MATERIAL / DATA TRANSFER AGREEMENT

This Material/ Data Transfer Agreement ("Agreement") is entered into by and between Oregon Health & Science University ("OHSU" or "Recipient") and the Center for Health Research, a division of Kaiser Foundation Hospitals, a California nonprofit public benefit corporation ("Kaiser" or "Provider"), on behalf of itself and on behalf of Kaiser Foundation Health Plan of the Northwest and Northwest Permanente P.C. (collectively, "Kaiser Permanente"). Kaiser and Recipient may each be referred to as a "Party" or collectively as the "Parties."

RECITALS

This agreement is entered into between Kaiser and Recipient as part of the conduct of the study titled "_____" (the "Study").

Kaiser and Recipient desire to set forth the terms and conditions under which Kaiser will disclose and transfer to Recipient certain specimens and/ or data for the limited purposes described in this Agreement.

The performance of the Study is consistent, compatible and beneficial to the academic role and mission of OHSU as an institution of higher education and academic research and to the mission of the Center for Health Research to conduct patient-centered, population- and practice-based research and more generally, the mission of Kaiser Permanente to improve the health of its members and the communities Kaiser Permanente serves.

In consideration of the mutual promises below, the Parties agree as follows:

ARTICLE I
DEFINITIONS

1.1 "Derived Data" shall mean the raw data generated or derived by Recipient from analysis of the Materials, including (without limitation), assay results and in this Study will specifically include (without limitation) the raw data scoring or other quantification or evaluation of DNA, RNA, protein or other chemical expression or characteristics of the Materials. For clarity and avoidance of doubt, Derived Data do not include "Research Results" as defined below.

1.2 "Materials" shall mean all specimens and other materials identified in Exhibit A to be furnished by or at the instruction of Kaiser to Recipient, including all materials obtained or generated by Recipient using the Kaiser-provided specimens or materials, together with all data and other information relating to the materials provided by (or on behalf of) Kaiser in its sole discretion to Recipient for the limited purpose(s) described in this Agreement. For example, Materials may be biospecimens, including (without limitation) blood, tissue samples, pathology slides, formalin fixed, paraffin embedded

("FFPE") tumor specimens, tissue microarrays in which FFPE tumor specimens may be collected and identifiable or de-identified demographic, phenotypic and clinical data that Kaiser will supply to Recipient in connection with the specimens, all as further described in Exhibit A.

1.3. "Research Results" shall mean the aggregate analytic results and conclusions reached by Recipient or Kaiser in the Study, i.e., the statistical correlations and other publishable research conclusions developed as a result of analyzing the Materials and the Derived Data. For clarity and avoidance of doubt, Research Results do not include Materials or Derived Data.

1.4 "Primary Scientist," "Provider Scientist," and "Recipient Scientist" shall mean the persons specified as such in Exhibit A.

ARTICLE II
RECIPIENT'S OBLIGATIONS

2.1 Permitted Use. Recipient shall use the Materials only to conduct the research and work described in Exhibit A (Statement of Work) in the Recipient Scientist's laboratory at Recipient's facility under the direction of the Recipient Scientist or others working under his/her direct supervision. Recipient shall not make any other use of the Materials. Except as expressly allowed in this Agreement or Exhibit A, Recipient shall not transfer, distribute or provide any third party with access to the Materials. If Recipient desires to use Materials for research other than that described in Exhibit A, then Recipient must obtain the written consent of Provider and enter into a material transfer (or other) agreement executed by authorized representatives of each Party, before any such research is undertaken. Recipient shall not use the Materials to re-identify the study subjects. Recipient's obligations with respect to the Materials apply to the whole and to any part of the Materials. Any ambiguity in this Agreement relating to the use and disclosure of the Materials by Recipient shall be resolved in favor of a meaning that further protects the privacy and security of the information. Recipient and Recipient Scientist will promptly inform Kaiser of any request for the Materials received from a third party and refer such third party requesters to Kaiser.

2.2 Prohibited Use. Recipient will ensure the Materials will not be used in human subjects, in clinical trials, or for diagnostic purposes involving human subjects without the prior written consent of Kaiser.

2. 3 Ownership.

(a) Materials. Recipient acknowledges that the Materials are and shall at all times remain the exclusive property of Kaiser and shall be deemed the Confidential Information of Kaiser under Article III without the need to be marked as confidential. Recipient acknowledges that Recipient has no, and will not obtain any, ownership or proprietary rights in the Materials. Except as expressly set forth in Section 2.1, no rights or licenses are granted to Recipient in the Materials.

