BIOLOGICAL MATERIAL TRANSFER AGREEMENT
FOR ACADAMIC RESEARCH ONLY

[Recipient Organisation's Name and Address] ……., and
[Scientist's Name and Address] …….
(hereinafter collectively referred to as "RECIPIENT") desires to obtain for academic research-only purposes (stated in the Implementing Letter) certain Biological Materials from [Provider Organisation's Name and Address] ……. (hereinafter referred to as "PROVIDER").

Pursuant to the PROVIDER'S AND RECIPIENT'S mutual consent to transfer BIOLOGICAL MATERIAL identified in the Implementing Letter, the PROVIDER and the RECIPIENT agrees to the terms and conditions as follows:

PART I. DEFINITIONS

1. PROVIDER: Party providing the ORIGINAL MATERIAL, represented by the PROVIDER ORGANISATION and PROVIDER SCIENTIST.

   PROVIDER ORGANISATION: Organization providing the ORIGINAL MATERIAL; the name and address of this party stated herein and will also be specified in the Implementing Letter.
   PROVIDER SCIENTIST: Individual representing the PROVIDER ORGANISATION, responsible for transferring the ORIGINAL MATERIAL; the name and address of this person will also be specified in the Implementing Letter.

2. RECIPIENT: Party receiving the ORIGINAL MATERIAL, represented by the RECIPIENT ORGANISATION AND RECIPIENT SCIENTIST.

   RECIPIENT ORGANISATION: Organisation receiving the ORIGINAL MATERIAL; the name and address of the organization stated herein and will also be s specified in the Implementing Letter.
   RECIPIENT SCIENTIST: Individual representing the RECIPIENT ORGANISATION, responsible for receiving and processing the ORIGINAL MATERIAL; the name and address of this person stated herein and will also be specified in the Implementing Letter.

3. MATERIAL: ORIGINAL MATERIAL and its UNMODIFIED DERIVATIVES. The MATERIAL shall not include: (a) MODIFICATIONS, or (b) other substances created by the RECIPIENT through the use of the MATERIAL which are not MODIFICATIONS or UNMODIFIED DERIVATIVES.

   ORIGINAL MATERIAL: The biological specimen(s) or samples(s) being transferred; the description will be specified in the Implementing Letter.
   UNMODIFIED DERIVATIVES: Substances created by the RECIPIENT which constitute an unmodified functional subunit or product expressed by the ORIGINAL MATERIAL. Example: purified or fractionated subsets of the ORIGINAL MATERIAL (DNA extracts derived from tissue samples).

4. MODIFICATIONS: Substances created by the RECIPIENT which contain/incorporate the MATERIAL.

5. COMMERCIAL PURPOSES: The sale, lease, license, or other transfer of the MATERIAL or MODIFICATIONS to a for-profit organization. COMMERCIAL PURPOSES shall also include uses of the MATERIAL or MODIFICATIONS by any organization, including RECIPIENT, to perform contract research, to screen compound libraries, to produce or manufacture products for general sale, or to conduct research activities that result in any sale, lease, license, or transfer of the MATERIAL or MODIFICATIONS to a for-profit organization. However, industrially sponsored academic research shall not be considered a use of the MATERIAL or MODIFICATIONS for COMMERCIAL PURPOSES per se, unless any of the above conditions of this definition are met.

6. NONPROFIT ORGANIZATION(S): A university or other institution of higher education, a scientific research organization, or government agency.

PART II. TERMS AND CONDITIONS OF THIS AGREEMENT

1. The ORIGINAL MATERIAL specified in the attached Implementing Letter is the property of the PROVIDER, and is, from time to time, made available as a service to the research community.

2. The MATERIAL is provided by the PROVIDER and will be used by the RECIPIENT for teaching and academic research purposes and for the project specified in the Implement Letter only.

3. The MATERIAL is provided at no cost, or with an optional transmittal fee solely to reimburse the PROVIDER for its preparation and distribution costs. If a fee is requested by the PROVIDER, the amount will be indicated in an implementing letter.

4. The PROVIDER retains ownership of the MATERIAL, including any MATERIAL contained or incorporated in MODIFICATIONS.

5. The RECIPIENT retains ownership of:
(a) MODIFICATIONS (except that, the PROVIDER retains ownership rights to the MATERIAL included therein), and
(b) those substances created through the use of the MATERIAL or MODIFICATIONS, but which are not UNMODIFIED DERIVATIVES or MODIFICATIONS (i.e., do not contain the ORIGINAL MATERIAL or UNMODIFIED DERIVATIVES).
[If either 5 (a) or 5 (b) results from the collaborative efforts of the PROVIDER and the RECIPIENT, joint ownership, income and/or terms of a commercial license will be negotiated under a separate agreement and signed by the PROVIDER and the RECIPIENT.]

6. The RECIPIENT ORGANISATION and the RECIPIENT SCIENTIST agree that the MATERIAL:
(a) is to be used solely for teaching and academic, non-commercial, non-military scientific research purposes and for the project specified in the Implement Letter;
(b) will not be used in human subjects, in clinical trials, or for diagnostic purposes involving human subjects without the written consent of the PROVIDER;
(c) is to be used only at the RECIPIENT ORGANIZATION and only in the RECIPIENT SCIENTIST's laboratory under the direction of the RECIPIENT SCIENTIST or others working under his/her direct supervision; and
(d) will not be transferred to anyone else within the RECIPIENT ORGANIZATION or to a third party without the prior written consent of the PROVIDER.

7. The RECIPIENT ORGANISATION and the RECIPIENT SCIENTIST agree that:
(a) The RECIPIENT and/or the RECIPIENT SCIENTIST shall have the right, without restriction, to distribute substances created by the RECIPIENT through the use of the ORIGINAL MATERIAL only if those substances are not, UNMODIFIED DERIVATIVES, or MODIFICATIONS.
(b) Without written consent from the PROVIDER, the RECIPIENT and/or the RECIPIENT SCIENTIST may NOT provide MODIFICATIONS for COMMERCIAL PURPOSES. It is recognized by the RECIPIENT that such COMMERCIAL PURPOSES may require a commercial license from the PROVIDER and the PROVIDER has no obligation to grant a commercial license to its ownership interest in the MATERIAL incorporated in the MODIFICATIONS.

8. The RECIPIENT acknowledges that the MATERIAL is or may be the subject of a patent application. Except as provided in this Agreement, no express or implied licenses or other rights are provided to the RECIPIENT under any patents, patent applications, trade secrets or other proprietary rights of the PROVIDER, including any altered forms of the MATERIAL made by the PROVIDER. In particular, no express or implied licenses or other rights are provided to use the MATERIAL, MODIFICATIONS, or any related patents of the PROVIDER for COMMERCIAL PURPOSES.

9. If the RECIPIENT desires to use or license the MATERIAL or MODIFICATIONS for COMMERCIAL PURPOSES, the RECIPIENT agrees to negotiate in good faith with the PROVIDER to establish the terms of a commercial license. It is understood by the RECIPIENT that the PROVIDER shall have no obligation to grant such a license to the RECIPIENT, and may grant exclusive or non-exclusive commercial licenses to others, or sell or assign all or part of the rights in the MATERIAL to any third party(ies).

10. Any MATERIAL delivered pursuant to this Agreement is understood to be experimental in nature and may have hazardous properties. The PROVIDER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE MATERIAL WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS.

11. Except to the extent prohibited by law, the RECIPIENT assumes all liability for damages which may arise from its use, storage or disposal of the MATERIAL. The PROVIDER will not be liable to the RECIPIENT for any loss, claim or demand made by the RECIPIENT, or made against the RECIPIENT by any other party, due to or arising from the use of the MATERIAL by the RECIPIENT, except to the extent permitted by law when caused by the gross negligence or willful misconduct of the PROVIDER.

12. The RECIPIENT agrees to use the MATERIAL in compliance with all applicable laws, statutes and regulations, including Public Health Service and National Institutes of Health regulations and guidelines such as, for example, those relating to research involving the use of human and animal subjects or recombinant DNA.

13. The RECIPIENT agrees (a) to publicise the results of the research with the MATERIAL as soon as reasonably possible, (b) to provide the PROVIDER with a copy of any publication, which contains experimental results obtained from the use of the MATERIAL, MODIFICATIONS and <u>direct/indirect derivatives of materials,</u> and (c) to acknowledge…(Provider)…, Department…, Faculty of ……, ……. University as the source of the MATERIAL in all publications, presentations and disclosures containing any data or information about the MATERIAL, MODIFICATIONS and <u>direct/indirect derivatives of materials</u> unless …(Provider)…, Department…, Faculty of Medicine, Chulalongkorn University indicated otherwise.

