

 Address:

3. ORIGINAL MATERIAL:

4. Termination date for this Implementing Letter agreement (optional): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

5. Transmittal Fee: The ORIGINAL MATERIAL will be distributed to RECIPIENT by WiCell. RECIPIENT shall remit to WiCell, on behalf of PROVIDER, a reasonable transmittal fee, as set forth in the individual Material Transfer Agreement, or as otherwise communicated by WiCell to RECIPIENT, for each such distribution, to reimburse WiCell for its costs associated with preparation, handling, and distribution. To the extent a Material Transfer Agreement permits RECIPIENT to transfer ORIGINAL MATERIAL directly to a third party, RECIPIENT agrees that, in addition to its obligation to comply with the applicable terms of the Material Transfer Agreement, a transfer fee in consideration of such transfer shall be payable by RECIPIENT to WiCell, on behalf of Provider, in an amount not to exceed the transmittal fee referred to herein.

6. The PROVIDER and/or PROVIDER SCIENTIST own certain intellectual property rights in the ORIGINAL MATERIAL and have agreed to distribute the ORIGINAL MATERIAL through WiCell under the Material Transfer Agreements. Ownership of all ORIGINAL MATERIALS shall remain with PROVIDER, regardless of whether such ORIGINAL MATERIALS were received from WiCell. RECIPIENT and RECIPIENT SCIENTIST shall use the ORIGINAL MATERIALS solely for academic and non-commercial research purposes.

7. Material Transfer Agreements: The following agreement(s), attached to this Implementing Letter, are between RECIPIENT and PROVIDER. RECIPIENT and RECIPIENT SCIENTIST agree to give a copy of this Implementing Letter and the agreement(s) listed below to each RECIPIENT researcher who will work with the ORIGINAL MATERIALS in order for them to comply with the terms hereof: Upon execution of this Implementing Letter and the agreement(s) listed below, PROVIDER will direct WiCell to transfer the ORIGINAL MATERIALS to RECIPIENT and RECIPIENT SCIENTIST.

* Material Transfer Agreement
* **[Academic Use Restrictions][Use Restrictions for Permitted Transferees]**

8. Additional Terms:

No Warranties: OTHER THAN AS EXPRESSLY STATED HEREIN (OR WITH RESPECT TO PROVIDER IN THE ATTACHED AGREEMENT(S)), NEITHER PROVIDER NOR WICELL MAKES ANY REPRESENTATIONS NOR EXTENDS ANY WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE ORIGINAL MATERIAL OR OTHERWISE. THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT RECIPIENT’s RECEIPT OR USE OF THE ORIGINAL MATERIAL, OR ANY DERIVATIVES OR MODIFICATIONS OF THE ORIGINAL MATERIAL, WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS. Recipient acknowledges that the ORIGINAL MATERIAL is experimental in nature and agrees to rely solely on its own evaluation of the ORIGINAL MATERIAL in regard to its safety and suitability for any purpose.

Limitation of Liability: With respect to the economic importance of the use of the ORIGINAL MATERIAL, and the potential consequences of faulty result, it is the RECIPIENT’s and RECIPIENT SCIENTIST’s responsibility to analyze the ORIGINAL MATERIAL for any contamination or abnormalities, check the plausibility and validity of the results of use of the ORIGINAL MATERIAL, and to conduct any appropriate testing or retesting. Except to the extent prohibited by law, RECIPIENT and RECIPIENT SCIENTIST assume all liability for, and RECIPIENT and RECIPIENT SCIENTIST agree to not hold PROVIDER or WiCell responsible for, (1) damages which may arise from the use, storage, handling or disposal of the ORIGINAL MATERIAL by RECIPIENT or RECIPIENT SCIENTIST; (2) RECIPIENT’s or RECIPIENT SCIENTIST’s breach of any material term of these Additional Terms; and (3) RECIPIENT’s or RECIPIENT SCIENTIST’s breach of the applicable Material Transfer Agreements, except to the extent such loss damage, cost or expense arises from gross negligence or willful misconduct of PROVIDER. PROVIDER’s total, aggregate liability to RECIPIENT and RECIPIENT SCIENTIST shall be limited to actual damages not to exceed the total amount of fees paid to PROVIDER by RECIPIENT or RECIPIENT SCIENTIST. RECIPIENT agrees the limitations of liability and remedies under this Implementing Letter, and RECIPIENT’S corresponding acceptance of risk, are fair and reasonable, given, among other things, the relatively small transmittal fee charged by PROVIDER for the ORIGINAL MATERIALS in comparison to the potential risks associated with the use thereof.

