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James Cook University

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[name of Recipient]

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# Material Transfer Agreement

Biological Material

**[Note to user:** This template is for the transfer of biological material. If any of the Material is non-biological material, please use the template Material Transfer Agreement for non-biological material.]



Item	Description	Detail	
6.	Permitted Use <b>(clause 5.1)</b>	<input type="checkbox"/>	<b>Permitted Use 1</b> – breeding: as parent material for crossing with genetic material only.
	<b>[Drafting note:</b> These permitted use options can be customised to suit the range of permitted uses commonly agreed to by JCU (these are examples only).]	<input type="checkbox"/>	

Item	Description	Detail
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- [Redacted]



# Parties

**James Cook University** ABN 46 253 211 955, a body corporate established pursuant to





Material. It is intended to cover progeny that are exact copies of the original Material. Depending on the nature of the Material (e.g cell lines, viruses etc) the definition could be customised and use more relevant scientific terminology.]

Descendants replicated from the Material, such as viruses which are copies of the viruses comprising the part or all of the Material or copies or descendants of cells comprising part or all of the Material.

**Publish**

to publish by way of a paper, thesis, article, manuscript, report, poster, internet posting, presentation, abstract, outline, video, instruction material or other disclosure, in printed, electronic, oral or other form.

**Reference Schedule**

the schedule titled 'Reference Schedule' at the start of this Agreement.

**Representative**

an employee, agent, officer, director, contractor, subcontractor or other authorised representative of a party, and if the Recipient is a University, includes a Student enrolled at that University. 463.87 Tm0 g0 G[(F



## 2 Interpretation and priority

### 2.1



- (a) use the Material only for the Permitted Use and not for any other purpose or use;
- (b) use and keep the Material only at the Premises and, unless the Premises are located outside Australia, not export any of the Material or New Material outside Australia;
- (c) ensure that the Material is at all times kept secure and is handled, stored and transported in accordance with any written or verbal instructions or directions of JCU, including any MSDS or other regulations, guidance or instructions provided to the Recipient by JCU (whether provided before, on or after the Commencement Date);
- (d) ensure that the Material is only handled by those with sufficient skill, knowledge, experience and ability applicable to the Material;
- (e) not transfer or permit the transfer of the Material to any third party that is not authorised in writing by JCU to receive the Material;
- (f) comply with all applicable laws in relation to the use and handling of the Material and any New Material and this Agreement, including those under the *Biodiscovery Act 2004* (Qld);
- (g) cooperate with and assist JCU in connection with any obligations that JCU may have under the *Biodiscovery Act 2004* (Qld), including the provision to JCU upon request by JCU of any information, data or records produced by the Recipient in connection with the Permitted Use;
- (h) not apply for any registration of Intellectual Property Rights or other statutory protection in relation to the Material, New Material, Permitted Use Results or any Confidential Information of JCU;
- (i) other than as expressly permitted by the Permitted Use, not analyse, break-down, decompile, attempt to manufacture, reproduce or reverse-engineer the Material;
- (j) not engage in any conduct having the purpose or effect of developing a work-around or other means of avoiding infringement of any Intellectual Property Rights of JCU relating to the Material;
- (k) take out and maintain at its cost all necessary or appropriate insurances in relation to its use of the Material and the Permitted Use;
- (l) cooperate with and act reasonably toward JCU in relation to this Agreement and the handling and use of Material; and
- (m) not use or permit the Material to be administered to any human or used in any human clinical trials.

### **6.3 Nagoya Protocol**

JCU does not represent or warrant that:

- (b) that the Recipient's access to, receipt or use of the Material under this Agreement is or will be compliant with,

any domestic or international laws regulating the access to, collection of, supply of, storage or utilisation of genetic resources, including any under the 1993 Convention on Biological Diversity or the Nagoya Protocol made under that convention. It is the responsibility of the Recipient to ensure its compliance with any such laws, at the Recipient's cost.

