

MATERIAL TRANSFER AGREEMENT

1. The present Material Transfer Agreement (hereafter referred to as “MTA”) is a Material Transfer Agreement referred to in the check list of Elements for MTA (Annexure 2 of ICAR Guidelines for Intellectual Property Management and Technology Transfer/Commercialization, 2006) for exchange of seed and planting material / agricultural innovations / products / formulations / farm implements or equipments.

1.1 This Agreement is between:

**The Director,
National Research Centre for Orchids (NRCO),
(Indian Council of Agriculture Research),
Pakyong-737106, Sikkim**

(a constituent of the Indian Council of Agricultural Research, Krishi Bhavan, Dr. Rajendra Prasad Road, New Delhi 110001) and hereafter referred to as “**Provider**”.

AND

which is a Public Sector organization/SAU/NGO/Private sector multinational company/Private Indian company and hereafter referred to as “**Recipient**”.

2. The mandate and/or general objectives:

2.1 The Provider has the mandate to (1) to collect, characterize, evaluate and conserve germplasm of orchids (2) to develop hybrids/varieties suitable for domestic and export market (3) to develop production, protection and post-harvest technologies for orchids (4) to act as national repository for scientific information on mandate flower crops (5) to coordinate research with other scientific organization and act as centre for training.

2.2 The Recipient has the mandate of

The parties of the Agreement hereby agree as follows:

3. Definitions:

Recipient: *Public Sector organization/SAU/NGO/Private sector multinational company/Private Indian company.*

Material Transfer Agreement (MTA): *A document embodying the mutually agreed terms in the transfer of a material (any genetic resource or IP) from ICAR to another organization/ establishment/ person or vice versa. It may be in a standard or a specific format.*

4. **Description of material:** Germplasm/Breeding lines/Parental Lines of hybrids/Released varieties/ Hybrids (as per the list attached).

5. **Confidentiality:** Unless authorized in writing by the provider, the recipient will not provide to any third party, any material and/or of such information related to use of the material which is provided to the *recipient* by the "*provider*".

6. **Permitted uses of the material:**

- The recipient would use the material provided solely for research / breeding / production / extension purpose and in case any further derivation has been effected, it is binding on the recipient to take prior informed consent (PIC) in writing received from the "*provider*" towards benefit sharing agreement.
- The *recipient* will not distribute the material(s) or its components or derivatives (including live / dead tissue / DNA) that can be used to retrieve whole DNA / fragment or sequence or any other genetic information to any other party/^{3rd} party without the prior approval from the *provider*.

7. **IPR over the material, its products and/or derivatives.**

- (i) *Recipient* shall not claim intellectual property rights over the materials received/accessed over its related information without prior informed consent (PIC) in writing from the *provider*. The provider does not give any warranty to the recipient that the biological material will not infringe any patent or other intellectual property rights.
- (ii) The products developed from the material, derivatives thereof or their use shall not be commercialized without a written consent from the *provider*.
- (iii) It is to be understood that no right to a license is given or implied by this agreement.
- (iv) The intellectual properties in respect of derivatives of the material(s) received / accessed, where applicable, shall be as per the Indian PVP/IPR/BDA laws.

8. **Benefit sharing:** If the supplied material leads to any results / products worth commercialization, a separate memorandum of understanding (MoU) shall be entered between the provider and the recipient. The terms for benefit sharing may be both monetary and/or non-monetary as per Annexure 2 of ICAR Guidelines for Intellectual Property Management and Technology Transfer/Commercialization (2006) as outlined^a.

9. **Elements/Clauses that may survive beyond the MTA:** MTA may be renewed by the *provider* and the *recipient* based on review of results for product development sharing of research results, further collaboration for research on priority areas based on negotiations and license fees in case of commercialization, joint ventures and joint ownership of relevant IPRs etc. The denomination of notified varieties / germplasm / stocks covered under seed act, 1966 and latest PVP laws shall survive the termination of agreement.

