

## NON EXCLUSIVE LICENSE AGREEMENT

**THIS NON EXCLUSIVE LICENSE AGREEMENT (the “Agreement”)** is made and entered into, as of the last of the dates shown in the signature block below (“Effective Date”) by and between: The Washington University, a corporation established by special act of the Missouri General Assembly approved February 22, 1853 and acts amendatory thereto, having its principal offices at One Brookings Drive, St. Louis, Missouri 63130 (hereinafter referred to as "WU"); and \_\_\_\_\_, a corporation of the State/country of \_\_\_\_\_, having a place of business at \_\_\_\_\_ (hereinafter referred to as "Licensee"), each a “Party” or collectively the “Parties” of this Agreement.

### RECITALS

WHEREAS, WU, by virtue of its role as an educational institution, carries out scientific research through its faculty, staff, and students, and is committed to bringing the results of that research into widespread use;

WHEREAS, WU has developed intellectual property and related technical information in the field of clinical dementia rating, and is owner of certain intellectual property rights which can be applied to that field, and has the right to grant licenses to said intellectual property, subject to rights reserved to the United States Government under 35 U.S.C. § 200, *et seq.*, and regulations;

WHEREAS, Licensee desires to license said technical information, related data and intellectual property for its own use; and

WHEREAS, WU is willing and entitled to license technical information, related data and intellectual property to Licensee for the purpose mentioned above.

### TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the premises, covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

#### 1. DEFINITIONS

- 1.1. **“Authorized Use”** means Licensee’s use solely in connection with the protocol as described in Exhibit C, and specifically excluding all other commercial purposes and other study protocols, unless authorized in a separate agreement.
- 1.2. **“Supplemental IP”** means any additional intellectual property from third party vendors required for the WU Intellectual Property to function and be utilized.
- 1.3. **“WU Intellectual Property”** means the intellectual property identified in Exhibit A.
- 1.4. **“Affiliates”** means any person or entity directly or indirectly controlling, controlled by, or under common control with Licensee, and for this purpose, "control," "controlling" and "controlled by" shall mean the ownership and control of more than fifty percent (50%) of the outstanding voting securities or interest in capital or profits of any person or entity, or the right to direct or control the management or affairs of any person or entity by contract or similar arrangement.

#### 2. LICENSE GRANTS AND RESTRICTIONS

- 2.1. **Grant of License.** WU, subject to the limitations and conditions set forth herein, grants to Licensee a non-exclusive, non-transferable, fully paid up, royalty-free license to copy, modify, and distribute the WU Intellectual Property for use in connection with the Authorized Use and for no other purpose. Licensee’s rights under this Section 2.1 do not include any right to

copy, modify, distribute, or publicly display WU Intellectual Property in any products or services for any commercial purpose. For the avoidance of doubt, such license shall not include a license to any Supplemental IP. Notwithstanding anything to the contrary in this Agreement, this grant extends to and expressly permits the administration of the WU Intellectual Property by Licensee's Affiliates and third party contractors ("CROs") on its behalf as may be required in connection with the Authorized Use.

**2.2. Reservation of Rights and Restrictions.** Nothing in this Agreement provides Licensee with any ownership rights of any kind in the WU Intellectual Property. All ownership rights in the WU Intellectual Property shall remain the sole and exclusive property of WU. No license or right is granted by WU, by implication or otherwise, to any intellectual property other than the WU Intellectual Property. Other than the license expressly granted in Section 2.1 above, all rights in and to the WU Intellectual Property are hereby reserved by WU. Licensee agrees not to practice or use the WU Intellectual Property or do any act in respect thereof outside the scope of the licenses expressly granted above including, without limitation, providing any WU Intellectual Property to any third party other than as expressly permitted in Section 2.1 above. Licensee further agrees that it will not do any act or thing which would in any way contest WU's ownership in, or otherwise derogate from the ownership by WU, of any rights in the WU Intellectual Property. In furtherance of the foregoing but without limiting the generality thereof, Licensee agrees not to register or attempt to register any rights in the WU Intellectual Property or to assist any third party to do so.