#### **6.4 Responsibility for Personnel**

- (a) the completion of the Permitted Use;
- (b) the Expiry Date;
- (c) the date this Agreement is terminated; or
- (d) JCU making a written request to the Recipient to return the Material to JCU or destroy the Material,

the Recipient must either return or destroy the Material (or what is left of the Material) in accordance with **item 10** of the Reference Schedule or as otherwise requested by JCU in the notice it provides under **clause 6.7(d)**.

## 7 Ownership of the Material

The Recipient acknowledges and agrees that:

- (a) JCU owns and retains title to the Material and all Intellectual Property Rights in and relating to the Material, and nothing in this Agreement assigns or transfers those rights to the Recipient; and
- (b) except as expressly provided in this Agreement, the Recipient has no right to supply the Material (or license any Intellectual Property Rights in or relating to the Material) to any third party or otherwise encumber the Material without the prior written consent of JCU, which consent may be given or withheld and made subject to conditions at JCU's absolute discretion.

## 8 Ownership of results and materials

**[Option #1: This clause causes the Permitted Use Results and any New Material (i.e. essentially, anything the Recipient creates) created by the Recipient to be owned by JCU, including any Intellectual Property Rights in those results and m**

materials and results) vest in JCU (and will be JCU's Confidential Information) as such rights are created or developed.

- (b) If requested by JCU, the Recipient will provide all New Material and Permitted Use Results to JCU within 3 Business Days of the request, or such longer period specified by JCU in its request.

intellectual property rights subsisting in the New Material however is willing for the Recipient to (c) vest intellectual property rights in the Permitted Use Results

- (c) All rights in and to the New Material (including all Intellectual Property rights subsisting in the New Material) vest in JCU (and will be JCU's Confidential

## 9 Publication

- (a) The Recipient must not Publish any information relating to the Material, New Material or this Agreement including any Permitted Use Results, other than as specified in **item**

- (a) to a related body corporate of the Recipient, including that related body corporate's officer, employees and/or agents on a need to know basis and only if the disclosure is made on a confidential basis;
- (b) to any bona fide proposed assignee of all or part of the rights and obligations of the Recipient under this Agreement subject to the proposed assignee undertaking to treat the information as confidential;
- (c) required by the listing rules of Australian Stock Exchange Limited or any relevant overseas stock exchange;



- (e) to the full extent permitted by law, all conditions and warranties not expressly stated in this Agreement are excluded, or if unable to be excluded then limited to the fullest extent permitted by law.

## 11.2 Release

To the extent permitted by law and subject to **clause 11.5**, the Recipient releases JCU and its Personnel from all actions, claims, proceedings or demands and in respect of any loss, death, injury, illness or damage (whether personal or property, and whether special, direct, indirect, consequential, punitive, exemplary, or otherwise) in whole or in part, and whether or not such actions, claims, proceedings or demands are known or unknown at the time of the release.











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# Execution

**Executed** as an agreement.

**[OPTION ONE: If Recipient wishes to execute via an authorised officer.]**

**Executed** for and on behalf of **[insert** )  
**name of Recipient]** by its duly appointed )  
officer in the presence of: )

.....  
Witness

.....  
Officer

.....  
Name of Witness (print)

By executing this Agreement the signatory warrants that the signatory is duly authorised to execute this Agreement on behalf of **[name of Recipient]**.

.....  
Name of Officer (print)

.....  
Date

.....  
Position of Officer (print)

**[OPTION TWO: If Recipient is a company]**

**Executed** by **[name of Recipient]** in )  
accordance with section 127(1) of the )  
*Corporations Act 2001* (Cth):

.....  
Company Secretary/Director

.....  
Director

.....  
Name of Company Secretary/Director  
(print)

.....  
Name of Director (print)

.....  
Date

.....  
Date



**Executed** for and on behalf of **James** )  
**Cook University** by its duly appointed )  
officer in the presence of: )

.....  
Witness

.....  
Officer

.....  
Name of Witness (print)

By executing this Agreement the signatory warrants that the signatory is duly authorised to execute this Agreement on behalf of James Cook University.

.....  
Name of Officer (print)

.....  
Date

.....  
Position of Officer (print)