

## MATERIAL TRANSFER AGREEMENT

### Terms and conditions applicable to the use, handling, supply, distribution, sale, and any disposition of the material

#### DEFINITIONS

- a. PROVIDER: BCCM™ / Collection
- b. RECIPIENT: See purchaser on invoice and end user on delivery note if different of purchaser.
- c. DEPOSITOR: legal entity or individual that deposits ORIGINAL MATERIAL in the custody of the PROVIDER.
- d. RESEARCH GROUP: Entitled scientists working in a same laboratory, or contractually bound to work on the same research topic.
- e. MATERIAL: ORIGINAL MATERIAL, PROGENY, and UNMODIFIED DERIVATIVES. The MATERIAL shall not include MODIFICATIONS. The description of the MATERIAL being transferred is on delivery note and invoice.
- f. ORIGINAL MATERIAL: that which was supplied to the PROVIDER by the DEPOSITOR.
- g. PROGENY: Unmodified descendant from the ORIGINAL MATERIAL, such as cell from cell, or organism from organism.
- h. UNMODIFIED DERIVATIVES: Substances created by the RECIPIENT which constitute an unmodified functional subunit of the MATERIAL.
- i. MODIFICATIONS: Substances created by the RECIPIENT using the MATERIAL, which are not ORIGINAL MATERIAL, PROGENY or UNMODIFIED DERIVATIVES, and which have new properties.
- j. LEGITIMATE EXCHANGE: The transfer of the MATERIAL within the Research Group. LEGITIMATE EXCHANGE also includes the transfer of MATERIAL between named culture collections/biological resources centres for accession purposes, provided that further distribution by the receiving culture collections/biological resources centre is under MTA provisions compatible and equivalent as those in place at the supplying collection.
- k. COMMERCIAL USE: the use of the MATERIAL for the purpose of profit. COMMERCIAL USE shall include the sale, leasing, exchange, license, or other transfer of MATERIAL for profit purposes. COMMERCIAL USE shall also include uses of MATERIAL to establish service business activities, to manufacture products, to perform contract research, or to conduct research activities for profit purposes.

#### TERMS AND CONDITIONS

1. The PROVIDER is willing to transfer the MATERIAL to RECIPIENT and to grant RECIPIENT a limited non-exclusive license to use the MATERIAL under the terms and conditions specified in this Material Transfer Agreement (MTA). The RECIPIENT accepts the terms and conditions of this MTA by placing an order with the PROVIDER .
2. This MTA applies, among other things, to the use, handling, supply, distribution, sale, and any disposition of the MATERIAL supplied by the PROVIDER.
3. The RECIPIENT shall not sell, lease, license, lend, supply, distribute or otherwise transfer the MATERIAL to any others, save those involved in LEGITIMATE EXCHANGES.
4. The RECIPIENT agrees that the MATERIAL is to be used under the responsibility of the RECIPIENT, in compliance with all applicable laws and regulations.
5. Subject to the terms and conditions of this Agreement and any statutory, regulatory or other restriction imposed by law or any third party interest, RECIPIENT may use the MATERIAL in any lawful manner for academic research, teaching or quality control purposes. Any COMMERCIAL USE of the MATERIAL requires the prior written authorization of the PROVIDER. Such approval will not be unreasonably withheld.
6. The RECIPIENT agrees to provide appropriate acknowledgement of the provenance of the MATERIAL and of the PROVIDER's reference in all publications, such as recommended by the Convention on Biological Diversity and in the code of conduct MOSAICC(\*), taking also into account specific national laws and international regulations regarding TRIPS article 29 as to the conditions on patent applicants concerning invention disclosure.
7. Use of the MATERIAL may be subject to intellectual property rights. No express or implied licenses or other rights are provided herein to the RECIPIENT under any patents, patent applications, trade secrets or other proprietary rights. In particular, no express or implied licenses or other rights are provided to use the MATERIAL or any related patents for COMMERCIAL USE.
8. RECIPIENT shall have the sole responsibility for obtaining any intellectual property licenses necessary for its use of the MATERIAL. The RECIPIENT agrees, in advance of such use, to negotiate in good faith with the intellectual property rights owner(s) to establish the terms of a commercial license; taking also into account specific national laws regarding article 15.7 of the Convention on Biological Diversity as to conditions concerning benefit sharing.
9. The use of the MATERIAL may be subject to specific restrictions which are mentioned in the catalogue description for the particular MATERIAL and are hereby acknowledged by RECIPIENT.
10. Any MATERIAL delivered pursuant to this MTA 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, including any warranty of merchantability or fitness for a particular purpose, or that the use of the MATERIAL does not or will not infringe any patent, copyright, trademark, or other proprietary rights.
11. The PROVIDER will process, package and ship the MATERIAL in accordance with applicable laws and regulations. RECIPIENT is responsible for ensuring that all permits required for RECIPIENT to receive its order are obtained.
12. Except to the extent prohibited by law, the RECIPIENT assumes all liability for damages, which 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 or the PROVIDER, by any other party, due to or arising from the use of the MATERIAL by the RECIPIENT, except to the extent caused by the wilful misconduct of the PROVIDER. Except to the extent prohibited by law or to the extent caused by the wilful misconduct of the PROVIDER, the RECIPIENT shall indemnify and hold the PROVIDER harmless against any such claims or demands which are made against PROVIDER.
13. Neither this Agreement nor any rights or obligations contained herein are assignable, whether by operation of law or otherwise, without the prior written consent of the PROVIDER.
14. The version of the MTA applicable to any MATERIAL ordered by the RECIPIENT shall be the version in effect at the time of order placement, as it can be found at that time on the BCCM Web site [www.belspo.be/bccm](http://www.belspo.be/bccm).
15. Belgian laws (with exclusion of its conflict of law provisions) shall govern this Agreement. Belgian laws will pre-empt any conflicting or inconsistent provisions in this Agreement. The Brussels Courts will be exclusively competent to judge any conflict arising out of this Agreement.
16. Invoices are payable at sixty days from invoice date.

(\*) See <http://www.belspo.be/bccm/mosaic>