

**McKnight Brain Research Foundation Gift Agreement**  
**The Board of Trustees of The University of Alabama for**  
**The University of Alabama at Birmingham**

This Agreement is made as of the 15 day of May, 2004, by and between the McKnight Brain Research Foundation ("MBRF") and The Board of Trustees of The University of Alabama for The University of Alabama at Birmingham ("University").

1. **The Gift.** The MBRF agrees to contribute an aggregate \$5,000,000 to the University ("Gift"). The Gift and any and all additions to the Gift, including but not limited to matching dollars, growth, and income, shall, for purposes of this Agreement, be referred to as the Evelyn F. McKnight Brain Institute (the "Fund") and shall be held and used in accordance with this Agreement.

2. **Purpose.** The purpose of the Gift is to promote research and investigation of the brain in the fundamental mechanisms that underlie the neurobiology of memory with a clinical relevance to the problems of age-related memory loss. All references herein to purpose or purposes shall be to this purpose (the "Purpose"). The MBRF believes that research in Alzheimer's disease is very important. The research emphasis of the MBRF, however, is on the non Alzheimer memory loss associated with the aging process. The Purpose will be so interpreted.

3. **Schedule and Form of Contributions.** The MBRF will make five transfers to the University as follows:

\$1,000,000 on or before 7/31/04

\$1,000,000 on or before 10/1/04

\$1,000,000 on or before 10/1/05

\$1,000,000 on or before 10/1/06

\$1,000,000 on or before 10/1/07

It is agreed that the MBRF may transfer cash and/or publicly traded securities. For this purpose, securities will be valued in accordance with the federal income tax rules that apply to valuing charitable contributions.

**4. University Match.**

The MBRF is making this Gift contingent upon a 100% match by the University or University donors of each transfer described in paragraph 3 at the time of the transfer (the "Match"). It is agreed the Match is a University Obligation as described in Section 8 hereof and dealt with in Section 11 hereof.

**5. Fund Activity.**

5.1 *Investment of the Fund.* The Fund shall be invested by the University in a short term investment account that is subject to the policies and procedures of The Board of Trustees of The University of Alabama.

5.2 *Distributions.* The University will make distributions from the Fund in accordance with the attached Schedule 5.2.

5.3 *Reports.* The MBRF shall receive at least annually a report on the Fund showing income and distributions.

**6. Prohibited Uses.** The University agrees that no portion of the Fund will be used directly or indirectly to construct, purchase, improve or maintain real property, pay overhead or indirect costs, or otherwise be used for other than direct expenditures in furtherance of the Purpose of the Fund and as provided in Schedule 8. The periodic reports provided by the University will include an affirmative statement to the effect that no portion of the Fund or distributions from the Fund have been used for any prohibited purposes as described in this paragraph.

7. **Commercial Exploitation.** The University and the MBRF agree that if any property is developed, invented, created, or otherwise results from the research conducted as a result of the Fund, the property will be owned by the University, and the University agrees that any funds derived therefrom shall be allocated according to University policy as the same may exist at the time of the commercial exploitation. A copy of the current University Patent Policy is attached as Schedule 7a and a copy of the University's commercial licensing revenue distribution guidelines is attached as Schedule 7b.

8. **University Obligations.** In recognition of the Gift the University agrees it will do the following (referred to as "University Obligations"):

8.1 *Institute.* The University will name an institute of the University the Evelyn F. McKnight Brain Institute (herein the "Institute").

8.2 *Named Position.* The University will establish the "Evelyn F. McKnight Endowed Professorship for Learning and Memory in Aging" on a permanent basis within The University of Alabama School of Medicine at UAB. Dr. Michael J. Friedlander will occupy the position initially. If Dr. Friedlander should leave the University or his current duties as Chair of the Department of Neurobiology be redefined by the University, then the University will name a person whose research is in furtherance of the Purpose as the Evelyn F. McKnight Professor of Learning and Memory in Aging. The University agrees the naming of subsequent persons as the Evelyn F. McKnight Professor of Learning and Memory in Aging shall be made in consultation with the MBRF.

