

AGREEMENT FOR TRANSFER OF TECHNOLOGY

THIS AGREEMENT / MEMORANDUM OF UNDERSTANDING made and executed on this day ofBETWEEN KERALA AGRICULTURAL UNIVERSITY, having its registered office at VELLANIKKARA, THRISSUR 680 656 (hereinafter called as the ‘UNIVERSITY’) represented by its Registrar (which expression shall, where the context so admits include his successors and respective assigns) on the one part and (hereinafter called as the ‘CONTRACTING PARTY (which expression shall, where the context so admits include its / his successors / legal heirs and respective assigns) on the other part.

1. PREAMBLE

- 1.1 WHEREAS the UNIVERSITY has developed and is in full possession of and has full Intellectual property rights for(hereinafter called as the KNOW HOW).
- 1.2 And whereas the University, at the written request of the CONTRACTING PARTY, has agreed to transfer the technology (KNOW HOW) to the CONTRACTING PARTY, for utilizing the KNOW HOW on terms and conditions hereinafter contained.

2. SCOPE OF AGREEMENT

This agreement details the modalities and the terms and conditions for the TRANSFER OF TECHNOLOGY (KNOW HOW) by the UNIVERSITY to the CONTRACTING PARTY for utilizing the said rights and obligations of either party thereto and the financial arrangements between the parties.

3. GRANT OF PERMISSION

- 3.1 In consideration of the payment as provided for in provision 4 and performance by CONTRACTING PARTY of the covenants herein contained, the UNIVERSITY hereby grants the non exclusive permission to the CONTRACTING PARTY to make and sell the PRODUCTS utilizing the KNOW HOW.
- 3.2 THE TRANSFER OF TECHNOLOGY (KNOW HOW) hereby granted to the CONTRACTING PARTY by the UNIVERSITY is for utilization of the same, on NON EXCLUSIVE basis, and the UNIVERSITY reserves the full right to grant similar transfer at its discretion to others.
- 3.3 The MoU shall come into force from.....(hereinafter called the EFFECTIVE DATE) and shall remain valid thereafter.

4. FINANCIAL ARRANGEMENTS

4.1 In consideration of the non exclusive permission hereby granted and the transfer of technology (KNOW HOW) by the UNIVERSITY to the CONTRACTING PARTY, the CONTRACTING PARTY shall pay to the UNIVERSITY a sum as stated hereunder. However, it is agreed between the parties that the consideration paid for granting permission for utilizing (KNOW HOW) by the a CONTRACTING PARTY shall not be returned by the UNIVERSITY to the CONTRACTING PARTY under any circumstances.

I Fee Lump Sum (one time)

The CONTRACTING PARTY shall pay a LUMP SUM OF Rs.....
(Rupees.....) plus GST (18%).

5. RESPONSIBILITIES OF THE UNIVERSITY

5.1 Transfer of documents: The UNIVERSITY shall, within 30 days of the EFFECTIVE DATE hand over the KNOW HOW as described in Annexure – 1 of the agreement to the CONTRACTING PARTY.

5.2 The transfer of technology (KNOW HOW) shall be deemed as completed on performance by the UNIVERSITY the tasks stipulated in provision 5.1

5.3 The UNIVERSITY shall render to the CONTRACTING PARTY or his authorized representative, subject to not more than one person, all necessary laboratory/ field training for two days at College of Agriculture, Vellayani or in any laboratory identified by University.

5.4 Assistance : The UNIVERSITY may, at the request of the CONTRACTING PARTY and on its paying charges for travel and stay, depute qualified personnel to render assistance in producing the product based on the KNOW HOW. This assistance would be available up to a period of one year from the EFFECTIVE DATE, and shall not exceed 3 man-days.

6. RESPONSIBILITIES OF CONTRACTING PARTY

6.1 Fulfillment of all procedural, legal, operational requirement for the commercial implementation of the KNOW HOW shall be the responsibility of the CONTRACTING PARTY.

6.2 The CONTRACTING PARTY hereby acknowledges the absolute ownership of the KNOW HOW by the UNIVERSITY and shall not dispute the legality, validity or enforceability of the permission granted.

