# MATERIAL TRANSFER AGREEMENT

**NeoVirTech**, *"Société Anonyme par actions simplifiées"*, a limited company organized under the laws of France, with share capital of € 48 815, whose registered headquarters are located 1 Place Pierre Potier, Oncopole, entrée B, 31 106 Toulouse, France, SIREN no. 800 203 739, APE code 7211Z, VAT No. FR36800203739, represented by its President (hereinafter referred to as "**FG**"), (hereinafter referred to as "**NVT**")

**AND**

**Institute of Experimental Botany AS CR,** registered office Rozvojová 263, 165 02 Praha 6 – Lysolaje, Czech Republic, Entity ID: 61389030, VAT ID: CZ61389030 " (hereinafter referred to as "**RECIPIENT**"), represented by: RNDr. Martin Vágner, CSc., director
**RECIPIENT Investigator**:

Individually designed by "**PARTY**" or collectively designed by "**PARTIES**"

| | |
|---|---|
| ***RECIPIENT***<br>*RECIPIENT Investigator employer* | **Institute of Experimental Botany AS CR** |
| ***RECIPIENT Investigator***<br>*Asking for Original Material* | |
| ***Site of investigation***<br>Address of RECIPIENT where the Research Program shall be conducted<br><br>(hereinafter the "**Site of Investigation**") | Šlechtitelů 31, 783 71, Olomouc - Holice, Czech Republic |
| ***Original Material***<br>*description and quantity* | The ANCHOR™ system, a DNA visualization system, claimed by the patent application N° PCT/EP2012/055258 of March, 23TH 2012 entitled "CONSTRUCTS AND METHOD FOR REGULATING GENE EXPRESSION OR FOR DETECTING AND CONTROLLING A DNA LOCUS IN EUKARYOTES" claiming the priority of the US Patent n° US 9611486 published 04/4/17 owned by NVT, and any corresponding foreign patent applications and all divisions, additions, continuations, continuations-in-part, reexaminations, renewals or extensions thereof and each patent that issues or reissues from any of these patent applications. |
| ***Research Program***<br>carried out by the RECIPIENT Investigator through the use of Original Material, in accordance with the program described in Exhibit A of the present agreement.<br>Such Exhibit A shall be an integrative part of the present agreement.<br><br>(the Research program is hereinafter referred to as the "**Research Program**") | For detailed project description, see Exhibit A |

**WHEREAS**

Effective January 15TH, 2015, and extended September 17TH, 2017, NVT has obtained the exclusive right related to management of technology transfer activities, including the negotiation and signature of research, license and confidentiality and restricted use agreement relating to the ANCHOR system.

NVT wish to promote the advancement of science by providing the Original Material, as defined below, and

by granting a non-exclusive and non-commercial right of use to the scientific community on this Material for research purpose only.

In particular, NVT, being owners of the material to be transferred, agree to transfer the Original Material to the benefit of the RECIPIENT (as described in the table above and hereinafter referred to as "**RECIPIENT**"), subject to the RECIPIENT's strict respect of the conditions stated in the present agreement, solely for the purpose of performing non-commercial limited research with the Material, as described in Exhibit A hereto, to carry out its internal research.

**Article 1. DEFINITIONS**

In this agreement, unless the context clearly otherwise requires, the following capitalized terms are defined as follows, it being specified that a reference to the singular includes the plural and vice versa.

(i) Agreement: The present document and its amendments if any and its schedules.

(ii) Commercial Purposes: The sale, lease, license, transfer under collaboration relations or other transfer of the Material or Modifications to a non-profit or for-profit organization. Commercial Purposes shall also include uses of the Material or Modifications by any organization, including the RECIPIENT, to perform contract research, to generate collaboration, to screen compound libraries, to produce or manufacture product for general sales, or to conduct research activities that result in any sale, lease, license, collaboration relations with a for-profit organization or transfer of the Material or Modifications to a non-profit or for-profit organization.

(iii) Effective Date: The date on which this Agreement becomes effective is the date upon which the last Party to sign has executed this Agreement.

(iv) Material: Original Material, Progeny and Unmodified Derivatives. The Material shall not include: (a) Modifications or (b) other substances created by RECIPIENT through the use of the Material which are not Modifications, Progeny or Unmodified Derivatives.

(v) Modifications: Substances created through the use of the Material and generated under the Research Program described in Exhibit A, which contain/incorporate any portion of the Material, but which are not Progeny nor Unmodified Derivatives. For the avoidance of doubt, the Modifications shall include all plant transformants with DNA from vectors originally created by RECIPIENT.