8.3 *Continuation of the Institute.* The Evelyn F. McKnight Brain Institute will continue to exist in accordance with the activities described in Schedule 8. The activities will be conducted at the Institute at substantially the level described in Schedules 5.2 and 8.

8.4 *Match.* The Match (both amount and time) described in Section 4 hereof shall be a University Obligation.

8.5 *Modification.* The MBRF recognizes that Schedule 8 is a general plan that will undergo changes in detail from time to time. However, Schedule 8 and the Purpose together form an overview of the understanding of the University and the MBRF as to the general parameters of the Institute activities and goals. The annual report will describe any proposed changes in the Purpose or the activities anticipated in the coming year, and such change in the Purpose will require approval of the MBRF, which approval will not be unreasonably withheld.

8.6 *Location.* The Institute will be housed in the to be constructed Shelby Interdisciplinary Biomedical Research Building.

9. **Recognition/Publicity.** In further recognition of the Gift, the University agrees to the following:

9.1 *References.* All references by the University to the Institute should be to the Evelyn F. McKnight Brain Institute. To the extent reasonably practicable, the University shall cause print and broadcast media and scientific publications and presentations to refer to the Institute as the Evelyn F. McKnight Brain Institute. Copies of all such material shall be sent to the MBRF.

9.2 *Signage.* Evelyn F. McKnight Brain Institute shall appear on or around the Shelby Interdisciplinary Biomedical Research Building in a fashion similar to other institutes named in recognition of donors to the University. The signage actually used and its location shall be subject to approval of the MBRF, which approval will not be unreasonably withheld and shall be consistent with University signage policies.

9.3 *Stationery.* Print or electronic media used by the Institute shall show its name as being the Evelyn F. McKnight Brain Institute.

9.4 *Recognition.* The Gift will be given recognition similar to that given contributions of the dollar amount of the Gift. For this purpose, the dollar amount of the Gift shall include any match (whether from the University or any other source) received by reason of the Gift.

9.5 *Press Releases.* The University and the MBRF agree that press releases and other information announcing the Gift shall be subject to prior approval of both the MBRF and the University, which approval will not be unreasonably withheld. Approval by the University's Vice President for Development, Alumni and External Relations, or his or her designee, shall satisfy this requirement.

#### 10. **Collaboration, Consultation, Reports and Meetings.**

10.1 *Collaboration/Visiting Professors.* The University will endeavor to identify research scientists involved in similar research at other institutions who would collaborate with scientists at the Institute to complement or augment the Institute, if it is anticipated such collaboration would be beneficial.

10.2 *Annual Consultation.* The operations of the Institute will be within the sole discretion of the University. However, the University shall discuss the operations with the MBRF at least annually in a consultation mode and shall take into consideration the MBRF's input regarding Institute operations.

10.3 *Reports.* At least annually, the University shall prepare a report that describes the operations of the Institute including results of operations and ongoing and recently completed research. The report shall be as of the University's September 30th fiscal year end and shall be submitted to MBRF prior to the December 31<sup>st</sup> following the September 30<sup>th</sup> fiscal year end for which the report is made. The report shall include an affirmative statement that the operations further the Purpose of the Fund and that no portion of the Fund was used for a

prohibited purpose as described herein. In addition to the annual report, in order to keep the MBRF reasonably informed about the Institute's activities, the University will report significant Institute events to the MBRF when they occur.

10.4 *Meetings and Programs.* The University shall notify the MBRF of meetings, conferences, and similar functions relating to the Institute and, when appropriate, permit the MBRF members to attend as observers. It is intended that this will include both formal internal University meetings and seminars, presentation of papers, and similar activities, generally open to the public.

