

BIOLOGICAL MATERIAL TRANSFER AGREEMENT

BAC/EST RESOURCE CENTER

THE UNIVERSITY OF ARIZONA, DEPT. PLANT SCIENCES, ARIZONA GENOMICS INSTITUTE

This specific MTA is to be used with distribution of EST clones produced from the UCDavis Lettuce and Sunflower projects ONLY.

All LETTUCE clones

Originating from UC Davis

all SUNFLOWER clones

Originating from UC Davis

Directions: Please complete the document signatures page. Your order to the Arizona Genomics Institute Resource Center is the implementing letter. Email scan of completed form to:

Dave Kudrna (dkudrna@ag.arizona.edu). FAX: 520-621-1259. Or mail to:

Dave Kudrna

Arizona Genomics Institute

University of Arizona

Tucson, AZ 85721-0036

520-626-9596;

email: dkudrna@ag.arizona.edu

Exhibit B

The Uniform Biological Material Transfer Agreement as modified herein

I. Definitions:

1. PROVIDER: Organization providing the ORIGINAL MATERIAL. The name and address of this party will be specified in an implementing letter.
2. PROVIDER SCIENTIST: The name and address of this party will be specified in an implementing letter.
3. RECIPIENT: Organization receiving the ORIGINAL MATERIAL. The name and address of this party will be specified in an implementing letter.
4. RECIPIENT SCIENTIST: The name and address of this party will be specified in an implementing letter.
5. ORIGINAL MATERIAL: The description of the material being transferred will be specified in an implementing letter.
6. MATERIAL: ORIGINAL MATERIAL and PROGENY. The MATERIAL shall not include substances created by the RECIPIENT through the use of the MATERIAL, which is not PROGENY.
7. PROGENY: Unmodified descendant from the MATERIAL, such as virus from virus, cell from cell, or organism from organism.
8. COMMERCIAL PURPOSES: The sale, lease, license, or other transfer of the MATERIAL or MODIFICATIONS to a for-profit organization.
9. NONPROFIT ORGANIZATION(S): A university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or, educational organization qualified under a state nonprofit organization statute. As used herein, the term also includes government agencies.

10. RECIPIENT CLIENT shall mean third party to whom RECIPIENT provides MATERIAL or PROGENY.

11. Terms and Conditions of this Agreement:

1. The MATERIAL is the property of The Regents of the University of California and is managed by the PROVIDER and is made available as a service to the research community.

2. The RECIPIENT and the RECIPIENT SCIENTIST agree that the MATERIAL:

- (a) will be made available as a service to RECIPIENT CLIENTS in the not for-profit research community;
- (b) will be used for teaching and academic research purposes, and that no COMMERCIAL PURPOSES will be permitted; and
- (c) will not be used in human subjects, in clinical trials, or for diagnostic purposes involving human subjects without the written consent of the PROVIDER.

3. The RECIPIENT CLIENTS will use the Material:

- a. solely for teaching and academic research purposes; and not for any COMMERCIAL PURPOSES; and
- b. will not use the MATERIAL in human subjects, in clinical trials, or for diagnostic purposes involving human subjects without the written consent of the PROVIDER.

4. The RECIPIENT and the RECIPIENT SCIENTIST agree to refer to the PROVIDER any request for the MATERIAL from anyone other than non-for-profit clients seeking to use the MATERIAL under the provisions of II.3. above.

5. 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 Regents of the University of California; including any altered forms of the MATERIAL made by The Regents of the University of California. In particular, no express or implied licenses or other rights are provided to use the MATERIAL, MODIFICATIONS, or any related patents of The Regents of the University of California for COMMERCIAL PURPOSES.

7. 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.

8. Except to the extent prohibited by law, the RECIPIENT assumes all liability for damages that 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.

9. This agreement shall not be interpreted to prevent or delay publication of research findings resulting from the use of the MATERIAL or the PROGENY. The RECIPIENT SCIENTIST agrees to provide appropriate acknowledgement of the source of the MATERIAL in all publications.

10. The RECIPIENT agrees to use the MATERIAL in compliance with all applicable 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 animals or recombinant DNA.

11. Either party may terminate this Agreement upon at least sixty (60) days' written notice to the other. RECIPIENT may terminate this Agreement should Federal or State of Arizona funding no longer be available for support of the RECIPIENT's unit that is conducting activity under this Agreement. Neither party shall be obligated to reimburse the other for costs incurred in accord with this Agreement subsequent to the termination date. This Agreement will terminate on thirty (30) days written notice by either party to the other, provided that:

- a. RECIPIENT will discontinue its use of the MATERIAL and PROGENY and will, upon direction of the PROVIDER, destroy or return any remaining MATERIAL or PROGENY to PROVIDER; and
- b. In the event the PROVIDER terminates this Agreement 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 three months, upon request from the RECIPIENT, to permit RECIPIENT time to notify RECIPIENT CLIENTS who have received MATERIAL or PROGENY from RECIPIENT.

Signature pages follow

IDENTIFYING INFORMATION AND APPROVAL SIGNATURES

RECIPIENT ORGANIZATION:

Recipient Investigator/Scientist

Name:

Title:

Address:

Phone:

Fax:

Signature: _____ Date: _____

Recipient Institution Authorization

Name:

Title:

Phone:

Fax:

Signature: _____ Date: _____

PROVIDER ORGANIZATION: ARIZONA BOARD OF REGENTS ON BEHALF OF THE UNIVERSITY OF ARIZONA.

Provider Investigator/Scientist:

Name: Rod A. Wing

Title: Director, Arizona Genomics Institute

Address: Department of Plant Sciences, University of Arizona, Forbes Bldg. Rm. 303, P.O. Box 210036, Tucson, AZ 85721

Phone: 520-626-9596 Fax: 520-621-1259

Signature:  _____ Date: 1-4-05

Provider Authorization:

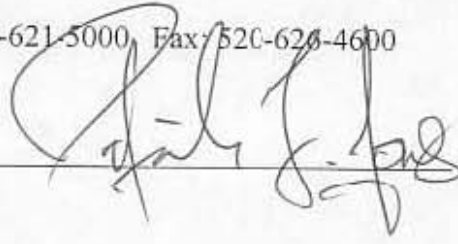
Name: Patrick L. Jones, Ph.D.

Title: Director, Office of Technology Transfer

Address: P.O. Box 210158, Tucson, AZ 85721-0158

Phone: 520-621-5000, Fax: 520-626-4600

Signature:



Date:

