



## MATERIAL TRANSFER AGREEMENT (MTA)

Between

**Agharkar Research Institute (ARI)**, established by the Maharashtra Association for the Cultivation of Science (MACS) and registered under the Bombay Public Trust Act of 1950, and an autonomous institute funded by the Department of Science and Technology, Government of India situated at GG Agarkar Road, Pune – 411004 and the **MACS Collection of Microorganisms (MCM)**, a repository operated by and located within ARI campus;

(Hereinafter COLLECTIVELY referred to as the “DONOR” which expression unless repugnant to the context or meaning thereof shall mean and include its successors-in-interest, executors and permitted assigns)

And

Person(s) or institution who purchases and/or uses the MATERIAL from the DONOR, (Name of Researcher/Organization, Official Address as mentioned in the SUPPLY FORM)

(Hereinafter referred to as the “RECIPIENT” of MATERIAL which expression unless repugnant to the context or meaning thereof shall mean and include its successors-in-interest, executors and permitted assigns);

**WHEREAS ARI** was established by MACS to undertake research across all areas of life sciences spread over six different themes, namely Biodiversity & Paleobiology, Bioenergy, Bioprospecting, Developmental Biology, Genetics & Plant Breeding, and Nanobioscience and offer related services to researchers/organization/industries;

**AND WHEREAS MCM** was established to act as a national repository of microorganisms, especially anaerobes and extremophiles, to supply authentic microbial cultures and to provide related services to the scientific community working in research institutions, universities and industries;

**AND WHEREAS** scientists, professors and other personnel affiliated with research, academic institutions and other Organizations, from time to time, facilitate scientific research by sharing biological materials with one another for scientific verification and other research purposes and depository being the repository of microbial cultures distributes/transfers microbial cultures to qualified investigators for use in their research;

**AND WHEREAS** the parties are desirous of reducing into writing the terms agreed between the parties;



## NOW THIS AGREEMENT WITNESSETH AS UNDER:

The recitals hereinabove and definitions mentioned below shall always be taken as terms and shall always be looked into for interpretation, application and workability of this Agreement.

## DEFINITIONS:

- a. **AGREEMENT:** Agreement shall mean the present agreement with all the terms and annexes.
- b. **COMMERCIAL PURPOSES:** The use of the MATERIAL for the purpose of profit; it includes 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 and to manufacture products.
- c. **DONOR:** Means MACS Collection of Microorganisms (MCM), housed at Agharkar Research Institute (ARI), which is engaged in collection, maintenance, storage, propagation, quality control, ex situ conservation, sustainable use and in distribution of the Biological materials to scientific community, for advancement of knowledge in the field of biotechnology and life sciences.
- d. **LEGITIMATE EXCHANGE:** The transfer of the MATERIAL, within the same Company or Institution or Research Group. This also includes the transfer of MATERIALS between named public service culture collections/BioResource Centers (BRCs) for accession purposes, provided the further distribution by the receiving collection/BRC is under comparable MTA conditions as those in place at the supplying collection.
- e. **MATERIAL:** Includes ORIGINAL MATERIAL, PROGENY and UNMODIFIED DERIVATIVES.
- f. **MODIFICATION:** Substances created by the RECIPIENT by using the biological MATERIAL which are not the ORIGINAL MATERIAL, PROGENY, or UNMODIFIED DERIVATIVES and which may have new or old properties. MODIFICATION includes, but are not limited to, recombinant DNA clones and unmodified derivatives.
- g. **ORIGINAL MATERIAL:** that which was originally supplied to COLLECTION by the depositor, or subsequently as a result of a re- accession of the same strain and includes modification thereof.
- h. **PROGENY:** Unmodified descendant (e.g. subculture or replicate) from the MATERIAL.
- i. **RECIPIENT:** Legal entity or individual who purchases and/or uses the MATERIAL.
- j. **SUPPLY FORM:** Form of the COLLECTION recording the minimum data set of administrative, technical and scientific information enabling the access of the MATERIAL. It is an integral part of the MATERIAL TRANSFER AGREEMENT.
- k. **UNMODIFIED DERIVATIVES:** Substances created by the RECIPIENT, or formed as a result of any biological process, which constitute an unmodified functional subunit of the original MATERIAL.

## TERMS AND CONDITIONS:

### RECIPIENT RIGHTS, QUALIFICATIONS AND RESPONSIBILITY

1. The DONOR hereby transfers the MATERIAL to RECIPIENT and grants RECIPIENT a limited non-exclusive license to use the MATERIAL under the terms of this Agreement.
2. The MATERIAL shall be used only for academic and research purposes by RECIPIENT Scientists at Institution/ Organization/ Industry or by individuals working under the direct supervision of a RECIPIENT Scientist at Institution, who agree to be bound by the terms of this Agreement and are signatory to the form provided at the time of execution of this agreement.