11. **Gift Refund.** In the event if, for any reason, the University is unable to carry out one or more University Obligations, and/or the University and the MBRF are unable to agree on a change of University Obligations, then at the option of the MBRF, the University will either transfer an amount equal to the unexpended portion of the Gift (for this purpose, any funds transferred to the Evelyn F. McKnight Endowed Professorship for Learning and Memory in Aging will be considered expended) or \$500,000, whichever is greater, to a qualifying organization designated by the MBRF, or to the MBRF if it remains a "qualifying organization". For this purpose, a qualifying organization means an organization which is conducting activities consistent with the Purpose and/or those described in Schedule 8 and to which the University is not prohibited by federal or state law (including tax laws) from making distributions.

12. **University Qualification.** The Internal Revenue Service has declared the University (Federal Tax Identification No. 63-6005396) to be a duly qualified charitable organization under Section 501(c)(3) and also an organization described in Sections 509(a)(1) and 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986, as amended, and not a private foundation under the provisions of Section 509(a). The University currently is listed as such a qualifying organization in IRS Publication 78.

13. **Entire Agreement.** This Agreement constitutes the entire Agreement among the parties and supersedes any prior understandings, agreements, or representations by and among the parties written or oral to the extent that they were in any way related to the subject matter hereof.

14. **Notices.** Notices hereunder shall be given to the parties set forth below and shall be made by hand delivery, facsimile, overnight delivery or by regular mail. If given by regular mail, the notice shall be deemed to have been given within a required time if deposited in the U.S. mail, postage prepaid, within the time limit. For the purpose of calculating time limits which run from the giving of a particular notice, the time shall be calculated from actual receipt of the notice. Any deadline which falls on a Saturday, Sunday or legal public holiday, shall be extended to the next business day. Notices shall be addressed as follows, or to such other address as is designated in writing by the University or the MBRF to the other party.

If to the University:

Shirley Salloway Kahn, Ph.D.  
Vice President for Development, Alumni and External Relations  
UAB Development Office  
1530 3<sup>rd</sup> Avenue South, AB 1264  
Birmingham, Alabama 35294-0112  
Telephone; (205) 934-0177  
Facsimile: (205) 975-8800

Copy to:

William B. Deal, M.D.  
Vice President and Dean  
University of Alabama School of Medicine  
1530 3<sup>rd</sup> Avenue South, FOT 1203  
Birmingham, Alabama 35294-3412  
Telephone: (205) 934-1997  
Facsimile: (205) 934-0333

Michael Friedlander, Ph.D.  
Chair, Department of Neurobiology  
University of Alabama School of Medicine  
1530 3<sup>rd</sup> Avenue South, CIRC 516B  
Birmingham, Alabama 35294-0021  
Telephone: (205) 934-0100  
Facsimile: (205) 975-7394

If to the MBRF:

c/o SunTrust Bank, Corporate Trustee  
P.O. Box 620005  
Orlando, Florida 32862-0005  
Attention: Teresa W. Borcheck, Group Vice President  
(407) 237-5907 (o)  
(800) 432-4760, ext 5907 (o)  
(407) 237-5604 (f)

15. **Severability.** Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any jurisdiction.

16. **Prevailing Party.** To the extent that either party must file an action to obtain the enforcement of this Agreement, the prevailing party therein shall be entitled to an award of their reasonable attorneys fees and costs (including appeals) regardless of whether such cost would ordinarily be taxable. The court or administrative body with jurisdiction over this matter, in rendering an opinion on an enforcement action, shall determine which party has prevailed; if no party prevails, or if both parties prevail, then each party shall bear their own attorneys fees and costs.

17. **Authorization.** The MBRF and the University represent that each has the full power and authority (including full corporate power authority) to execute and deliver this Agreement and to perform its obligations hereunder.

[Signatures follow on next page.]