**2.3. Derivative Works.** Licensee will have the right to modify the WU Intellectual Property solely for the purpose of maximizing the functionality of the WU Intellectual Property for use in connection with the Authorized Use. Any such modifications to the WU Intellectual Property ("Derivative Works") will be owned by WU. Such Derivative Works shall include, but will not be limited to, translations of the WU Intellectual Property into a language other than the original language of the WU Intellectual Property in accordance with the translation procedures in Exhibit B. Licensee will notify WU promptly of the creation of any Derivative Works, and will provide a copy of the Derivative Work and/or the source code that embodies that Derivative Work with such notification. Licensee hereby assigns all U.S. and other foreign rights, including all copyrights and rights of authorship in the Derivative Work to WU and agrees to execute any and all documents and agreements necessary to effectuate such assignment and registration and protection of such rights. WU hereby grants to Licensee and Licensee hereby accepts, a non-transferable, non-exclusive, perpetual, irrevocable, fully paid up license to copy, modify, and distribute the Derivative Works for use solely in connection with the Authorized Use, upon receipt of the above-described notification. Licensee understands and agrees that the rights to the Derivative Work do not supersede Licensee's obligation to protect the confidentiality of the WU Intellectual Property, nor do rights to Derivative Works in any way expand the license to the WU Intellectual Property granted hereunder. Licensee may not distribute any Derivative Work to any third party without the express written permission of WU. For the avoidance of doubt, Licensee's rights under this Section 2.3 do not include any right to copy, modify, distribute, or publicly display any products or services for any commercial purpose except as otherwise provided for in the Authorized Use. WU agrees to negotiate in good faith with Licensee regarding Licensee's use of Derivative Works for commercial purposes.

**3. THIS SECTION LEFT INTENTIONALLY BLANK.**

**4. CONFIDENTIALITY**

**4.1. Confidential Information.** Licensee agrees to hold in confidence all Confidential Information disclosed under this Agreement. The term "Confidential Information" means (i) the WU Intellectual Property, including, but not limited to, computer code (both source code and object code), designs, (ii) documentation, instruction and training manuals, diagrams, flow charts, and business processes, whether or not identified as "proprietary," "secret," or "confidential" and (iii) all other information disclosed by WU to Licensee, which, if in writing or in electronic or

other tangible form, bears a "secret," "confidential," or other similar designation or, if communicated orally, is followed up with a written memorandum describing the information so disclosed and the circumstances of disclosure and asserting a claim of confidentiality with respect thereto. Licensee acknowledges that the Confidential Information is the sole and exclusive property of WU.

**4.2. Exclusions.** Confidential Information does not include information that (a) was known to Licensee prior to receipt from the WU as evidenced by the receiving Party's records; (b) is or becomes part of the public domain through no act by or on behalf of Licensee; (c) is lawfully received by the Licensee from a third party without any restrictions, and/or (d) comprises identical subject matter to that which had been originally and independently developed by Licensee personnel without knowledge or use of any Confidential Information as evidenced by Licensee records.

**4.3. General Obligations.** Licensee agrees that for the term of this Agreement and for a period of ten (10) years thereafter, it will (a) refrain from disclosing any Confidential Information to third parties other than those expressly permitted under this Agreement, (b) disclose Confidential Information to only those employees, CROs and Affiliates of Licensee necessary for the receiving Party to use the Confidential Information in accordance with this Agreement and who are subject to restrictions on use and disclosure at least as restrictive as those set forth in this Agreement, (c) keep confidential the Confidential Information, and (d) except for use in accordance with the licenses which are expressly granted in this Agreement, refrain from using Confidential Information.

**4.4. Judicial Procedures.** Licensee may, to the extent necessary, disclose Confidential Information in accordance with a judicial or other governmental order, provided that Licensee either (a) gives WU reasonable notice prior to such disclosure to allow the WU a reasonable opportunity to seek a protective order or equivalent, or (b) obtains written assurance from the applicable judicial or governmental entity that it will afford the Confidential Information the highest level of protection afforded under applicable law or regulation.

