

MATERIAL TRANSFER AGREEMENT

The **PARTIES** to this agreement are:

- a) National Center for Genetic Engineering and Biotechnology, National Science and Technology Development Agency, 113 Paholyothin Rd., Klong 1, Klong Luang, Pathumthani 12120, Thailand. (hereinafter referred to as **PROVIDER**) and
- b) Recipient (hereinafter referred to as **RECIPIENT**).

Name of Recipient: _____

Title: _____

Institution: _____

Mailing Address: _____

Tel: _____

Fax: _____

Email: _____

Whereas the PROVIDER holds the **MATERIAL** indicated in the attached list (Annex 1) in trust:

In response to the RECIPIENT's request for the MATERIAL, the RECIPIENT agrees to the following terms and conditions before the RECIPIENT receives the MATERIAL.

- 1. The RECIPIENT agrees to use the MATERIAL merely within the Kingdom of Thailand. Use of the MATERIAL outside the Kingdom of Thailand requires written authorization from the PROVIDER.
- 2. The RECIPIENT agrees to use the MATERIAL for (Please indicate the purpose of use):
 - Research -Please refer to terms and conditions of this Agreement and Clause 2) A.
 - Commercialization -Please refer to terms and conditions of this Agreement and Clause 2) B.

A. WITH THE PURPOSE OF RESEARCH

- 1) The RECIPIENT agrees to use the MATERIAL merely for research in the following project(s) entitled ".....";
 "....."; and
 ".....".

In order to accomplish the project(s) thereof, the RECIPIENT may distribute the MATERIAL to co-workers under the RECIPIENT's direct supervision.

- 2) In case that, after the Agreement has been agreed upon, the RECIPIENT decides to use the MATERIAL for commercialization or any other purpose than research, the RECIPIENT shall enter in to a separate material transfer agreement.
- 3) Release of the MATERIAL to any third party¹ shall be granted upon the signing of an appropriate copy of the material transfer agreement between the third party and the PROVIDER.
- 4) The MATERIAL is provided to the RECIPIENT with service fee according to the Fee Schedule and Payment Condition (Annex 2).

B. WITH THE PURPOSE OF COMMERCIALIZATION

- 1) The RECIPIENT agrees to use the MATERIAL for commercialization in the specified field(s) of use:
 - distribution of MATERIAL with remuneration
 - development of MATERIAL and distribution of the developed material(s) with remuneration
 - others (please specify).....
- 2) The RECIPIENT shall not make the MATERIAL available to any third party without written permission from the PROVIDER. Upon written permission thereof, the RECIPIENT shall pass on the same obligations under this Agreement to the third party recipient(s).
- 3) The RECIPIENT shall be responsible for the upfront fee of 1,000 baht (one thousand) for each Material (VAT inclusive), and the royalty fee for commercial use or license of the MATERIAL, according to the Fee Schedule and Payment Condition (Annex 2).

3. Intellectual property

- A. The RECIPIENT acknowledges that the MATERIAL is or may be the subject of intellectual property right protection. Except provided in this Agreement, no express or implied licenses or other rights of any form of intellectual property or other proprietary rights of the PROVIDER are provided to the RECIPIENT .
- B. The RECIPIENT shall not seek any form of intellectual property right protection on the MATERIAL or information accompanied with the MATERIAL.
- C. The RECIPIENT may seek intellectual property right protection or other legal protection for any creative ideas, development and inventions developed by the RECIPIENT resulting from the use of MATERIAL, provided the RECIPIENT inform the PROVIDER in writing, prior to intellectual property right protection application, regarding such intellectual property protection.
- D. The RECIPIENT agrees to acknowledge PROVIDER as the source of the MATERIAL and data in any and all publications, including documents regarding intellectual property

¹ "Third party", hereinafter, means any entity other than the PROVIDER and the RECIPIENT themselves. The RECIPIENT merely includes the entity entered in to the Agreement itself, and its subsidiary or affiliated entity located in the Kingdom of Thailand.

derived from or relating to the MATERIAL, replica, or derivatives thereof and any research thereon.