3. The MATERIAL shall only be used by those under the RECIPIENT under suitable containment conditions, and in compliance with all applicable statutes and regulations. The Material shall not be used in human/ animal subjects or for clinical or diagnostic purposes.
4. The RECIPIENT agrees that the MATERIAL is to be used under the responsibility of the RECIPIENT, the principles of the Convention on Biological Diversity (CDB) and taking into account international and national laws implementing the Nagoya Protocol (NP).
5. This agreement shall be governed in accordance with the laws of India including of Biological Diversity Act of 2002 and 2004, without regard to the conflicts of the law principles thereof. RECIPIENT is solely responsible for obtaining necessary approvals from the National Biodiversity Authority, Government of India for use of the MATERIAL for any purpose(s) which is/are not covered under this AGREEMENT.
6. RECIPIENT is solely responsible for compliance with all foreign and domestic, federal, state and local statutes, ordinances and regulations applicable to the use of the MATERIAL.
7. The RECIPIENT agrees that RECIPIENT shall not sell, lease, license, lend, supply, distribute or otherwise transfer, whether for consideration or free of cost, the MATERIAL to third party, except for Legitimate Exchanges, without written consent of the DONOR.
8. The RECIPIENT agrees to supply the result/report/status of the research(s) carried out by the RECIPIENT on the Material provided by the DONOR on a yearly basis as well as upon request by the DONOR.
9. The RECIPIENT agrees to handle, store, use and dispose of the MATERIAL or MODIFICATION in accordance with best practice, local policies and the guidelines prescribed by Regulatory Guidelines and other rules, laws enacted and prevailing from time to time.
10. The RECIPIENT must ensure that all efforts are made to secure the integrity and security of the MATERIAL or MODIFICATION, and that it is used efficiently and appropriately. Furthermore, the RECIPIENT shall ensure that the method of disposal is in accordance with the prescribed terms under appropriate regulatory guidelines.
11. The RECIPIENT agrees to conform to any requests to provide information on how the MATERIAL has been stored and used and disposed of, and to return any remaining MATERIAL at any time, if so requested by DONOR, or the regulatory authorities.
12. The RECIPIENT understands that the MATERIAL is experimental in nature and may have hazardous properties. DONOR makes no representations and gives no warranties either express or implied in relation to the viability, stability or any biological or other properties or the fitness of the MATERIAL.
13. The DONOR will not be liable to the RECIPIENT Institution for any loss, claim or demand made by the RECIPIENT Institution, or made against the RECIPIENT Institution by any other party, due to or arising from the use of the MATERIAL by the RECIPIENT Institution.
14. Nothing in this Agreement grants the RECIPIENT any rights over the MATERIAL or MODIFICATION other than as specifically granted by this Agreement, nor any right to use, or permit the use of, any products or processes containing, using, or directly derived from the MATERIAL or MODIFICATION for profit making or commercial purposes.
15. Commercial exploitation/patenting of research results/ outcomes/ technologies/ processes arising from the use of the MATERIAL by the RECIPIENT is prohibited under this Agreement. The RECIPIENT accepts that prior intimation of any such intention will be given to DONOR, and the



RECIPIENT will sign an MoU with DONOR for equitable benefit sharing as per mutually agreeable terms.

16. In case the RECIPIENT proceeds with commercial exploitation without information and approval of the DONOR, the RECIPIENT will be liable for legal and penal action under the provisions of the law. Additionally, the RECIPIENT will pay the cost of maintaining the culture, including the period prior to the commercial exploitation and any subsequent period after the commercial exploitation during which the MATERIAL was maintained/will be maintained by the DONOR. The accumulated costs incurred prior to the commercial exploitation shall be deposited during commercial exploitation and subsequent costs for future maintenance may be deposited annually, in advance. If the MATERIAL is further developed by the RECIPIENT and such development leads to additional commercial exploitation, such exploitation would be a subject of separate agreement. Nothing in this agreement may be construed to restrict the scope of further agreements.
17. Any IPR issues related to the use of MATERIAL will be governed by ARI IPR regulations.
18. RECIPIENT will make every effort to disclose the results of research arising from the use of MATERIAL by publishing, presenting or otherwise. The disclosure should include origin of the MATERIAL, any associated data pertaining to the results, accession number of the MATERIAL assigned by MCM in the publication arising out of the use of the MATERIAL. Further, the RECIPIENT agrees to acknowledge the DONOR i.e., MCM & ARI, Government of India in all publications arising out of research on the MATERIAL.
19. The DONOR may terminate this Agreement if the RECIPIENT is in breach of any of the terms of this Agreement and, where the breach is capable of remedy, the RECIPIENT has failed to remedy the same within one month of service of a written notice from the DONOR Institution specifying the breach and requiring it to be remedied. Otherwise, either party may terminate this agreement upon thirty days' written notice to the other party. Upon termination/ expiration of this agreement, RECIPIENT shall return all the remaining MATERIAL and any copies of confidential data that are in possession of the RECIPIENT.
20. That subject to the above, the parties have agreed that in case of dispute arising about the interpretation, application and operation of any of the Articles of this Agreement or any dispute touching the intended activity of the parties to this Agreement the parties shall endeavor to sort out the dispute themselves and in the event of the failure to do so the parties shall resort to arbitral process in accordance with the Arbitration and Conciliation Act, 1996 within the jurisdiction of Pune only and the Arbitral award shall be final and binding on the parties.

IN WITNESS WHEREOF, the parties have set their hands on these presents on day and date first above mentioned.

**For DONOR**

**For RECIPIENT**