## **5. NO CONTEST**

**5.1.** Licensee shall not itself challenge or contest nor cooperate with or furnish assistance to any person, firm, or corporation who challenges or contests the validity of the intellectual property rights of WU with respect to the WU Intellectual Property or the Confidential Information or WU's sole and exclusive right, title, and interest in and to the WU Intellectual Property and Confidential Information.

## **6. SUB-LICENSE AND ASSIGNMENT**

**6.1.** Neither the license granted hereunder, nor the WU Intellectual Property or any part thereof may be sub-licensed, assigned, transferred or given away by Licensee without the prior written consent of WU. Any attempt to sub-license, assign or transfer any of the rights, interests, duties or obligations under this Agreement constitutes a material breach of this Agreement justifying termination, and any such attempted transfer will be null and void.

## **7. COPYING**

**7.1.** Other than as expressly provided under this Agreement, Licensee shall not, under any circumstances, directly or indirectly, copy, modify, decompile, or reverse engineer all or any part of the WU Intellectual Property.

## **8. REQUIRED NOTICES**

**8.1.** Licensee shall not remove any copyright or patent notice or trade secret legend from any copy of the WU Intellectual Property or other Confidential Information, and the Licensee shall not assert and shall not represent to any third party that it has any ownership rights in, or the right to sell, transfer, assign or sub-license the WU Intellectual Property.

**8.2.** All uses of WU Intellectual Property shall contain the following copyright notice:

"All rights reserved. Copyright 2001 by Washington University in St. Louis, Missouri"

## **9. TECHNICAL SUPPORT**

- 9.1. The Parties understand and agree that WU has not agreed to provide any maintenance or support services with respect to the WU Intellectual Property, nor has WU agreed to update, upgrade, or provide new versions, releases of, “fixes” for, or “security patches” to the WU Intellectual Property.

## 10. REPRESENTATIONS AND WARRANTIES

- 10.1. **Authority.** Each of WU and Licensee represents and warrants to the other of them that (a) this Agreement has been duly executed and delivered and constitutes a valid and binding agreement enforceable against such Party in accordance with its terms, (b) no authorization or approval from any third party is required in connection with such Party’s execution, delivery, or performance of this Agreement, and (c) the execution, delivery, and performance of this Agreement does not violate the laws of any jurisdiction or the terms or conditions of any other agreement to which it is a party or by which it is otherwise bound.
- 10.2. **Compliance with Laws.** Licensee represents and warrants that it will (a) use the WU Intellectual Property only to exploit the license rights granted in Section 2 in accordance with the provisions of this Agreement and with such laws, rules, regulations, government permissions and standards as may be applicable thereto in the Authorized Use, and (b) otherwise comply with all laws, rules, regulations, government permissions and standards as may be applicable to Licensee with respect to the performance by Licensee of its obligations hereunder.
- 10.3. **Additional Warranties of Licensee.** Licensee represents and warrants that (a) it has obtained the insurance coverage required by Article 13 below, and (b) there is no pending litigation and no threatened claims against it that could impair its ability or capacity to perform and fulfill its duties and obligations under this Agreement.
- 10.4. **Additional Warranties of WU.** To the best of its knowledge, WU represents that it is the copyright owner of the WU Intellectual Property and has the full right, power and authority to grant the license granted hereunder to Licensee.