- E. The RECIPIENT agrees to disclose information, relating to the MATERIAL and the use of the MATERIAL acquired by the RECIPIENT, to the PROVIDER in writing once a year within 60 days following the end of each calendar year. The PROVIDER may use information thereof upon the RECIPIENT's permission, and agree to keep confidential such information received from RECIPIENT.
- 4.** The RECIPIENT will use the MATERIAL in compliance with laws and regulations of the Kingdom of Thailand.
- 5.** The RECIPIENT shall not use the MATERIAL in the way(s) that prejudice(s) the PROVIDER, or damage(s) the PROVIDER's or Thailand's reputation.
- 6.** The RECIPIENT agrees not to use the PROVIDER's name for advertising or for other commercial purposes, or in publications, without prior written approval.
- 7.** The MATERIAL is experimental in nature and it is provided by the PROVIDER without warranty of any sort, expressed or implied. In no event shall the PROVIDER be liable for any use of Material, and the RECIPIENT hereby agrees to defend, indemnify and hold the PROVIDER and its employees harmless from any loss, claim, damage, or liability, which may arise from the use, storage and disposal of the MATERIAL.
- 8.** The PROVIDER reserves the right to terminate this agreement where the RECIPIENT fails to perform its obligations under this Agreement. Upon the written notice from the PROVIDER, the RECIPIENT shall discontinue using of the MATERIAL immediately. The RECIPIENT is subject to damages in the event thereof.
- 9.** Where the RECIPIENT intends to discontinue use of MATERIAL, the RECIPIENT shall inform the PROVIDER in writing 15 days prior to discontinuance.
- 10.** This Agreement shall be governed by law of the Kingdom of Thailand. The PARTIES hereby submit to the jurisdiction of the courts of the Kingdom of Thailand in all matters concerning this Agreement.

The RECIPIENT has executed this Agreement in duplicate as of the Effective Date.

For and on behalf of RECIPIENT

Date _____

For PROVIDER:

Correspondent Person:

Address:

.....

Tel:

Email Address:

Annex 1

LIST OF MATERIAL(S)

This *Annex* contains a list of the MATERIAL(s) provided by the PROVIDER under the Material Distribution Agreement number

1

2

3

4

5

Annex 2

FEE SCHEDULE AND PAYMENT CONDITION

1. Use of the MATERIAL with the purpose of research (service fee for material multiplication and transfer)

Variety	Service Fee (baht per accession)	No. of seeds per accession
Cucumber	100	30 seeds
Chili	100	50 seeds
Tomato	100	50 seeds
Corn	50	50-100 seeds

2. Use of the MATERIAL with the purpose of commercialization

2.1. The RECIPIENT shall provide the PROVIDER with 2 (two) copies of signed Agreement and upfront fee for 1,000 (one thousand) baht per accession (VAT inclusive).

2.2. Upon receiving the 2 copies of signed Agreement and upfront fee from the RECIPIENT, the PROVIDER shall provide the RECIPIENT with a copy of signed Agreement and the MATERIAL within 30 days; otherwise, the PROVIDER shall inform the RECIPIENT in writing regarding the alternative deliverable date.

2.3. Where the RECIPIENT uses the MATERIAL for commercialization, including license of the MATERIAL with remuneration, the RECIPIENT shall make payment(s) to the PROVIDER under the following conditions:

- a) Whereas the royalty fee is calculated on the basis of the net sale value, which is the total sale between the RECIPIENT and a third party, less VAT, returns and promotion, and as appeared in the payment invoice, and books of account and records.
- b) The fee and 7% VAT shall be payable annually by the RECIPIENT within 90 days from the end of the calendar year that commercialization or licensing takes place.
- c) The PROVIDER or the authorized person appointed by the PROVIDER shall have the right, at least once a year during normal business hours and upon at least 24-hour advance notice, to audit and to examine MATERIAL commercialization and licensing activities. The PROVIDER shall bear the auditing and examination cost.
- d) The RECIPIENT shall pay the PROVIDER royalty fee according to the following schedule:

Genetic Contribution (%) of the MATERIAL	Royalty Fee (%) of Net Sale	
	Company registered in Thailand	Company registered overseas
100	10	12
75	7.5	10
50	5	8
น้อยกว่า 50	-	-