(vi) Original Material: The research material, identified in Exhibit B, being transferred by NVT, claimed by the Patent Rights, including all relevant data.

(vii) Patent Rights: The patent application N° PCT/EP2012/055258 of March, 23$^{TH}$ 2012 entitled "CONSTRUCTS AND METHOD FOR REGULATING GENE EXPRESSION OR FOR DETECTING AND CONTROLLING A DNA LOCUS IN EUKARYOTES" claiming the priority of the US Patent n° US 9611486 delivered of April, 4$^{TH}$ 2017, and any corresponding foreign patent applications and all divisions, additions, continuations, continuations-in-part, reexaminations, renewals or extensions thereof and each patent that issues or reissues from any of these patent applications.

(viii) Progeny: Unmodified descendant from the Original Material, such as virus from virus, cell from cell, or organism from organism.

(ix) Other Results: Any scientific discovery or creation, whether patentable or not, which results from the use of the Material, including but not limited to any other material or substances that could not have

been generated without the use of the Material or Modifications, but which are not Progeny, Unmodified Derivatives or Modifications (i.e., do not contain the Original Material, Progeny, or Unmodified Derivatives).

(x) Unmodified Derivatives: Substances, which constitute an unmodified functional subunit or product expressed by the Original Material. Some examples include: subclones of unmodified cell lines, purified or fractionated subsets of the Original Material, proteins expressed by DNA/RNA or monoclonal antibodies secreted by an hybridoma cell line.

**Article 2. OBJECT**

2.1 RECIPIENT acknowledges that this Agreement is entered into in order to organize the transfer to and use by the RECIPIENT of the Original Material to carry out the Research Program, as described in Exhibit A, aiming at further development and application of the Original Material and exchange of technical data.

2.2 NVT agree to supply the Original Material to RECIPIENT under conditions set forth herein.

**Article 3. SUPPLY OF ORIGINAL MATERIAL**

3.1 Upon communication of your FEDEX or similar transporter provider, NVT shall send the Original Material at the Site of Investigation to the attention of the RECIPIENT Investigator.

3.2 NVT are not responsible for the possible damages of transport. Should the Original Material not arrive or arrive at the Site of investigation under conditions such as it would be unusable, NVT will make its best efforts to send again the Original Material to the Site of Investigation to the attention of the RECIPIENT Investigator, at RECIPIENT's expenses. If, despite its best efforts, NVT is unable to procure replacement of the Original Material within a reasonable period of four (4) months, RECIPIENT shall return or destroy failed Material and shall certify such return or destruction by written notice to NVT; and this Agreement shall terminate. NVT shall have no other liability towards RECIPIENT due to the failed material.

3.3 The Original Material shipment charges shall be borne by the RECIPIENT.

**Article 4. USE**

4.1 NVT hereby grant to RECIPIENT a non-exclusive, non-transferable, non-sublicensable right to use the Material solely for the purpose of performing the non-commercial Research Program described in Exhibit A hereto, under the terms and conditions set forth herein.

4.2 RECIPIENT agrees that the Material:

(a) **will not be distributed, transferred, sold or released to any third parties for any purpose, including without limitation any Commercial Purposes, nor to public or private culture depositories, without prior written consent of NVT. RECIPIENT agrees to refer any third party requesting the Material to NVT**;

(b) will not be used in human subjects, in clinical trials, or for diagnostic purposes involving human subjects;

(c) is to be used only in compliance with all applicable laws and regulations;

(d) is to be used only at RECIPIENT's Site of Investigation and by scientists working in RECIPIENT's

laboratory or under the RECIPIENT's direct responsibility. RECIPIENT agrees to apply the same degree of security to protecting the Material as the RECIPIENT applies to its own material and information, but in no case less than a reasonable degree of care.

(e) shall not be subject to the terms of any research agreement according to which a third party would obtain rights to any results arising from the Research Program.

4.3 RECIPIENT shall have the right to distribute Other Results it has generated through the use of the Original Material only if those substances are not Material or Modifications.

4.4 RECIPIENT shall have the right to use Modifications generated through the use of the Original Material for non-commercial collaboration with any third party only with prior written consent of PROVIDER, if third parties also execute a MTA for the use of original material.

4.5 RECIPIENT acknowledges that the Material is the subject of Patent Rights.

The non-exclusive right to use the Material under Article 4.1 shall include a non-exclusive, non sublicensable, non transferable right to use the Patent Rights solely to the extent necessary to use the Material as contemplated under Article 4.1 and 4.2. For the avoidance of doubt, such right of use excludes the right to practice and use the Patent Rights independently from the use of the Material.