## 11. DISCLAIMER AND LIMITATION OF LIABILITIES

- 11.1. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, EVERYTHING PROVIDED BY WU UNDER THIS AGREEMENT IS UNDERSTOOD TO BE EXPERIMENTAL IN NATURE AND IS PROVIDED WITHOUT ANY WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF ANY THIRD-PARTY PATENT, TRADEMARK, COPYRIGHT OR ANY OTHER THIRD-PARTY RIGHT. WU MAKES NO WARRANTIES REGARDING THE QUALITY, ACCURACY, OR ANY OTHER ASPECT OF THE WU INTELLECTUAL PROPERTY OR ANY USE THEREOF. IN NO EVENT SHALL WU OR LICENSEE BE LIABLE FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, WHETHER IN BREACH OF CONTRACT, TORT OR OTHERWISE, EVEN IF THE PARTY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR THEIR RESPECTIVE INDEMNITY OBLIGATIONS, EACH PARTY’S AGGREGATE LIABILITY TO THE OTHER UNDER THIS AGREEMENT SHALL NOT EXCEED THE PAYMENTS MADE OR PAYMENTS DUE UNDER THIS AGREEMENT, RESPECTIVELY.

## 12. INDEMNIFICATION

- 12.1. Notwithstanding anything else in this Agreement, Licensee agrees to indemnify, defend and hold harmless WU, WU personnel, WU’s affiliates, and each of their respective present trustees, faculty, staff, employees, students, directors, officers, agents, successors and assigns (altogether the “WU Indemnitees”) from, for and against any and all judgments, settlements, losses, expenses, damages and/or liabilities (the “Losses”) and any and all court costs, attorneys’ fees, and expert witness fees and expenses (“Fees”) that a WU Indemnitee may incur from any and all allegations, claims, suits, actions or proceedings (the “Claims”) arising out of, relating to, or incidental to Licensee’s breach of this Agreement or Licensee’s, Affiliates’, and/or CROs’

use, commercialization, or other exploitation of WU Intellectual Property whether by or through Licensee, and including all Claims for infringement, injury to business, personal injury and product liability.

**12.2.** Obligations set forth in this section shall survive termination of this Agreement, shall continue even after assignment of rights and responsibilities, and shall not be limited by any provision of this Agreement outside this section. WU shall: (a) give Licensee prompt written notice of the Claim; (b) cooperate with the Licensee, at Licensee's expense, in connection with the defense and settlement of the Claim; and (c) not settle or compromise the Claim without the written consent of the Licensee, which shall not be unreasonably withheld. Licensee may satisfy its duty to indemnify for Fees by accepting an irrevocable duty to defend the Claim on behalf of WU without a reservation of rights, at which time Licensee shall be entitled to conduct and direct the defense of WU against such Claim using attorneys of its own selection; for all other Claims, WU shall be entitled to conduct and direct its own defense and that of other WU Indemnitees using attorneys of its own selection with Fees subject to the Licensee's ongoing obligation to indemnify for Fees.

### **13. INSURANCE**

**13.1.** Licensee agrees to maintain general liability insurance and/or self-insurance in an amount that is sufficient to meet its obligations under this Agreement. For the avoidance of doubt, the insurance coverage set forth in this Agreement does not constitute a limitation on Licensee's liability or obligations to indemnify or defend WU and any other additional insured under this Agreement.

### **14. TERM AND TERMINATION**

**14.1. Term.** This Agreement shall become effective on the Effective Date and shall continue in effect between WU and Licensee, until the study end date indicated in Exhibit C or until terminated by either Party as provided herein.

**14.2. Termination.** WU may terminate this Agreement and the license granted herein if Licensee breaches any of the material terms of this Agreement and fails to cure the breach, to the reasonable satisfaction of WU, within twenty (20) days of the date on which Licensee receives notice of the breach.

**14.3. Duties Upon Termination.** Upon termination of this Agreement for any reason, Licensee shall cease all use of the WU Intellectual Property and Confidential Information. Licensee shall return to WU or destroy, at WU's discretion, all copies and embodiments of the WU Intellectual Property and Confidential Information in its possession, custody, or control with the exception that Licensee may retain a copy of the WU Intellectual Property solely for archival purposes. Upon WU's request, Licensee will furnish a written certificate of compliance with the provisions of this Section 14.3 with such certification being signed by an officer of Licensee.