- 6.3 It shall not be open to the CONTRACTING PARTY to claim the technology in his / its own name on the plea of having affected any improvements / modifications upon the technology or upon the PRODUCT. ALL PRODUCTS manufactured by the CONTRACTING PARTY shall be deemed to have been manufactured under the permission hereby granted.
- 6.4 The CONTRACTING PARTY shall permit the personnel of UNIVERSITY or its attorneys or duly authorized officials, at all convenient time to enter into and upon any premises of CONTRACTING PARTY where PRODUCTS under this agreement, are manufactured / stocked / sold / used, for the purpose of inspecting the same and the manufacture thereof, generally to ascertain that the provisions of this agreement are being complied with and quality of the PRODUCT maintained.
- 6.5 The CONTRACTING PARTY shall not, at any time assign, mortgage, charge, grant sublicenses or otherwise deal with possession or control of the permission hereby granted.
- 6.6 The CONTRACTING PARTY shall not either or indirectly and alone or in conjunction with others, transfer the KNOW HOW to any person, group of person, local authority, corporation or any other legal entity.
- 6.7 The CONTRACTING PARTY shall not file any application for seeking any intellectual property rights in its own name or in the name of other person (s) on any matter relating to the KNOW HOW disclosed to it by the UNIVERSITY under this agreement.
- 6.8 The CONTRACTING PARTY shall not oppose or direct or cause any persons to oppose any application by the UNIVERSITY seeking any form of intellectual property rights relating to the PRODUCT and / or KNOW HOW transferred under this agreement or any improvement or modification upon it.
- 6.9 The CONTRACTING PARTY and its employees shall treat as strictly confidential all information/ knowledge obtained from, in connection with or relating to the permission hereby granted and shall not disclose the information / knowledge to any third party.

7. GENERAL PROVISIONS

- 7.1 During the currency of the agreement CONTRACTING PARTY shall promptly disclose to the UNIVERSITY in writing, all or any improvements or modifications made on the technology / PRODUCT. All such improvements / modifications shall then form an integral part of the KNOW HOW.
- 7.2 The descriptions relating to the KNOW HOW shall not be construed as a warranty by the UNIVERSITY of the novelty, utility, saleability and workability of the technology.

- 7.3 The UNIVERSITY shall not take any responsibility of the standards and quality of the product to be manufactured by the CONTRACTING PARTY.
- 7.4 The UNIVERSITY shall not be responsible for any complaints and financial liability regarding the performance of the product manufactured by the CONTRACTING PARTY.
- 7.5 It shall be the bounden duty of the CONTRACTING PARTY to maintain, the quality parameters of the product as per CIB / FCO specifications.
- 7.6 Nothing contained in this MoU / agreement shall in any way operate by Implication or otherwise to constitute the CONTRACTING PARTY as an agent of the UNIVERSITY in any respect and for any purpose whatsoever and the CONTRACTING PARTY shall have no right or authority to assume or create obligations of any kind, express or implied on behalf of the UNIVERSITY in any respect whatsoever, except to the extent detailed herein.
- 7.7 The CONTRACTING PARTY hereby agrees to satisfy all legal and regulatory requirements of the Government Acts and Regulations regarding the sale and use of these products and the CONTRACTING PARTY will be solely responsible for any issue relating to this aspects.

8. ACKNOWLEDGEMENT

- 8.1 The CONTRACTING PARTY shall affix in a conspicuous manner upon every (PRODUCT and / or mode of packaging containing the PRODUCT) a label or plate bearing the inscription “TECHNOLOGY PROVIDED BY KERALA AGRICULTURAL UNIVERSITY” in letters of size not less than half the nominal size of the largest size of letters giving either the name of the CONTRACTING PARTY or its brand name or trademark for the PRODUCT. The CONTRACTING PARTY shall not sell (PRODUCT and / or any box or package containing the PRODUCT) without such label or plate being affixed thereon. Similarly every advertisement, hoarding technical literature, publicity and the like material in respect of or relative to the PRODUCT issued by the CONTRACTING PARTY shall include the same inscription as aforesaid in a prominent manner.

9. FORCE MAJEURE

Neither party shall be held responsible for non-fulfillment of their respective obligations under this agreement due to the exigency of one or more of the force majeure events such as but not limited to acts of God, War, Flood, Earthquakes, Strikes, Lockouts, Epidemics, Riots, Civil Commotion etc., provided that on the occurrence and cessation of any such event the party affected thereby shall give a notice in writing to the other party within one

month of such occurrence or cessation. If the force majeure conditions continue beyond six months, the parties shall jointly decide about the future course of action.