Except as provided in this Agreement, no other license or other rights, express or implied, are granted to RECIPIENT on the Patent Rights or on any other intellectual property rights of the NVT on the Material, including any altered forms of the Material.

RECIPIENT is not authorized to provide Modifications to any third parties for any purpose without the prior written agreement of NVT.

4.6 Nothing herein shall grant, or be construed as granting any license to RECIPIENT or any obligation to enter into any other agreement.

4.7 This Agreement shall not preclude NVT from transferring the Material to third parties for any kind of research or Commercial Purposes.

4.8 Upon completion of the research program, and in case RECIPIENT wants to use the Material in its products, RECIPIENT can be granted a license to use the technology. This license can be exclusive. A licensing option will be discussed between NVT and RECIPIENT at the term of this contract.

**Article 5.** **PROPERTY**

5.1 NVT retain exclusive ownership of the **Material**, including any portion of the Material contained or incorporated in Modifications. Plants – transformants – are excluded from the exclusive ownership since those have been created by inventive work of RECIPIENT and therefore corresponds to modifications.

RECIPIENT employees retain all rights it may have in accordance with intellectual property laws under inventions, in particular patentable, which could result from the use of the Original Material by RECIPIENT. Industrial property laws shall be arranged according to Article 5 paragraph 5.3

RECIPIENT will not file, or have filed in the name of third parties in any country, any patent application, or intellectual property rights (copyrights, trademarks,...) claiming Material.

5.2 In the event that the Material is modified by the RECIPIENT in the course of the Research Program, the RECIPIENT undertakes to promptly inform NVT of the generation of **Modifications** and to supply reasonable quantities thereof to NVT, at the expense of NVT and within sixty (60) calendar days.

Modifications shall be the co-ownership of NVT and RECIPIENT. Parties shall timely and mutually determine inventorship on Modifications according to Czech law taking into due consideration the NVT's contribution by providing the Original Material and RECIPIENT's contribution by carrying out the Research Program. Modifications shall be owned by the Parties according to inventorship. The Parties agree that they will specify and agree upon particular distribution of the ownership in such Modifications based on the actual research, scientific and intellectual contribution of each Party to its creation.
The Parties shall mutually agree on all further actions and neither Party shall file for patent or other industrial right or intellectual property right protection of Modifications without the express written approval by the other Party.

RECIPIENT has a non-transferable, non-exclusive, royalty-free right to use the Modification for its own internal research requirements, excluding clinical research.

NVT have a non-transferable, non-exclusive, royalty-free right to use the Modification for educational, academic and research purposes (including clinical research) .

5.3 As a general principle, RECIPIENT retains ownership of **Other Results**.

However, and although the Parties do not intend to have collaborative works under this Agreement, the Parties agree that a co-ownership agreement will be negotiated for Other Results and plants – transformants described in Modifications which result from collaborative joint works of NVT and RECIPIENT.

In this case, ownership of all Other Results, patentable or not, shall be function of the inventive contribution of the participants to their achievement. In case that such Other Results could be protected by a new patent application naming one or more NVT and RECIPIENT inventors, the PARTIES shall consult each other to define the modalities of such a patent application filing, and its exploitation conditions. A separate agreement shall be negotiated and concluded in good faith to arrange the modalities of such a patent application filing, ownership shares, sharing of patent costs, exploitation conditions and sharing of revenues. Such an agreement shall be concluded prior any patent application filling or commercial exploitation.

**Article 6.** **PUBLICATION - CONFIDENTIALITY**

6.1 PUBLICATION

6.1.1 This Agreement shall not be interpreted to prevent publication of Research Program findings resulting from the use of the Material or from its Modifications.

6.1.2 Sixty (60) days prior to any publication or any public disclosures, RECIPIENT shall supply NVT in writing with a copy of all publication draft containing any information, data obtained within the framework of the Research Program for approval. NVT might postpone such disclosures for no more than sixty (60) days to file a patent application and reserve the right to require changes therein in order to protect the NVT's proprietary rights and interests in the Material. It is understood between the Parties that the publications shall not contain any of Confidential Information of NVT.

6.1.3 In accordance with scientific customs, the contributions of agents from NVT who have made Material available or of collaborators, if any, will be reflected expressly in all written or oral public disclosures concerning Research Program using the Material by acknowledgment or co-authorship, as appropriate. If the Material is used for the investigation with lentivirus and derivatives, our exclusive collaborator, GEG Tech, has to be cited in the publication. Example of citation can be: ANCHOR™ technology is the exclusive property of NeoVirTech and is exclusively distributed for lentivirus use by GEG Tech company. The origin of the Material and any applicable patent notices must be included in such disclosures.

6.2 USE OF NAME

RECIPIENT authorizes, under this Agreement, NVT to communicate its name on its website, use in advertising, communication and publicity tools. NVT authorizes, under this Agreement, RECIPIENT to communicate its name on its website, use in advertising, communication and publicity tools.

6.3 CONFIDENTIALITY

6.3.1 For the purpose of the present article 6.3, Confidential Information shall notably mean, without limitation, any document, information and/or any data, samples, designs, methods, descriptions, know-how, processes, applications, and/or knowledge, whether patentable or not, in any form and of any nature whatsoever, whatever the medium used for their communication, by any means whatsoever, disclosed by NVT to the RECIPIENT pursuant to this Agreement.

6.3.2 It is specified that the present Agreement, given its content and existence, is confidential.

6.3.3 RECIPIENT undertakes to respect and maintain strictly confidential all Confidential Information received from NVT. RECIPIENT undertakes to use Confidential Information only in the framework of the present Agreement.

RECIPIENT shall only disclose Confidential Information to its employees solely on a need-to-know basis and shall assure that its employees are bound by the same obligations of confidentiality described hereunder.

Notwithstanding the foregoing Articles, the RECIPIENT receiving the Confidential Information is under no obligation and is subject to no restriction regarding any Confidential Information for

which it can prove that:

a) it is either available to the public or was released in the public domain after it was received by RECIPIENT, through no fault of its own, or
b) it was lawfully received by the RECIPIENT from a third party without restrictions or any breach of any confidentiality obligation, or
c) it was disclosed with the written permission of NVT from which it originated, or
d) it was already in the possession of RECIPIENT, or
e) it was developed by the RECIPIENT independently of the Confidential Information received, or
f) it was disclosed by application of a mandatory, statutory or regulatory provision or pursuant to a final and binding court decision. Nevertheless, in the latter cases, the RECIPIENT which was constrained to disclose the Confidential Information may be held liable if any of the following conditions are not met:
   - it shall, to the extent it is not prohibited by law, first inform NVT in writing of its obligation to disclose the Confidential Information in such a way that NVT has enough time to object or to limit the scope of such disclosure, if need be;
   - it must confine such disclosure to what is strictly necessary for it to meet its obligations.

6.3.4 The provisions of Article 6.3 shall be effective as from the execution date of the present Agreement and shall stay in force for a five (5) year period, notwithstanding expiration or earlier termination of the present Agreement.

**Article 7.** **FINANCIAL CONDITIONS**

**Article 8.** **WARRANTIES**

8.1 RECIPIENT accepts the Original Material "as is" and acknowledges that it is experimental in nature and that it should be used with prudence and appropriate caution. NVT MAKES NO REPRESENTATIONS AND EXTEND NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. NO WARRANTIES, EXPRESS OR IMPLIED ARE OFFERED BY NVT AS TO THE RESEARCH ABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE MATERIAL OR AGAINST INFRINGEMENT.

8.2 NVT and their directors, officers, employees, or agents make no representations and extend no warranties of any kind, either expressed or implied, including the research ability or fitness for a particular purpose of the Material or against infringement. The NVT and their directors, officers, employees, or agents assume no liability in connection with the Material or its use by RECIPIENT.

In particular, NVT and their directors, officers, employees, or agents do not offer any other warranties of any kind, express or implied, regarding the Patent Rights. Nothing in the Agreement shall be construed as:

- creating a warranty as to the grant, validity or scope of any of the Patent Rights,
- creating a warranty as to the non-violation, past, present or future of any third party patent or right,
- creating a warranty as to the safety, the fitness for a particular purpose or the performance of the Patent Rights under the Agreement,
- creating a warranty as to the non violation or absence of abusive use by a third party of the Patent Rights.

8.3 **To the extent prohibited by law**, RECIPIENT will defend, indemnify and hold harmless the NVT, its directors, officers, employees, and agents from any damages, claims, or other liabilities which may be alleged to result or arise from the use of the Material or information related thereto, except to the extent permitted by law when caused by the gross negligence or willful misconduct of NVT.

8.4 NVT hereby acknowledges that the Research Program may not yield any commercially viable results and the RECIPIENT therefore does not warrant any

**Article 9.** **TERMS OF CONTRACT**

9.1 This Agreement enters into force on the Effective Date and shall be terminated on the earliest of the following dates:

(a) **Twenty-four (24) months** from the Effective Date, or

(b) upon completion by RECIPIENT of the Research Program, or

(c) thirty (30) days after sending by either PARTY to the other of a termination written notice for any cause.

9.2 Upon early termination, for any reason whatsoever, or expiration of the Agreement, the provisions relating to intellectual property (Article 5), confidentiality and publications (Article 6), to warranties (article 8) and applicable law and dispute resolution (Article 10.3) and any other rights and obligations which by their nature are intended to survive the termination or expiration of this Agreement shall remain in force.

9.3 At the termination or expiration of the Agreement for any reason, RECIPIENT shall discontinue its use of the Material and Confidential Information and shall, according to NVT' instructions return or destroy any remaining Material and Confidential Information. RECIPIENT shall, at its own discretion, also either destroy Modifications or remain bound by the terms of the Agreement related to Modifications unless and until a co-ownership agreement is entered into between the Parties as to the Modifications.

9.4 In the event NVT terminate the Agreement under (c) other than for breach of this Agreement or for cause such as an imminent health risk or patent infringement, NVT may defer the effective date of termination for a period of up to one (1) year, upon request from RECIPIENT, to permit completion of Research Program in progress. In any event, such extension may not extend the duration of the Agreement beyond its expiry date as provided under Article 9.1 (a). Within one (1) month following the Research Program termination, the RECIPIENT shall evaluate its interest to enter into a collaboration agreement and notify in writing its decision to NVT. Over this time

period, mere silence of the RECIPIENT shall be deemed a lack of interest.

**Article 10. MISCELLANEOUS**

10.1 Waiver by one of the PARTIES of the performance of any of the provisions of the Agreement in no way entails or implies waiver of performance of the other obligations.

In no event may the failure by any of the PARTIES to require the performance of an obligation to which such PARTY may be entitled be construed as waiver on its part of the performance of such obligation, regardless of the duration of such abstention.

10.2 The Agreement shall in no event be interpreted as creating any partnership relationship or whatsoever between the PARTIES, each of them being considered as an independent contracting party.

10.3 This Agreement shall be construed and governed by the laws of France, excluding its conflict of law rules. The French court shall have sole jurisdiction over any dispute related to the interpretation or performance of the Agreement, which PARTIES could not solve in an amicable way within two (2) months from the notification date of the dispute by the most diligent PARTY.

10.4 This Agreement constitutes the entire understanding between NVT and RECIPIENT with respect to the subject matter hereof, and supersedes all prior oral or written understandings, communications or agreements not specifically incorporated herein. If any provision of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable, and such decision shall not affect the enforceability (i) of such provision under other circumstances, or (ii) of the remaining provisions hereof under all circumstances.

10.5 RECIPIENT authorizes, under this Agreement, NVT to communicate RECIPIENT name on its website use in advertising, communication and publicity tools.

10.6 For avoidance of doubt, NVT acknowledge that the RECIPIENT is obliged under Czech law to publish the Agreement in Register of Contracts pursuant to Czech Act No. 340/2015 Coll., on Register of Contracts, as amended. Such publication shall not be considered as a breach of confidentiality under the Agreement. If NVT requires not to publish any part of the Agreement, then NVT shall provide the Recipient with pdf version of the Agreement with highlighted parts shall not be published. Before publishing, RECIPIENT shall inform NVT if any highlighted part of the Agreement is not eligible to be redacted according to the Act. Amended wording shall be agreed if appropriate.

IN WITNESS WHEREOF, the PARTIES have executed this Agreement in two (2) originals by the proper officers.

**RECIPIENT,**

EXPERIMENTAL BOTANY AS CR, v.v.i.
Director
263, Praha 6 - Lysolaje, CZ 165 02
VAT No. CZ61389030

Signature_____
*(Legally Authorized signatory of the RECIPIENT)*

Name: RNDr. Martin Vágner, CSc.,
Title: director
Date: 25.5.2022

READ, UNDERSTOOD AND AGREED TO BY THE RECIPIENT INVESTIGATOR :

Signature_____

Name:
Title:
Date:

**NeoVirTech SAS**

Signature_____

Name :
Title : Président
Date : 22/09/22

SAS NeoVirTech
1, Place Pierre Potier
Oncopole - Entrée B
31000 - TOULOUSE
SIRET 800 203 739 00019

**EXHIBIT A**

**Research Program**

**EXHIBIT B**

**Original Material**