### **15. GENERAL PROVISIONS**

**15.1. Import/Export Controls.** In performing their respective obligations under the Agreement, the Parties will comply with all applicable import and export control and asset control laws, regulations, and orders, as they may be amended from time to time. WU is providing no representation regarding the export control status or classification of any information or materials provided hereunder.

**15.2. Entire Agreement; Amendment.** This Agreement embodies the entire understanding of the parties and supersedes all other past and present communications and agreements relating to the subject matter. No amendment or modification of this Agreement shall be valid unless made in writing and signed by authorized representatives of both parties.

**15.3. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri, without regard to its rules or procedures involving conflicts of laws.

**15.4. Survival.** Each provision of this Agreement that would by its nature or terms survive,

shall survive any termination or expiration of this Agreement, regardless of the cause. Such provisions include, without limitation, Sections 4, 9, 10, 11, and 12.

- 15.5. Notices.** Notices pursuant to this Agreement shall be to the following contacts and are effective when sent if sent by a commercial carrier’s overnight delivery service or when received if sent otherwise:

For Washington University:	For Licensee
<p>Office of Technology Management Attn: Director</p> <p><b>Mail:</b> 660 S. Euclid Ave., Campus Box 8013 St. Louis, MO 63110</p> <p><b>Courier:</b> 4240 Duncan Avenue Suite 110 St. Louis, MO 63110</p>	

- 15.6. Assignment.** This Agreement is binding upon and inures to the benefit of the Parties and their successors, but this Agreement may not be assigned by either Party without the prior written consent of the other Party.
- 15.7. Construction.** The recitals and preamble to this Agreement, if any, are hereby incorporated as an integral part of this Agreement as if restated herein in full. Headings are included for convenience and reference only and are not incorporated as an integral part of this Agreement. This Agreement may be executed in any number of counterparts each of which shall be deemed an original and as executed shall constitute one agreement, binding on both parties, even though both parties do not sign the same counterpart.
- 15.8. Relationship of the Parties.** Each Party is an independent contractor and not a partner or agent of the other Party. This Agreement will not be interpreted or construed as creating or evidencing any partnership or agency between the Parties or as imposing any partnership or agency obligation or liability upon either Party. Further, neither Party is authorized to, and will not, enter into or incur any agreement, contract, commitment, obligation or liability in the name of or otherwise on behalf of the other Party.
- 15.9. Severability.** If any provision in this Agreement is held invalid, illegal, or unenforceable in any respect, such holding shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if it had never contained the invalid, illegal, or unenforceable provisions.
- 15.10. Remedies.** The failure of either Party to insist upon or enforce strict performance by the other Party of any provision of this Agreement, or to exercise any right or remedy under this Agreement will not be interpreted or construed as a waiver or relinquishment of that Party's right to assert or rely upon any such provision, right or remedy in that or any other instance; rather, the same will be and remain in full force and effect. All rights and remedies under this Agreement are cumulative of every other such right or remedy and may be exercised concurrently or separately from time-to-time.
- 15.11. Use of Names.** Neither Party may use the trademarks or name of the other Party or its employees for any commercial, advertisement, or promotional purposes without the prior written consent of an authorized corporate office of the other. If either Party is required by law, governmental regulation, or its own authorship or conflict of interest policies to disclose its relationship with the other Party, including, but not limited to, in SEC filings, scientific publications or grant submissions, it shall provide the other Party with a copy of the disclosure.
- 15.12. Force Majeure.** Neither WU nor Licensee will be liable for failure of or delay in

performing obligations set forth in this Agreement, and neither will be deemed in breach of its obligations, other than for payments due and owing hereunder, if such failure or delay is due to natural disasters or other causes reasonably beyond the control of a Party and reasonable notice of the delay is provided to the other Party.

