

## MATERIAL TRANSFER AGREEMENT ("MTA")

This material transfer agreement ("MTA") is between the (Company/Organization Name)\_\_\_\_\_

\_\_\_\_\_, a \_\_\_\_\_

\_\_\_\_\_type organization, having its principal place of business at\_\_\_\_\_

\_\_\_\_\_ ("Purchaser")

and the China Center of Industrial Culture Collection, having its principal place at No. 6 Building, No.24 Yard, Jiuxianqiao Middle Road, Chaoyang District, Beijing, China ("CICC").

CICC will transfer the Biological Material(s) under the terms and conditions set forth below. The Purchaser accepts these terms and conditions by placing an order with CICC.

### Definitions

**Biological Material(s):** any CICC Material, any Progeny, any Unmodified Derivatives and any of the foregoing materials contained or incorporated in Modifications.

**CICC Material:** any materials acquired from CICC by Purchaser as described on a CICC Sales Order.

**Progeny:** an unmodified descendant (e.g. subculture/replicate) from CICC Material.

**Unmodified Derivatives:** substance created by Purchaser which constitute an unmodified functional subunit or product expressed by CICC Material. By way of non-limiting example, Unmodified Derivatives include DNA/any related sequence information of CICC Material.

**Purchaser:** the organization/people purchasing and receiving CICC Material or using CICC Material based on the CICC Sales Order and this MTA.

**Contributor:** any organization(s), entity(ies) and/or individual(s) providing technology and/or patent rights related to CICC Material, or original material to CICC.

**CICC Sales Order:** an order submitted for CICC Material in a form and format as determined by CICC from time to time.

**Commercial Use:** use of CICC Material for the purpose of profit, including but not limited to, (a) to produce or manufacture products for general sale or products for use in the manufacture of products ultimately intended for general sale; (b) to provide a service to a person/entity not party to this MTA for financial gain.

**Trademarks:** all trade name, trademark and service mark rights, whether registered or not, now owned or hereafter acquired, and the entire goodwill of the business of CICC connected with and symbolized by such marks, including, without limitation, "CICC" and CICC catalog marks etc.

### Scope of Use; Compliance with laws

1. Purchaser shall not sell, lend, distribute or transfer the CICC Material to others. Purchaser assumes all risk and responsibility in connection with the receipt, storage, handling, disposal, transfer. Besides, Purchaser's use of the CICC Material including without limitation taking all appropriate safety and handling precautions to minimize health and environmental risk.
2. Subject to the terms and conditions of this agreement and any other regulatory, statutory or other imposed by law or any third party interest, Purchaser may use the CICC Material in any lawful manner for the purpose of scientific research, teaching or quality control purpose agreed with CICC's prior written consent.

3. Any commercial use of the CICC Material is prohibited without CICC's prior consent. In advance of such commercial use, it is the Purchaser's responsibility to negotiate in good faith with CICC/appropriate authorities on terms of any benefit sharing. Purchaser acknowledges and agrees that use of certain CICC Material may require a license from a person or entity not party to this MTA, or be subject to restrictions that may be imposed by a person or entity not party to this MTA. To the extent of CICC's knowledge of the existence of any such applicable rights or restrictions, CICC will take reasonable steps to provide information by Purchaser upon request. Purchaser shall be aware that use of CICC Material may be subject to the intellectual property of a person or entity not party to this MTA, and the existence of which rights may or may not be identified by CICC. In this case, CICC makes no representation or warranty regarding the existence or the validity of such rights. It is the sole responsibility of the Purchaser to obtain any intellectual property licenses necessitated by its possession and use of the biological materials.
4. Purchaser declares that all information provided to CICC in connection with any purchase order for CICC Material is true, correct and complete, including any information provided for use in obtaining any license, permit or other authorization with respect to orders hereunder, or otherwise complying with applicable laws and regulations.
5. With respect to transfer CICC Material to destinations outside mainland China, Purchaser assumes all risk and responsibility in connection with complying with applicable foreign laws and regulations which concerning the import, transportation, handling, storage, use and misuse or other wrongdoing with respect to CICC Material.