Waiver and Release of WiCell: RECIPIENT and RECIPIENT SCIENTIST hereby fully, forever, and unconditionally release WiCell and its directors, members, officers, trustees, managers, shareholders, representatives, agents, employees, successors, heirs and assigns (each, in their individual and corporate capacities) (hereinafter, the “WiCell Released Parties”) from, and hereby waive, any and all Claims based upon, arising from, related to or in connection with the ORIGINAL MATERIAL, any derivatives or modifications of the ORIGINAL MATERIAL, and WiCell’s transfer of the ORIGINAL MATERIAL to RECIPIENT and RECIPIENT SCIENTIST. RECIPIENT and RECIPIENT SCIENTIST hereby irrevocably covenant to refrain from, directly or indirectly, commencing, instituting or causing to be commenced, any proceeding of any kind against any WiCell Released Party, based upon any Claim released hereby. As used herein, “Claim” shall mean any and all claims, charges, complaints, demands, actions, causes of action, suits, proceedings, rights, debts, sums of money, costs, accounts, damages (including compensatory, punitive or liquidated damages), executions, obligations, liabilities, and expenses (including attorneys’ fees and costs), of every kind and nature, whether known or unknown, whether disclosed or undisclosed, at law or in equity. The parties understand and agree that the Claims released in this paragraph include not only claims presently known, but also include all unknown or unanticipated claims, rights, demands, actions, obligations, liabilities, and causes of action of every kind and character that would otherwise come within the scope of the released Claims as described in this paragraph. The parties understand that they may hereafter discover facts different from what they now believe to be true, which if known, could have materially affected this Agreement, but RECIPIENT and RECIPIENT SCIENTIST nevertheless waive any claims or rights based on different or additional facts. RECIPIENT and RECIPIENT SCIENTIST knowingly and voluntarily waive any and all rights or benefits that they may now have, or in the future may have, under the terms of Section 1542 of the Civil Code of the State of California (and any similar or substantially similar provisions under the law of the State of Wisconsin or other states), which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

To the extent any Claim RECIPIENT and/or RECIPIENT SCIENTIST may have against a WiCell Released Party cannot be released or waived via this Agreement, the WiCell Released Party’s total, aggregate liability to RECIPIENT and RECIPIENT SCIENTIST shall be limited to actual damages not to exceed the total amount of fees paid to PROVIDER by RECIPIENT or RECIPIENT SCIENTIST for the ORIGINAL MATERIAL. RECIPIENT and RECIPIENT SCIENTIST agree the limitations of liability and remedies under this Implementing Letter, and RECIPIENT’s and RECIPIENT SCIENTIST’s corresponding acceptance of risk, are fair and reasonable, given, among other things, WiCell’s third party, non-profit status as a mere distribution bank, and the relatively small transmittal fee paid by RECIPIENT for the ORIGINAL MATERIALS in comparison to the potential risks associated with the use thereof. The parties agree that WiCell is a third party beneficiary of this Implementing Letter agreement.

By executing this Implementing Letter, RECIPIENT and RECIPIENT SCIENTIST agree to the terms as provided herein.

**RECIPIENT CERTIFICATION:**

**You, the person signing this form, certify that (1) you have the authority to execute this Implementing Letter on behalf of RECIPIENT, (2) RECIPIENT is a non-profit research organization (qualified under a government or state non-profit statute), or a university or other institution of higher education, or a government agency conducting research, and (3) RECIPIENT and RECIPIENT SCIENTIST agree to the transfer of the ORIGINAL MATERIAL as described in this letter.** Signed PDF copies of this Implementing Letter will be enforceable as an original.

**RECIPIENT**

 Authorized Official

 (print name):

 Title:

 Signature:

 Date:

Acknowledged by RECIPIENT SCIENTIST

 Signature:

 Date: