

**Acknowledgement and Agreement for Furnishing and Use of Samples**  
under the  
Budapest Treaty on the International Recognition of the Deposit of Microorganisms  
for the Purposes of Patent Procedure  
(for use by any party legally entitled to receive a sample) (the “**Recipient**”)

TO DIRECTOR GENERAL,  
NITE PATENT MICROORGANISMS DEPOSITARY (“**NPMD**”)  
NATIONAL INSTITUTE OF TECHNOLOGY AND EVALUATION (“**NITE**”)  
2-5-8 Kazusa Kamatari Kisarazu-shi, Chiba-ken 292-0818 JAPAN

The Recipient has acknowledged and agreed to the terms and conditions set out below for using any sample of microorganisms it has obtained from NPMD pursuant to Rule 11.3(a) of the Regulations (the “**Regulations**”) under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure and any microorganisms it has derived from the furnished sample through cultivation, duplication, amplification, or otherwise (collectively with the sample of microorganisms, the “**Microorganism**”). In the case of conflict between the content of this Acknowledgement and Agreement and the legal judgment of an industrial property office (the “**Industrial Property Office**”) which has granted the Recipient the right to receive a sample of the deposited Microorganism under the laws and ordinances, the legal judgment of the Industrial Property Office shall prevail.

1. Purpose of Use

- 1.1 Any use of the Microorganism by the Recipient shall be within the scope of purpose provided for in laws, ordinances, or such like of each country stipulated by the Industrial Property Office.
- 1.2 NPMD may require the necessary information from the Recipient to confirm whether the Microorganism furnished by NPMD was used for the purpose in clause 1.1.
- 1.3 The Recipient shall dispose of the Microorganism promptly after completing the use of the Microorganism provided for in clause 1.1 and shall submit the necessary information for NPMD to confirm the end of the use of the Microorganism.

2. Handling of Microorganism

The Recipient must comply with the following rules upon handling the Microorganism:

- 2.1 A person handling the Microorganism shall have a good knowledge of the pathogenic nature of the Microorganism to the human body and the possible biohazard in the course of experimentation, and shall be skilled in the method of safe handling of the Microorganism and treatment of the Microorganism in the case of emergency particularly in the case of accident.
- 2.2 The Recipient shall use the Microorganism at an appropriate facility and under the strict controls provided for in the NITE Microorganisms Handling Rules.
- 2.3 If the Recipient receives a sample of Microorganism that requires a containment of Biosafety Level 2 as defined in the NITE Microorganisms Handling Rules, such microorganisms must be handled pursuant to the Handling Rules and the Depositor shall strictly comply with the following conditions:
  - (i) to conduct any microbiological experiment within a designated experimental area;
  - (ii) to conduct any experiment, which is likely to have aerosol spread, within the biological safety cabinet;
  - (iii) to restrict entrance of unauthorized personnel during the experiment; and
  - (iv) to sterilize all laboratory instruments used for the experiment and all cultures after the experiment.
- 2.4 In addition to clauses 2.1 to 2.3, the Recipient shall strictly comply with the Plant Protection Law, the Domestic Animal Infectious Diseases Control Law, the Foreign Exchange and Foreign Trade Control Act, the Law concerning the Conservation and Sustainable Use of Biological Diversity through

Regulations on the Use of Living Modified Organisms, and all laws and ordinances, guidelines and other regulations in Japan with respect to microorganisms and DNA. The Recipient who has residence outside Japan shall strictly comply with all laws and ordinances, guidelines, and regulations applicable to its country of residence or governing jurisdiction.

2.5 The Recipient acknowledges that the Microorganism is potentially hazardous, and shall take the necessary safety measures upon using such Microorganism. In addition, the Recipient shall bear any damages or losses arising from or in connection with its use of the Microorganism and shall ensure that no harm is caused to NPMD.

3. Annihilation or Contamination of Microorganism

3.1 No additional samples of the Microorganism will be sent by NPMD to the Recipient even if there is a problem with the sample of Microorganism originally furnished to the Recipient such as the Microorganism was not viable or was contaminated.

3.2 In the case of clause 3.1, NPMD shall not be liable to refund the fees paid by the Recipient for furnishing the sample.

4. Exemption of NPMD

4.1 NPMD shall not be liable in any way for any damage arising from or in connection with any furnishing of samples of the Microorganism under this Acknowledgement and Agreement and any use of such Microorganism by the Recipient incurred by the Recipient, unless any such damage was caused by the failure of NPMD to apply procedures for the handling of deposit in accordance with the Treaty, the Regulations, and the Announcement, and such nonperformance was due to the willful misconduct or gross negligence of NPMD.

4.2 The liability of NPMD to compensate for any damage under the proviso to clause 4.1 shall at no time exceed the amount of the fees that NPMD has actually received from the Recipient.

4.3 NPMD has no obligation to be a party to any dispute between the Recipient and the depositor of the Microorganism and between the Recipient and a third party, and shall not be liable in any way thereto.

5. Governing Law

This Acknowledgement and Agreement shall be governed by the laws of Japan.

6. Jurisdiction

NPMD and the Recipient shall submit to the exclusive jurisdiction of the Tokyo District Court as the court of first instance for any disputes arising from or in connection with this Acknowledgement and Agreement.

Acceptance Number of the Sample of Strain to be Furnished ; NITE BP -

Name of the Recipient:

Name: \_\_\_\_\_ [seal]

Address: \_\_\_\_\_

Name of the Agent:

Name: \_\_\_\_\_ [seal]

Address: \_\_\_\_\_

[ mm/dd/yy ]

Note: A letter of authorization of agent prepared by the Recipient is required to be attached if the Recipient has appointed or instructed someone to act as the Recipient's agent.