^a Monetary benefits may include any one or more than one of the following: Fees, UP-front payment, Milestone payment, Royalty payment, License fees in case of commercialization, Salaries and preferential terms where mutually agreed, Research funding, Joint ventures, Joint ownership of relevant IPRs etc.

Similarly non-monetary benefits include any one or more than any one of the following: Sharing of research results, Collaboration, Cooperation and contribution in scientific/R&D programmes, Education and training, Participation in product development, strengthening capacity for technology transfer, Institutional capacity building, Access to relevant scientific information including inventories and databases, Research directed towards priority needs, e.g. food and nutritional security, Joint ownership of relevant IPR.

10. **Warranties:** The material given by the provider is experimental in nature and is given without any warranty or guarantee with respect of its performance or fitness for any particular purpose or to the completeness or accuracy of any information related to the material. The *provider* is not responsible for supply of material in case of loss due to unforeseen situations such as drought, floods, fire etc.

11. **Transfer to Third Party:** The material provided will not be further distributed to others without prior informed consent (PIC) in writing. The recipient shall refer any request for the material to the provider and based on negotiations on a case to case basis and shall depend on the request by/ negotiations with the other contracting party. In all cases, where it is agreed to allow material transfer to third party, the conditions under which this should apply must be recorded duly in the MTA. Then the provider may give a third party MTA for sharing the material.

12. **Compliance:**

The recipient would fully comply with all the requirements of the MTA. The recipient agrees to acknowledge the source of the material and give feed back of the material utilized. The recipient shall acknowledge explicitly the name/original identity and source of the material(s) if used directly or indirectly in all research publication(s) and shall send one copy of each publication to 'National Research Centre for Orchids'/(ICAR, DARE). In no circumstances the original identity or name or accession number or denomination / technological innovations including farm implements would be changed.

In case of any common Intellectual Property Right claim is made by the recipient and the provider in the background of essentially derived lines originating from the geographical indicators etc., agreement shall be as per the clauses of National Biodiversity Authority of India (NBA) / State Biodiversity Board of State (SBB) /PPV&FR Authority as the case may be.

13. **Duration of Agreement:** The duration of agreement would be initially for five years for continued transfer of material. The term(s) of the agreement may be revised within the agreement period by the provider. The recipient is always obliged to notify to the provider beyond the duration of agreement when there is a prospect for commercialization of material or its improved version by the recipient.

14. **Notice for terminating the agreement:** The agreement can be terminated with a notice of 30 days, in cases where the material has not been physically transferred.

15. **Dispute settlement:** In case of any dispute arisen, provision of arbitration will be made. Arbitrator will be appointed by DG, ICAR, New Delhi and the arbitration proceedings shall be governed by the Arbitration and Conciliation Act, 1996. The Arbitration proceedings shall be in New Delhi. The Decision of the Sole Arbitrator shall be final and binding on the Parties.

16. Choice of law/jurisdiction:

In the event of dispute Indian law would prevail and the jurisdiction would be Delhi High Court. The Material is provided conditionally on acceptance of the terms of this Agreement. The provision of the Material by the provider and Recipient/s acceptance and use of the Material constitutes acceptance of the terms of this Agreement.

AGREED RECIPIENT	AGREED PROVIDER
Authorised Officer's Name: Designation: Organization/Institute/University Address: Signature: Date:	Authorised Officer's Name: Dr. R. P. Medhi, Designation: Director Organization/Institute/University Address: National Research Centre for Orchids, ICAR, Pakyong-737106, Sikkim Signature: Date:
Recipient Scientist/Person's Name: Designation: Organization/Institute/University Address: Signature: Date:	Provider Scientist/Person's Name: Dr. Ramgopal Devadas, Designation: Senior Scientist (Plant Breeding) & Nodal Officer (Germplasm) Organization/Institute/University Address: National Research Centre for Orchids, ICAR, Pakyong-737106, Sikkim Signature: Date: