Inter-Institutional Agreement  
between  
The University of Southern Mississippi  
and  

\[\text{USM} - \text{[Univ/Org]}\]  

\[\text{USM-OTD Agreement #}\]  

This Agreement ("Agreement"), effective as of the date of execution by both parties, ("Effective Date"), is made by and between The University of Southern Mississippi, a state institution of higher learning, organized and existing under the laws of the State of Mississippi and located at 118 College Drive #5012, Hattiesburg, Mississippi 39406 (hereinafter "USM") and [NAME OF PARTY], a [INSERT TYPE OF ENTITY and STATE OF ENTITY CREATION] having its principal office at [ADDRESS] (hereinafter "[Univ/Org]").

WHEREAS ____________________________________ (hereinafter "Co-Investigators"), employees of USM, and ________________ of [Univ/Org] (hereinafter "Co-Investigators") have collaborated in a joint research program to develop novel injectable vehicles; and

WHEREAS USM and [Univ/Org] each retain an interest in any invention made by their respective faculty members and employees; and

NOW, THEREFORE, in consideration of the mutual promises set forth herein and rights obtained thereby, it is agreed as follows:

1. DEFINITIONS

1.1 "Joint Developed Technology" means the [Name of Technology] developed by the Co-Investigators as summarized in Attachment A.

1.2 "Confidential Information" means all information, procedures, data, results, conclusions, know-how, experience, or trade secrets that are disclosed to either USM or [Univ/Org] by the other.

1.3 "Expenses" means all reasonable and out-of-pocket costs incurred by USM and by [Univ/Org] for the preparation, filing, prosecution, and maintenance of patent applications for Joint Developed Technology and/or the licensing of Joint Developed Technology.

1.4 "Net Revenues" means gross proceeds received from the licensing of Joint Developed Technology pursuant to this Agreement, after deduction of Expenses and ____% for administrative overhead. Such overhead shall not exceed $xxx,000 for each license agreement executed.

2. PATENT PROTECTION AND PROSECUTION

2.1 USM and [Univ/Org] shall jointly own Joint Developed Technology.

2.2 USM and [Univ/Org] shall by mutual written decision make joint application for patent protection for Joint Developed Technology. Neither USM nor [Univ/Org] shall independently of the other seek patent protection for Joint Developed Technology. USM and [Univ/Org] shall have an interest in any invention disclosed and claimed therein, as well as any patents, continuations, divisionals, and foreign counterparts issuing thereon.

2.3 USM shall take the lead in the filing, prosecution, and maintenance of any U.S. and foreign patent applications resulting from Joint Developed Technology. USM will assume the expense of filing, prosecution, and maintenance of all U.S. patent applications resulting from Joint Developed Technology and the parties will share the expenses of filing, prosecution, and maintenance of any corresponding foreign patent applications. USM will consult with and keep [Univ/Org] fully informed...
as to the preparation, filing, prosecution and maintenance of any patent application(s) and any patent(s) issuing thereon and will provide [Univ/Org] with copies of all correspondence with the U.S. Patent Office, including any Office Action and proposed response to such Office Action and all applications, patents, continuations-in-part, etc.

2.4 If either USM or [Univ/Org] objects to the filing of a patent application or enforcement or maintenance of a patent related to Joint Developed Technology, in any country (ies), the other party may proceed in such country (ies) at its own expense. If either party proceeds on its own, the party declining to proceed shall have no further rights or interests in any patent rights for said country (ies) in which it declines to proceed and shall assign its rights in such application or patent to the other party.

2.5 If a situation regarding perfection of rights in Joint Developed Technology should arise which is not adequately addressed by these provisions, the parties agree to negotiate an acceptable resolution of the issues under the circumstances.

3. LICENSING

3.1 It is the intention of USM and [Univ/Org] to license jointly their rights for commercialization of Joint Developed Technology. USM and [Univ/Org] shall jointly identify potential commercial entities for licensing purposes. USM shall take the lead in negotiating agreements for the commercial development of Joint Developed Technology. USM will consult with and keep [Univ/Org] fully informed concerning its efforts and its negotiations relating to any agreements.

To that end, [Univ/Org] hereby grants to USM the sole and exclusive right and responsibility for the commercialization of the Joint Developed Technology, including the granting of exclusive or non-exclusive license(s) to third parties; provided, however that such exclusive commercialization rights shall become non-exclusive, at [Univ/Org]'s option, if USM fails to negotiate a royalty-bearing license for such Joint Developed Technology within a period of three (3) years after the effective date of this agreement.

In order to exercise its option, [Univ/Org] shall notify USM that such exclusive commercialization rights have become non-exclusive, thereby giving [Univ/Org] the opportunity to grant exclusive or non-exclusive license(s) to third parties provided that any rights granted to third parties by [Univ/Org] pursuant to its non-exclusive commercialization rights shall not be inconsistent with any license(s), options, or other commercialization rights in the Joint Developed Technology previously granted to third party(ies) and further provided that USM and [Univ/Org] shall be entitled to reimbursement for Expenses pursuant to paragraph 3.2 whether such license is granted by [Univ/Org] or USM.

3.2 Any option or license agreement for Joint Developed Technology shall include provisions for reimbursement of Expenses to USM and [Univ/Org], appropriate royalty payments, and retained rights to use and transfer Joint Developed Technology for research purposes only, as well as other provisions customary in such agreements, including but not limited to appropriate provisions requiring a licensee, sublicensee, optionee, or other transferee to indemnify, defend, and hold harmless USM, [Univ/Org] and their respective officers, employees, and agents.

3.3 Neither party shall issue any royalty-free or paid-up licenses or assign their patent rights in Joint Developed Technology to any third party for the commercial use of Joint Developed Technology, notwithstanding any other provisions of this Agreement, without the prior written consent of the other party.

3.4 The provisions of this Section, including any rights granted to either party, shall in all respects be subject to any rights held and restrictions imposed by the United States government or any agency thereof (including but not limited to march-in rights).
4. ROYALTIES

After deducting Expenses from gross proceeds accruing from licensing Joint Developed Technology and then deducting up to ten percent (10%) for administrative overhead (a limit of $xx,000 per license agreement as set forth in Section 1.7), the licensor shall distribute Net Revenues not later than March 1 for the preceding year ending December 31, on the following basis:

Net Revenues shall be distributed fifty percent (50%) to USM and fifty percent (50%) to [Univ/Org].

5. CONFIDENTIALITY

Subject to the rights of publication set forth in Section 7 below, USM and [Univ/Org] agree that during the term of this Agreement, each party may use Confidential Information received from the other. To the extent allowed by law, the party receiving Confidential Information shall restrict the use of the Confidential Information to the purpose set forth in Paragraph 1 and shall safeguard against disclosure of the Confidential Information to third parties using the same degree of care to prevent disclosure as it uses to protect its own information of like importance, but at least reasonable care. A party may make only the minimum number of copies of any Confidential Information required to carry out the purpose of this Agreement. All proprietary and copyright notices in the original must be affixed to copies or partial copies.

Neither party shall be obligated to maintain any information in confidence or refrain from use if:

a) The information was in the receiving party's possession or was known to it prior to its receipt from the disclosing party;  
b) The information is independently developed by the receiving party without the utilization of Confidential Information of the disclosing party;  
c) The information is or becomes public knowledge without fault of the receiving party;  
d) The information is or becomes available on an unrestricted basis to the receiving party from a source other than the disclosing party;  
e) The information becomes available on an unrestricted basis to a third party from the disclosing party or from someone acting under its control;  
f) The information is publicly disclosed (i.e., not under adequate protective order) by the receiving party under an order of a court or government agency, provided that the receiving party provides prior written notification to the disclosing party of such obligation and the opportunity to oppose such order; or  
g) Ordered to release by a court of competent jurisdiction or otherwise required to release by law.