(b) Derived Data. The Derived Data shall be owned jointly by Kaiser and Recipient as described in this Agreement, including (without limitation) this section 2.3(b). Recipient shall furnish to Kaiser a copy of all Derived Data as promptly as practical following completion of the work described in Exhibit A, or earlier upon request of Kaiser, in a mutually agreed format for deposit into the Kaiser biobank repository. All future uses of the Derived Data shall be conducted in compliance with applicable law, including (without limitation) HIPAA (as defined below) and requirements for prior Institutional Review Board and/or Privacy Board review and approval of all human subjects research. Recipient will not use or provide Derived Data to any third party (by license or otherwise) for a commercial purpose, *e.g.*, in research funded by a commercial or industry sponsor, without the prior written consent of Provider. Except as expressly provided in this Agreement Recipient will not use the Derived Data in conjunction with the Materials, including (without limitation) the de-identified demographic, phenotypic and clinical data that Kaiser will supply to Recipient as described in Exhibit A, for any other study or purpose, except as may be set forth in another material transfer (or other) agreement executed by authorized representatives of Kaiser and Recipient.

(c) Research Results. The Research Results shall be jointly owned by Kaiser and Recipient, as described in this Agreement. Recipient shall furnish a copy to Kaiser of all Research Results as promptly as practical following completion of the work described in Exhibit A, or earlier upon request of Kaiser. Publication of Research Results shall be governed by Section 5.4 below. Except as expressly provided in this Agreement Recipient will not use unpublished Research Results in conjunction with the Materials, including (without limitation) the de-identified demographic, phenotypic and clinical data that Kaiser will supply to Recipient as described in Exhibit A, for any other study or purpose, except as may be set forth in another material transfer (or other) agreement executed by authorized representatives of Kaiser and Recipient.

2.4 Custody and Return of Materials. On completion of the Scope of Work, or on termination of the Agreement for any reason, Recipient shall return all Materials to Kaiser, including (without limitation) all tissue specimens and the unused portion(s) of the tissue microarrays. Recipient's obligations under this Agreement shall continue until Recipient returns the Materials to Kaiser; provided however, that on termination of the Agreement, Recipient shall not further use or disclose the Materials except as required by Law. Recipient shall destroy all data that are part of the Materials (the de-identified demographic, phenotypic and clinical data) and certify in writing to Kaiser that they have been destroyed.

2.5 Secure Location. Recipient shall keep the Materials under highly safe and secure conditions designed to prevent unauthorized use or access. Recipient must notify Kaiser as promptly as possible and, in any event, within twenty-four (24) hours by phone, and in writing within five (5) business days, after Recipient becomes aware of any access, use or disclosure of Materials that is not authorized by the Agreement and of any actual or suspected breach of Recipient's security measures that may affect the Materials.

2.6 Disclaimer of warranty. All Materials are provided on as "AS IS" basis for experimental purposes only. KAISER MAKES NO REPRESENTATIONS, AND EXTENDS NO WARRANTIES, OF ANY KIND, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY CONFIDENTIAL INFORMATION, MATERIALS AND KAISER EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND WITH RESPECT THERETO, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. All Research Results are provided to Kaiser "as is. RECIPIENT MAKES NO REPRESENTATIONS, AND EXTENDS NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO SUCH RESEARCH RESULTS SHARED WITH KAISER AND EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OF MERCHANTIBILITY OR FITNESS FOR A PARTICULAR PURPOSE.

2.7 Compliance with Laws. Recipient agrees to use Materials in compliance with all applicable statutes and regulations, including but not limited to Public Health Service and National Institutes of Health regulations and guidelines, the Common Rule (45 CFR Part 46, Subpart A), HIPAA, OSHA, bioterrorism and bio-safety laws, and import and export laws.

ARTICLE III
CONFIDENTIALITY

3.1 Kaiser Entities. For purposes of this Article III, "Kaiser" as either Receiving Party or Disclosing Party refers to Kaiser and the integrated health care delivery organization doing business as Kaiser Permanente, including Kaiser Foundation Hospitals, Kaiser Foundation Health Plan, Inc., Kaiser Permanente Insurance Company, The Permanente Federation, the Permanente Medical Groups, The Permanente Company, and all affiliates, subsidiaries and successors of the foregoing.