**McKNIGHT BRAIN RESEARCH FOUNDATION**

By: J. Lee Dockery  
J. Lee Dockery, M.D., Trustee

By: Michael L. Dockery  
Michael L. Dockery, M.D., Trustee

By: Nina Ellenbogen Raim, M.D., J.D., Trustee  
Nina Ellenbogen Raim, M.D., J.D., Trustee

**SUNTRUST BANK**

By: Teresa Borchek  
Teresa Borchek, Group Vice President

**THE BOARD OF TRUSTEES OF THE UNIVERSITY  
OF ALABAMA FOR THE UNIVERSITY OF  
ALABAMA AT BIRMINGHAM**

By: Carol Z. Garrison  
President, Carol Z. Garrison

Shirley Salloway Kahn  
Vice President for Development, Alumni,  
and External Relations, Shirley Salloway Kahn

William B. Deal  
Vice President and Dean, William B. Deal  
University of Alabama School of Medicine

Schedule 5.2

Proposed Financial Schedule for the Evelyn F. McKnight Brain Institute at UAB

Date	MBRF	University Match	Sum of Revenue	Expenses	Expense Categories
7/15/04	\$ 1,000,000	\$ 0	\$ 1,000,000	\$ 500,000	Endowed professorship
10/04	1,000,000	1,290,000	2,290,000	1,935,500	fMRI renovation*, 2 pilot projects, symposium, admin
10/05	1,000,000	3,205,780	4,205,780	4,230,500	fMRI & server*, 2 imaging recruits, 4 pilots, symposium, admin
10/06	1,000,000	320,000	1,320,000	1,830,500	2 molecular recruits, commits to fMRI recruits, 4 pilots, sympos, admin
10/07	1,000,000	218,000	1,218,000	1,350,500	1 molecular recruit, commits to prev recruits, 4 pilots, sympos, admin
10/08	0	266,000	266,000	580,500	support recruits, 3 pilots, sympos, admin
10/09	0	140,000	140,000	385,000	support recruits, 3 pilots, sympos, admin
10/10	0	140,000	140,000	135,000	2 pilots, sympos, admin
10/11	0	140,000	140,000	85,000	1 pilot, symposium, admin
10/12	0	140,000	140,000	85,000	1 pilot, symposium, admin
10/13	0	140,000	140,000	62,280	1 pilot, symposium
10/14	0	140,000	140,000	50,000	1 pilot
10/15	0	140,000	140,000	50,000	1 pilot
<b>Subtotals</b>	<b>\$ 5,000,000</b>	<b>\$ 6,279,780</b>	<b>\$ 11,279,780</b>	<b>\$ 11,279,780</b>	

\* These expenses will be paid from University matching funds.

## Schedule 7a

### University Patent Policy

*This policy was approved by the Board of Trustees on February 23, 1980. (President Hill approved this revision on January 14, 1986.)*

#### I. Purpose

In view of the far-reaching research in the various campuses of the Board of Trustees of the University of Alabama, a corporation (hereinafter referred to as University), it is inevitable that new discoveries and inventions will be made. The members of the Board of Trustees (hereinafter referred to as the Board) recognize the importance of obtaining the greatest public benefit and usefulness from the products of the University's scientific research and inventiveness, and that the protection and control provided under patent laws and other legal means for the protection of property rights may be necessary to obtain this goal. It is further recognized that employees of the University need assistance in determining and evaluating patentability and in prosecuting patent applications for or otherwise protecting inventions made by them. Furthermore, many such inventions involve equities beyond those of the inventor since the use of University facilities, the assignment of duties as a condition of employment, and the use of research funds with contractual obligations regarding patent rights give rise to questions concerning the rights and equities of all concerned. The purpose of this patent policy is to establish a mechanism to serve the public benefit and interest, to determine and apprise all concerned parties of relative rights and equities, to facilitate patent applications, the licensing of inventions, the equitable distribution of any royalties or other financial returns, to provide necessary uniformity in patent matters, and to provide for adequate reporting of patent activities.

#### II. Policy and Procedure

A. It shall be the policy of the Board to encourage the concept that patentable inventions produced at the University shall be used for the greatest possible public benefit and to provide every reasonable incentive to the faculty and staff for the disclosure, evaluation and dissemination of such inventions. When University support makes the research effort possible or when it provides support for the development of a patentable invention, it is reasonable for the University to participate in the fruits of such development, including reimbursement for its costs. To that end, the University encourages the prosecution of patents for such inventions and the licensing thereof in the interest of the public, the inventor, and the University.