14. This Agreement will terminate on the earliest of the following dates:

(a) when the MATERIAL becomes generally available from third parties, for example, through reagent catalogs or public depositories, or

(b) on completion of the RECIPIENT's current research with the MATERIAL, or

(c) on thirty (30) days written notice by either party to the other, or

(d) on the date specified in the Implementing Letter, provided that:

(i) if termination should occur under 14(a), the RECIPIENT shall be bound to the PROVIDER by the least restrictive terms applicable to the MATERIAL obtained from the then-available sources; and

(ii) if termination should occur under 14(b) or (d) above, the RECIPIENT will discontinue its use of the MATERIAL and will, upon direction of the PROVIDER, return or destroy any remaining MATERIAL. The RECIPIENT, at its discretion, will also either destroy the MODIFICATIONS or remain bound by the terms of this Agreement as they apply to MODIFICATIONS; and

(iii) in the event the PROVIDER terminates this Agreement under 14(c) other than for breach of this Agreement or for cause such as an imminent health risk or patent infringement, the PROVIDER will defer the effective date of termination for a period of up to one year, upon request from the RECIPIENT, to permit completion of research in progress.

Upon completion of use of the MATERIAL or upon the effective date of termination, or if requested, the deferred effective date of termination, the RECIPIENT will discontinue its use of the MATERIAL and will, upon direction of the PROVIDER, return or destroy any remaining MATERIAL. The RECIPIENT, at its discretion, will also either destroy the MODIFICATIONS or remain bound by the terms of this Agreement as they apply to MODIFICATIONS. The date, quantity, and method of destruction will be recorded and witnessed, and a copy of such record furnished to the PROVIDER.

14. This Agreement will be effective for a period of …… (…) year(s) from the effective date of this Agreement. Either the RECIPIENT or the PROVIDER may terminate this Agreement upon thirty (30) days written notice; provided that termination will not relieve the RECIPIENT or the PROVIDER of any obligation or liability accrued hereunder prior to the effective date of such termination.

15. Paragraphs 8, 10, and 11 of PART II shall survive termination.

The parties executing this Agreement agree to be bound by the terms and conditions herein. And this Agreement shall be effective when signed by all parties.

For and on behalf of
RECIPIENT ORGANIZATION

Signature: _____
Name: _____
Date: _____

For and on behalf of
RPOVIDER ORGANIZATION

Signature: _____
Name: _____
Date: _____

RECIPIENT SCIENTIST

Signature: _____
Name: _____
Title: _____
Date: _____

Witness

Signature: _____
Name: _____
Title: _____

Witness

Signature: _____
Name: _____
Title: _____

IMPLEMENTING LETTER

The purpose of this Implementing Letter is to provide the specific details of the biological material transfer between the PROVIDER (identified below) and the RECIPIENT (identified below) where the PROVIDER and the RECIPIENT agree to abide by all terms and conditions of the Biological Material Transfer Agreement ("BMTA") (dated ……..…….).

1. PROVIDER: Organization providing the ORIGINAL MATERIAL:
   Organization: _____
   Address: _____
   _____

2. RECIPIENT: Organization receiving the ORIGINAL MATERIAL:
   Organization: _____
   Address: _____
   _____

   Recipient Scientist: _____
   Title _____
   Address: _____
   _____

3. ORIGINAL MATERIAL (Enter description): _____
   _____
   _____
   _____

4. Use of ORIGINAL MATERIAL
   Project Name: _____
   Project Objective(s) _____
   _____

   Purpose for use of ORIGINAL MATERIAL
   _____
   _____

5. Termination date for this letter (optional): _____
6. Transmittal Fee to reimburse the PROVIDER for preparation and distribution costs (optional).
   Amount:_____

This Implementing Letter is effective when signed by all parties. The parties executing this Implementing Letter agree to be bound by all terms and conditions of BMTA, for the transfer specified above.

For and on behalf of
RECIPIENT ORGANIZATION

Signature: _____
Name: _____
Date: _____

For and on behalf of
PROVIDER ORGANIZATION

Signature: _____
Name: _____
Date: _____

RECIPIENT SCIENTIST

Signature: _____
Name: _____
Title: _____

Date: _____