3.2 Confidential Information. "Confidential Information" means all information and materials provided by one party ("Disclosing Party") to the other ("Receiving Party") under this Agreement and is (a) clearly marked to indicate its confidential or proprietary status, or (b) by its nature proprietary or non-public, even if not marked and regardless how it is disclosed. The Materials are the Confidential Information of Kaiser, without the need to be marked as such. The Research Results are the Confidential Information of both Parties without the need to be marked as such.

3.3 Exceptions. Confidential Information does not include Protected Health Information ("PHI"), the use and disclosure of which is subject to Article IV (HIPAA) herein, or information which:

(a) is or becomes publicly available by other than a breach of this Agreement (including, without limitation, any information filed with any governmental agency and available to the public);

(b) is disclosed to the Receiving Party by a third party that is legally entitled to disclose such information;

(c) the Receiving Party demonstrates through documented records was known by it prior to its receipt from the Disclosing Party or an affiliate of the Disclosing Party; or

(d) is developed by the Receiving Party independently of and without reference to any disclosures made by the Disclosing Party or an affiliate of the Disclosing Party of such information as demonstrated by the Receiving Party's documented records.

3.4 Non-disclosure. Except as provided below, the Receiving Party shall hold the Confidential Information of the Disclosing Party in confidence and shall exercise the same standard of care to prevent the disclosure of such Confidential Information as it exercises to prevent the disclosure of its own like Confidential Information, but, in no event, less than reasonable care. The Receiving Party shall use and may duplicate Confidential Information solely as necessary to perform its obligations under this Agreement and for no other purpose. The Receiving Party shall permit access to Confidential Information only to its principals, directors, officers, employees, contractors and recipients having a need to know such information in order for the Receiving Party to perform or cause the performance of its obligations under this Agreement. The Receiving Party shall ensure (by instruction or agreement) that such individuals are informed of the confidential or proprietary status of the Confidential Information and of the restrictions on its use, disclosure and duplication contained in this Agreement. The Parties' obligations under this Article III shall survive the termination or expiration of this Agreement and shall continue for five (5) years from the date of disclosure of Confidential Information.

3.5 Ownership. Each Disclosing Party is and shall remain the sole owner of the Confidential Information provided to or obtained by the Receiving Party. Except as otherwise expressly set forth in this Agreement, no license or other right or property interest under trademark, patent, copyright, or other legal theory is granted, transferred or implied with respect to Confidential Information of the Disclosing Party or its affiliate to the Receiving Party or to any systems, equipment, or software of the Disclosing Party or its affiliate or their contractors and consultants which may be accessed by the Receiving Party in the course of performing under this Agreement.

3.6 Compelled Disclosure. If the Disclosing Party's Confidential Information is required to be disclosed by order of a court of competent jurisdiction, administrative agency or governmental body; subpoena, summons or other legal process; law, rule or regulation; or applicable regulatory or professional standards, then the Receiving Party shall reasonably notify the Disclosing Party in writing of any such order, subpoena, summons or other legal process so as to allow the Disclosing Party as much time as is practicable to challenge such order, subpoena, summons or other legal process. The Receiving Party shall reasonably cooperate with the Disclosing Party in protecting against any such disclosure and/or obtaining a protective order narrowing the scope of such disclosure.

3.7 Return of Confidential Information. The Receiving Party shall return to the Disclosing Party or, if permitted by the Disclosing Party, destroy Confidential Information, of the Disclosing Party, deliverables, work products, and copies thereof received or developed in performing this Agreement upon the expiration or termination of this Agreement, or at any prior time within ten (10) working days after receipt of the Disclosing Party's written request, except that the Receiving Party may retain one archival copy of the Disclosing Party's Confidential Information (excluding any physical Materials provided by Kaiser to Recipient) solely for archival purposes for verification of the work performed and not for any other purpose. Upon the return or destruction of the Disclosing Party's materials under this Section, an authorized representative of the Receiving Party shall give the Disclosing Party written certification that all such material has either been returned to the Disclosing Party or destroyed.

ARTICLE IV
HIPAA COMPLIANCE

4.1 Compliance. Recipient shall use the Materials only in compliance with all applicable federal, state, and local laws and regulations (including, without limitation, HIPAA). The Parties may receive from or create on behalf of each other certain health or medical information in the performance of this Agreement ("Protected Health Information" or "PHI," including electronic PHI, as defined in 45 C.F.R. Section 164.501). Use or disclosure of PHI is subject to protection under State and Federal law, including the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191 ("HIPAA"), including the Standards for Security for the Protection of Electronic Protected health Information (codified at 45 C.F.R. parts 160 and 164, Subpart C ("Security Rule") and implementing regulations. Each party shall comply with such law and implementing regulations during the term of this Agreement and after termination.