Notwithstanding the foregoing, either party may disclose Confidential Information received from the other party under the following circumstances: (1) pursuant to a confidentiality agreement; or (2) after a priority patent application is filed.

6. PUBLICATION

It is agreed that Joint Developed Technology may be published by Co-Investigators.

7. NOTICES

Any notice or communication required or permitted under this Agreement shall be made in writing and sent to such party, postage prepaid, and addressed as set out below. Any written communication between the parties shall be deemed to be given upon receipt by the addressee. However, if the communication involves an alleged breach of this Agreement or a cancellation of this Agreement, such communication shall be sent by registered or certified mail, and also communicated by telephone as promptly as possible.

USM: University of Southern Mississippi  
Office of Technology Development  
118 College Drive #5012  
Hattiesburg, MS 39406

Ver. 11.01.14
8. **TERM AND TERMINATION**

8.1 Unless earlier terminated in accordance with Section 8.2, this Agreement shall terminate upon the first-to-occur of (i) the expiration or abandonment of all patent applications/issued patents claiming Joint Developed Technology or (ii) the mutual written agreement of the parties.

8.2 Either party may terminate this Agreement if the other party is in breach hereof and fails to remedy any such breach within forty-five (45) days after written notice of such breach by the non-breaching party. In the event of such termination, the non-breaching party shall be assigned all remaining rights in the Joint Developed Technology and shall be entitled to all subsequent royalty income generated from existing licenses entered into under section 3 and any subsequent licenses that the non-breaching party may enter into after reimbursement of the breaching party’s Expenses.

8.3 Termination of this Agreement notwithstanding, the parties agree that the termination of this Agreement shall not affect the rights and obligations of third parties contained in any license agreements executed prior to such termination nor affect rights granted to any licensee prior to such termination.

9. **GENERAL PROVISIONS**

9.1 Any differences between the parties to this Agreement concerning the construction or operation of this Agreement will be communicated to the persons identified above, who shall make good faith efforts to resolve such differences through alternative dispute resolution, if necessary, before resorting to litigation.

9.2 This Agreement may be amended, supplemented, or otherwise modified only by means of a written instrument signed by both parties.

9.3 Neither this Agreement nor the rights granted hereunder shall be transferred or assigned in whole or in part without prior written agreement between the parties.

9.4 This Agreement shall be construed, governed, interpreted, and applied in accordance with the laws of the State of Mississippi, U.S.A. without regard to its choice of law or conflicts of law rules or principles.

Notwithstanding any provision to the contrary contained herein, it is recognized that University is a public agency of the State of Mississippi and is subject to the Mississippi Public Records Act, Mississippi Code Annotated §25-61-1, et seq., as amended. If a public records request is made for any Information provided to University pursuant to this agreement, University shall promptly notify the disclosing Party of such request. The disclosing Party shall promptly institute appropriate legal proceedings to protect its Information. No Party to this agreement shall be liable to the other Party for disclosures of Information required by Court order or required by law.

9.5 The failure of either Party to assert a right hereunder or to insist upon compliance with any term or condition of this Agreement shall not constitute a waiver of that right or excuse a similar subsequent failure to perform any such term or condition by the other Party.

9.6 The headings of the several sections are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

9.7 The parties acknowledge that the Confidential Information and Joint Developed Technology received hereunder may be subject to U. S. export control regulations and hereby agree to comply with such applicable regulations.
9.8 This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements or understandings between the parties relating to its subject matter.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

UNIVERSITY OF SOUTHERN MISSISSIPPI
By: _______________________________
Dr. Gordon Cannon
Vice President for Research
Date: _____________________________

[UNIVERSITY]
By: _______________________________
Name:
Title:
Date: _____________________________
Attachment A

to the
Inter-Institutional Agreement
Between
The University of Southern Mississippi
And

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