B. The President of each campus shall appoint a Patent Committee which shall be responsible to the President or his designee. Each committee shall have the responsibility for recommending to the President interpretations of the University policy hereinafter stated, recommending changes in this rule as experience suggests the desirability of such changes, and recommending regulations pursuant to this rule as it deems necessary. The President shall promulgate regulations and may designate a patent administrator to administer the patent program.

C. All faculty members and University employees, as a condition of employment, both while employed by the University and thereafter, and all graduate students performing research, shall report to the patent administrator of their respective campus any invention or discovery which they have conceived or developed or which has been conceived or developed under their direction during their University employment or enrollment.

D. Any such invention or discovery (1) which is the result of research carried on by or under the direction of any employee of the University and/or having the costs thereof paid from University funds or from funds under the control of or administered by the University, or (2) which is made by an employee of the University and which relates to the inventor's field of work at the University, or (3) which has been developed in whole or in part by the utilization of resources or facilities belonging to the University, shall be assigned to the University for the appropriate University campus. The applicability of the above stated conditions in any given case will be determined by the President of the respective campus or his designee. With the approval of the Board of Trustees or its Executive committee, the President of the campus is authorized to assign any patent to a University-designated nonprofit organization established for campus benefit, which said assignment shall be conditioned on full compliance with this policy, regulations promulgated thereunder, and appropriate state and federal law.

E. Each invention or discovery reported shall first be investigated in order to determine whether it must be assigned to the University under the standards set forth in Section II D hereinabove. If the invention or discovery is one which must be assigned, it shall be further investigated to determine whether the University desires to apply for a patent on it in the name of the inventor. In making this determination, the benefits that might accrue to both the University and the inventor shall be considered. The patent administrator shall act promptly in carrying out these duties so that the property rights of the inventor and the University may be protected. Upon expert advice, however, the patent administrator may request further development of the invention before final action. If it is determined that the invention or discovery is not assignable or, if assignable, is one in which the University has no interest, a release shall be executed by the campus patent administrator in favor of the inventor. In event of assignment, the University shall undertake to develop and protect the invention as it deems appropriate.

F. As further consideration for the assignment rights set forth herein, the Presidents or their designees on the inventors' campuses are authorized to enter into an agreement with the inventor to pay to the inventors, their heirs or assigns, the following percentage of the royalties, fees, or other financial returns received by the University from such invention after a deduction of fifteen percent (15%) thereof for overhead costs, plus a deduction for costs of patenting and protection of patent rights. The percentage paid to the inventor is seventy-five percent (75%) of accumulated royalties of twenty thousand dollars (\$20,000) or less; fifty percent (50%) of accumulated royalties of one hundred thousand dollars (\$100,000) or less, but greater than twenty-thousand dollars (\$20,000) and thirty percent (30%) of accumulated royalties greater than one hundred thousand dollars (\$100,000), payment to be made quarterly. Recoupment of any unusual expenses paid by the campus or the inventor may be included in the agreement. The agreement may also be subject to specific conditions contained in institutional contracts such as that with Research Corporation or the DHHS (formerly DHEW) Institutional Agreement. Any patent assignment to a University related foundation shall be made subject to the conditions of this policy. Each campus President shall be responsible for the development of a policy on internal distribution of the University's share of the royalties and distribution shall be reflected in

the budget. In the event of intercampus participation leading to a patent, the Chancellor will appoint appropriate committees with representatives from each participating campus to make recommendations and will then determine any appropriate equities arising from said intercampus participation.

G. It is understood that many research contracts, grants and consulting agreement from or with the United States Government or its agencies, from or with corporation, or from or with individuals contain patent clauses which must be complied with. Such documents which are at variance with this policy may be referred to the appropriate Patent Committee for recommendations prior to approval. To the extent the provisions of these contracts, grants and agreements require, the campuses shall administer such patents to provide nonexclusive licensing or on a royalty-free or on a reasonable royalty basis.