4.2 Use and Security. Each party agrees to maintain PHI securely in confidence and prevent the unauthorized disclosure of PHI, all in accordance with all applicable laws including but not limited to HIPAA and HIPAA regulations. Except for disclosures to Federal, State or local public health authorities required by statute or other law for mandatory public health or other reporting (in which case Section 3.6 above concerning disclosures required by law shall apply), each Party shall use and disclose PHI solely as necessary to perform its obligations under this Agreement in the conduct of the work described in Exhibit A and in accordance with the human subjects consent form (if any), all as approved by Recipient's Institutional Review Board, and for no other purpose. Each Party shall permit access to and disclose PHI to its principals, directors, officers, employees, contractors only if and to the extent (i) it is necessary for the conduct of the work described in Exhibit A, and (ii) such individuals and entities are informed of the confidential status of PHI and are substantially equivalent restrictions on the use and disclosure of PHI set forth in this Agreement, HIPAA, HIPAA regulations and the Medical Information Act.

ARTICLE V
GENERAL

5.1. Indemnification. To the extent permitted under applicable law, including the Oregon Tort Claims Act, Recipient shall indemnify, hold harmless and defend Kaiser from and against any and all claims, losses, liabilities, costs and other expenses (including attorneys' fees) that result from or arise out of or in connection with acts and omissions of Recipient, including Recipient's use, storage or disposal of the Materials or breach of Recipient's obligations under this Agreement, except where such claims, losses, liabilities, costs and other expenses (including attorneys' fees) result from the gross negligence or willful misconduct of Kaiser.

5.2 Termination. Either Party may terminate this Agreement with or without cause by providing thirty (30) days prior written notice, delivered by certified mail or with other acknowledgement of receipt, to the other Party. Upon termination, Recipient shall return to Kaiser (or, if Kaiser so requests, destroy) all Confidential Information of Kaiser and unused Materials except that one copy of any Confidential Information, not including any tangible Materials provided by Kaiser to Recipient, may be retained in accordance with Section 3.7 hereof. Recipient shall not retain any Materials without the prior written consent of Kaiser, which consent may be withheld in Kaiser's sole discretion. Articles III, IV and V shall survive termination of this Agreement.

5.3 Independent Contractors. The Parties are engaged as independent contractors. Nothing in the Agreement is intended to, or shall be deemed to, constitute an agency, partnership or joint venture between the Parties. Neither Party may make any statements, representations, or commitments of any kind on behalf of the other Party, nor take any action which is binding on the other Party, except as may be explicitly provided for in this Agreement or authorized in writing by the other Party.

5.4 Publication. The Parties agree to collaborate on the publication of Research Results from the work described in Exhibit A, as described in this Section.

(a) The Primary Scientist shall be responsible for the initial publication and dissemination of Research Results from the work described in Exhibit A. The Provider Scientist, Primary Scientist and employees and students engaged in work under this Agreement are free to present the Research Results at symposia or professional meetings, and to publish such results (a presentation or publication is referred to herein as a "Publication"). Each Party shall provide a copy of a proposed Publication to the other Party for review and comment prior to publication. Submission of a proposed Publication shall be delayed for a time period not to exceed sixty (60) days in order to complete the review and discussion of any comments provided by the other Party.

(b) Each Party's review of Publications prepared by the other Party shall include (without limitation) whether the publication or presentation contains any Confidential Information or patentable material before submission of a patent application. If the reviewing Party believes that patentable subject matter is disclosed in the manuscript or

presentation and so notifies the publishing Party in writing within the sixty-day review period, the Publication will be withheld for a reasonable period of time (but not to exceed sixty (60) days) until all applicable patent filings are completed.

(c) Each party shall use reasonable efforts to provide review and approval more promptly than the full period of review permitted hereunder, if requested by the submitting party.

(d) Qualification of authorship or contributorship in all events shall be determined in accordance with the "Uniform Requirements for Manuscripts Submitted to Biomedical Journals," published by the International Committee of Medical Journal Editors (ICMJE). All research reports and Publications authored by either Party shall acknowledge the respective contribution of the other Party to the research described in such reports or Publications.