**15.13. WU Personnel.** Licensee agrees that for all WU faculty or staff members who serve Licensee in the capacity of consultant, officer, employee, board member, advisor, or otherwise through a personal relationship with Licensee (a "Consultant") (i) such Consultant shall serve the Licensee in his or her individual capacity, as an independent contractor, and not as an agent, employee or representative of WU; (ii) WU exercises no authority or control over such Consultant while acting in such capacity; (iii) WU receives no benefit from such activity; (iv) neither Licensee nor the Consultant may use WU resources in the course of such service; (v) WU makes no representations or warranties regarding such service and otherwise assumes no liability or obligation in connection with any such work or service undertaken by such Consultant; and (vi) any breach, error, or omission by a Consultant acting in the capacity set forth in this paragraph shall not be imputed or otherwise attributed to WU, and shall not constitute a breach of this Agreement by WU.

**15.14. Further Acts.** Each Party shall, at the reasonable request of the other, execute and deliver to the other such instruments and/or documents and shall take such actions as may be required to more effectively carry out the terms of this Agreement.

**15.15. Counterparts.** This Agreement may be executed in multiple counterparts, which when taken together shall comprise a binding agreement. If this Agreement is signed in counterparts, no signatory hereto will be bound until all Parties have duly executed, or caused to be duly executed, a counterpart of this Agreement. Each Party may rely on facsimile or electronically transmitted signature pages as if such facsimile or electronically transmitted pages were originals.

**The signatures of the undersigned indicate that they have read, understand and agree with the terms of this Agreement and have the authority to execute this Agreement on behalf of their represented Party and to bind their Party to all the terms of this Agreement.**

**LICENSEE**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

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

**WASHINGTON UNIVERSITY**

**By:** \_\_\_\_\_

**Name: Nichole Mercier, PhD**

**Title: Managing Director of OTM**

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

**EXHIBIT A**

**WU INTELLECTUAL PROPERTY**

The Clinical Dementia Rating (CDR) is a copyrighted instrument of the Alzheimer's Disease Research Center, Washington University, St. Louis, Missouri, USA.

United States Copyright Registration Number: TXu001030170

**EXHIBIT B**  
**TRANSLATION PROCEDURES**

**Translation of WU Intellectual Property.** The WU Intellectual Property currently is written in the English language. In translating the WU Intellectual Property into a language other than English the Licensee shall comply with the following procedures:

- 1) The Licensee shall translate the WU Intellectual Property into a language of its choice which becomes the “**Translated Work.**”
- 2) Licensee shall have third party translate such Translated Work back into the English language (the “Reverse Translated Work”) without providing such third party access to the WU Intellectual Property.
- 3) Licensee shall promptly submit the Translated Work and the Reverse Translated Work to WU for review.
- 4) Promptly after receipt of the Translated Licensed Work and the Reverse Translated Work, WU shall review both to confirm that the Translated Work substantially conforms to the WU Intellectual Property and shall inform the Licensee in writing of the result thereof. For the avoidance of doubt, WU shall have no duty or obligation to translate the WU Intellectual Property into any language.
- 5) After confirmation by WU that the Translated Work substantially conforms to the WU Intellectual Property, the Licensee shall conduct trials to validate the Translated Work and shall submit the final validated version of the Translated Work and the certified translation certificate to WU.

**EXHIBIT C**  
**SCOPE OF WORK**

Study Funding Source	
Study Name/Number	
Study Duration	Study begins: _____ Study ends: _____
Summary of Research Study (Include purpose, goals, anticipated outcome(s) and disposition of research results)	
Target Population	
Use of WU Intellectual Property Requesting permission to do the following: Check all that apply	<input type="checkbox"/> Reproduce What method will you use to reproduce the materials? <input type="checkbox"/> Paper copy <input type="checkbox"/> Audio <input type="checkbox"/> On-line web administration* <input type="checkbox"/> On-screen local administration <input type="checkbox"/> Other, please describe:  *Standard questions we need answered for all on-line submissions: <ul style="list-style-type: none"> <li>• How would examinees access the on-line content? Is access to the site password protected?</li> <li>• What protections would the site provide to prevent copying of the items?</li> <li>• Will content of the site be taken down when research is complete?</li> </ul>
Use of WU Intellectual Property in the listed Language(s)	
Total number of test usages requested	
Total number of test Subjects	