H. Annual reports of patent matters will be made to the Chancellor for his information and that of the Board of Trustees within thirty days following the end of each fiscal year. The Chancellor may prescribe appropriate formats for such reporting.

*(Adopted February 23, 1980; Amended September 16, 1981; February 27, 1986)*

## Schedule 7b

### Commercial Licensing Revenue Distribution Guidelines

License revenues received are distributed quarterly according to the following guidelines, which are based on the University Patent Policy and Rule 509 of The Board of Trustees of The University of Alabama.

By Board policy, fifteen percent (15%) of the gross license revenues are retained by the University's Office of Intellectual Property Management (OIPM) to cover administrative costs. Any expenses incurred patenting the intellectual property are reimbursed to the OIPM.

Board policy authorizes each campus President to determine the distribution of remaining (net) license revenues. By University policy, for each license agreement:

- The first \$20,000 net revenue is shared—75% to the innovator and 25% to the department or center.
- The next \$80,000 net revenue (from \$20,000 to \$100,000 total) is shared—50% to the innovator, 25% to the department or center, and 25% to the school.
- Further net revenue (above \$100,000 total) are shared—30% to the innovator, 25% to the department or center, 25% to the school, and 20% to the University Research Account, a discretionary research fund administered by the Office of the Provost.
- If there are multiple innovators involved, the distributed funds are allocated to the innovators, departments, and schools according to the Revenue Distribution Agreement submitted and signed at the time of disclosure.
- Quarterly distributions are made within 30 days of the end of each fiscal quarter. University innovators are paid by check. Departments and schools are paid by transfer between University accounts.

## Schedule 8

### The Plan for the Evelyn F. Mc Knight Brain Institute (the "Institute")

#### *[Dr. Friedlander's Project Summary]*

#### Project Summary:

The primary immediate goal of the proposed partnership between the Evelyn F. McKnight Brain Research Foundation (MBRF) and the Department of Neurobiology in the University of Alabama School of Medicine at UAB is a high level cooperative effort to elucidate the underlying fundamental biological processes of learning, the formation of memories and their retrieval during the normal aging process. The long-term goal of this effort is the translation of his basic biomedical research into processes and products to minimize the deleterious effects of aging on learning and memory in humans. These goals will be achieved by progress on four fronts: 1) enhancement of the established research enterprise of the Department of Neurobiology faculty in areas of normal brain function, synaptic transmission and neuronal signaling and the underlying biological mechanisms of learning and memory throughout the life cycle in experimental molecular, cellular and laboratory animal model systems and the appointment of the appropriate investigators to the Institute; 2) the recruitment and establishment of the laboratories of a minimum of five new additional faculty members into the Department of Neurobiology and the Institute whose primary research expertise is in scientific areas directly related to the biological basis of learning and memory with respect to the normal aging process; 3) the development of a funding stream (as detailed in the proposed budget) for supporting pilot research projects, collaborative studies, investigator travel and conferences related to development of research into the biological basis of learning and memory in aging for the Institute investigators; 4) the facilitation of the translation of the basic laboratory research studies to human studies and the development of the knowledge, products and processes derived from those studies for application to human health.

The progress on these four fronts will be made by utilizing the gift of \$5 million from the MBRF and a matching contribution of \$5 million from the University to this project, each delivered over a period of five years at \$1 million each per year, commencing in 2004 to provide for the salaries and composite fringe benefits of newly recruited faculty, the purchase of laboratory instrumentation for the investigators to carry out their research related to this project, the provision of pilot research funds to the newly recruited investigators and to selected existing investigators to develop new experimental approaches directly related to this proposal's mission and funds to facilitate the other scholarly activities of the investigators related to this project. The University will provide the laboratory space for the Institute investigators in the Shelby Interdisciplinary Biomedical Research Building (tentative expected completion date of June 2005) and will place an appropriate signage in the main entrance of the Shelby Interdisciplinary Biomedical Research Building and on the floor where the investigators are housed designating the space as the Evelyn F. McKnight Brain Institute.