5.5 Amendment. This Agreement and/or its exhibits may be modified only by a written amendment signed by authorized representatives of both Parties. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted must be in writing signed by the party against whom it is to be enforced and shall apply solely to the specific instance expressly stated.

5.6 Assignment; Subcontracts. Neither Party shall assign its interest in nor delegate its obligations under this Agreement in whole or in part to any affiliate, subsidiary or third party without the prior written consent of the other Party, which shall not be withheld unreasonably. Neither Party shall subcontract its performance obligations under this Agreement without the prior written consent of the other Party. If such approval is granted, both Parties shall ensure that any subcontractor agrees in writing to the same terms and conditions regarding the use and confidentiality of the Derived Data, Materials and Research Results that apply to the Parties under this Agreement.

5.7 Right to Inspect. Within ten (10) business days of a written request by Kaiser and in compliance with Recipients policy regarding visitation of outside parties, Recipient shall allow Kaiser to conduct a reasonable inspection of Recipient's facilities used in performing the Statement of Work attached as Exhibit A, and any systems, books, records, agreements, policies and procedures directly relating to Recipient's use or disclosure of the Materials for the purpose of determining Recipient's compliance with this Agreement solely. All Confidential Information presented to Kaiser during such inspections will be kept confidential as provided in Article III above. Any failure of Kaiser to inspect or to detect or notify Recipient of an unsatisfactory practice does not constitute acceptance of the practice by Kaiser or a waiver of any remedy or right Kaiser has under the Agreement or applicable law.

5.8 Notices. All notices required or permitted under the Agreement to be in writing may be delivered personally, by electronic facsimile (with a confirmation by

registered or certified mail placed in the mail no later than the following day), or by registered or certified mail, postage prepaid, addressed to a party as indicated below:

If to Kaiser:

Attention: Caroline Miner, Director of Research Subjects Protection
Phone: 503-335-6725
Facsimile No: 503-335-2424

If to Recipient:

Attention: Andrew Watson, Interim Director Technology Transfer
Phone: 503-494-8200
Facsimile No.: 503-494-4729

Notice shall be deemed to have been given on receipt of communications personally delivered or transmitted by electronic facsimile (delivery confirmed) and, for communications made by United States mail, on the third (3rd) day after mailing. The above addresses may be changed by giving written notice as described in this Section.

5.9 Choice of Law. This Agreement shall be governed by the laws of the State of Oregon, without giving effect to principles of conflict of laws. The Parties hereby submit to the exclusive jurisdiction of the federal and state courts located in Multnomah County, Oregon for all disputes or questions concerning this Agreement or the relationship created hereby.

5.10 Authority. Each Party represents and warrants that it has the requisite power and authority to enter into and perform its obligations under this Agreement and that the undersigned has the authority to enter into and bind, and does hereby bind, such Party to this Agreement.

5.11 No Exclusion. The Parties represent and warrant that they have not been placed on the sanctions list issued by the Office of the Inspector General of the Department of Health and Human Services pursuant to the provisions of 42 U.S.C. § 1320a(7), have not been excluded from government contracts by the General Services Administration ("GSA") and have not been convicted of a felony or any crime relating to healthcare. Further, if during any term of this Agreement, either Party is placed on the sanctions list, excluded from government contracts or convicted of a felony or any crime relating to healthcare, such Party will immediately notify the other Party in writing of the event and such notice shall contain reasonably sufficient information to allow the Party to determine the nature of the sanction, exclusion or conviction. A Party will have the right to terminate this Agreement immediately by written notice to the other Party if the Party is placed on the sanctions list, banned from government contracts by GSA or convicted of a felony or any crime relating to healthcare.

5.12 Publicity. Neither Party will use the names, trade names, service marks, trade dress or logo of the other Party in any advertising, publicity, marketing, promotional or sales literature, or refer to the existence of this Agreement in any press releases, advertising, web sites or materials distributed or made available to prospective customers or other third parties without the prior written consent of the other Party.

5.13 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall continue in full force and effect.

[Remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the month, day and year specified below.

CENTER FOR HEALTH RESEARCH,

KAISER FOUNDATION HOSPITALS

By_____

Name: Caroline Miner,

Director of Research Subjects Protection

Date: _____

OREGON HEALTH & SCIENCE UNIVERSITY

By_____

Name: Andrew Watson

Director, Technology Transfer

Date: _____

OHSU-Internal Review Board

By_____
Name:

Title:
Date: _____

EXHIBIT A
STATEMENT OF WORK