10. INDEMNITY

UNIVERSITY hereby agrees to authorize and to empower the CONTRACTING PARTY to institute and prosecute such suits or proceedings as the CONTRACTING PARTY may deem expedient, to protect the rights hereby conferred and for the recoveries of damages and penalties for the infringement of such rights and to secure to the CONTRACTING PARTY full benefits of this KNOW HOW and for any such purpose to use the name of UNIVERSITY. The CONTRACTING PARTY in its turn shall indemnify the UNIVERSITY against damages, costs and expenses occasioned by such proceedings, and the UNIVERSITY shall in any such proceedings, at the expense of the CONTRACTING PARTY afford to the CONTRACTING PARTY all proper and or reasonable assistance in proving and defending its title to the grant of the rights hereby conferred.

11. TERMINATION OF AGREEMENT

11.1 This agreement may be terminated by either of the parties forthwith if the other party commits breach of any of the terms hereof and shall have failed to rectify such breach within _____ days of the notice on this behalf having been served on it by the other party.

11.2 In addition to the reasons for termination as set forth above, this agreement may be terminated forthwith if either of the parties voluntarily or involuntarily enters into composition, bankruptcy or similar reorganization proceedings or if applications invoking such proceedings have been filed.

12. SETTLEMENTS

Upon termination of the agreement :

12.1 All rights granted to and the obligations undertaken by the parties hereto shall cease to exist forthwith except the obligation of the CONTRACTING PARTY to keep KNOW HOW in confidence vide provision 6.9 herein.

12.2 The CONTRACTING PARTY or its assignees will not utilize the KNOW HOW to manufacture the PRODUCT and the CONTRACTING PARTY shall immediately deposit with the UNIVERSITY the original and all copies of technology documents and other documents / data related to this party received from the UNIVERSITY.

12.3 The CONTRACTING PARTY shall immediately pay to the UNIVERSITY all amounts of money due from it up to date of termination. Also all sums of money hereto paid by the CONTRACTING PARTY under the terms of this party shall be forfeited to the UNIVERSITY, and the CONTRACTING PARTY shall not be entitled to any credit or allowance in respect thereof.

12.4 The CONTRACTING PARTY will not be debarred from disposing of the PRODUCTS which are already manufactured or in the process thereof by sale or otherwise.

13. NOTICES

All notices and other communications required to be served on the CONTRACTING PARTY under the terms of this agreement, shall be considered to be duly served if the same shall have been delivered to, left with or posted by registered mail to the CONTRACTING PARTY at its last known address of business. Similarly, any notice to be given to the UNIVERSITY shall be considered as duly served if the same, shall have been delivered to, left or posted by registered mail to the UNIVERSITY at its registered address in Agreement.

14. AMENDMENTS TO THE AGREEMENT

No amendment or modification of this agreement shall be valid unless the same is made in writing by both the parties or their authorized representatives and specifically stating the same to be an amendment of this agreement. The modifications / changes shall be effective from the date on which they are made / executed unless otherwise agreed to.

15. ARBITRATION

15.1 In the event of any dispute or difference between the parties arising out of or in connection with this agreement such dispute or difference shall be referred to the sole arbitration of a person nominated by UNIVERSITY. The award of the Arbitrator shall be final and binding on both the parties. Existing law on arbitration matters shall govern arbitration proceedings.

15.2 That the period of limitation for initiating litigation for breach of conditions of the MoU shall be one year from the date of which such cause of action arose.

15.3 The venue of the Arbitration shall be at Thrissur.

15.4 The Kerala High Court and Courts subordinate to it at Thrissur shall have exclusive jurisdiction in all matters, including any matter arising out of the arbitration proceedings or any Award made there in.

15.5 The CONTRACTING PARTY hereby agrees that any amount including damages due from it to the University shall be recoverable by invoking the provisions of the Kerala Revenue Recovery Act, 1968.

SEAL OF PARTIES

This agreement has been executed in two originals one of these has been retained by UNIVERSITY and the other by the CONTRACTING PARTY. In witness whereof the parties hereto have signed this agreement the day, month and year mentioned hereinbefore

For and on behalf of :

Contracting Party

Signature _____

Signature _____

Name _____

Name _____

Designation _____

Designation _____

Seal _____

Seal _____

Witness : (Name & Address)

Witness : (Name & Address)

1.

2.

Date : _____