#### **Limitation of Warranty**

1. CICC hereby represents and warrants that CICC Material shall be viable and pure (as far as can be determined through CICC test regimes) upon shipment from CICC, and within "Warranty Period" (thirty (30) days) from CICC's shipment. Any expiration date specified on the CICC Material shipment documentation does not constitute a warranty. The primary remedy for breach of this warranty is replacement of the material by CICC free of charge if lack of viability or purity is reported upon receipt or within the applicable Warranty Period as the claim is justified to CICC. Purchaser may obtain a credit or full refund if CICC fails to supply a viable replacement of any CICC Material sold.
2. Disclaimer of warranties. There are no representation or warranties by CICC or its Contributors with respect to the items, express or implied, including without limitation, any implied warranty of authenticity, typicality, title, safety, merchantability, or fitness for a particular purpose, except as expressly provided in this agreement. Neither CICC nor its contributors makes any representation or warranty that use of the items will not infringe any patent, copyright, trademark or other proprietary right of a person or entity not party to this MTA nor as to the accuracy or correctness of the data.

#### **Limitation of Liability**

To the extent permitted by law, in no event will CICC and/or its contributors be liable for any indirect, special, incidental, economic, punitive or consequential damages/injuries of any kind in

connection with or arising out of the MTA or CICC Material (whether in contract, tort, negligence, strict liability, statutes or otherwise) even if CICC has been advised of the possibility of such damages. Purchaser shall recognize the potential hazard of utilizing the CICC Material and understands that it is the purchaser's sole responsibility to take appropriate precautions to minimize any health risk upon receipt of CICC Material.

### **Intellectual Property**

1. As between the parties, CICC and/or its contributors shall retain ownership of all rights, title and interest in the CICC Materials. Nothing in the agreement grants Purchaser any rights under any patents, propriety, intellectual property, or other rights with respect to the CICC Material.
2. Purchaser acknowledges and agrees that the CICC Material is subject to the restrictions noted in the "Scope of Use; Compliance with laws" section above. Purchaser agrees to acknowledge CICC and any contributor indicated by CICC as the source of the biological material in all research, publications and patent applications that reference the CICC Material using the CICC accession number(s). If required by the Contributor of the CICC Material, CICC may inform the Contributor of the Purchaser's identity.
3. Purchaser explicitly acknowledges that all trademarks are the exclusive property of CICC and Purchaser expressly agrees not to use the trademarks without CICC's prior written agreement.
4. To the extent permitted by law, Purchaser shall indemnify CICC against any claims made against CICC by third parties relating to any patent or other proprietary rights of such third parties and also against any claims or liabilities. This includes, without limitation, any claims relating to the receipt, handling, storage, transfer, disposal, use and any misuse or other wrongdoing with respect to CICC Material transferred hereunder.

### **Miscellaneous**

1. Purchaser understands and agrees that any breach of this Agreement, including but not limited to any breach of the scope of use provisions of this Agreement, will entitle CICC to immediately cease without notice to Purchaser further shipments of CICC Material and may create such irreparable injury as to entitle CICC to seek temporary restraining orders and other preliminary or permanent injunctive relief in addition to all other equitable and legal remedies that may be afforded under China and foreign laws.
2. Purchaser may not assign or otherwise transfer this MTA or any rights or obligations under this MTA, whether by operation of law or otherwise. Any such attempt or transfer will be void and of no force or effect. This MTA, including all documents incorporated herein by reference, constitutes the entire agreement between CICC and Purchaser with respect to the Biological Material and supersedes all previous agreements and representations between CICC and Purchaser with respect to the same subject matter. This MTA shall not be modified, waived or terminated except in writing and signed by the parties hereto. If any provision of this MTA is for any reason found to be unenforceable, the remainder of the MTA will continue in full force and effect.

3. This MTA shall be construed and enforced in accordance with and governed by the laws of the People's Republic of China.

By signing below, the duly authorized representative of each party acknowledge that they have read and understood and agree to the terms and conditions set forth in this MTA, as evidenced by their signatures below.

**For CICC**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**For PURCHASER**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_