**MATERIAL TRANSFER AGREEMENT – MTA**

THIS MATERIAL TRANSFER AGREEMENT – MTA, a legal document of contractual nature, defined in the item III of art. 25 of Decree no. 8.772, of 2016, is signed:

Between:

If the sender is a Legal Entity¹:

[NAME OF THE INSTITUTION AS INFORMED IN THE NATIONAL REGISTRY OF LEGAL ENTITIES - CNPJ], a legal entity registered with CNPJ/MF under no. [CNPJ number], having its main headquarters located at [NAME OF THE STREET], number [NUMBER], [ADDITIONAL ADDRESS INFORMATION], neighborhood [NEIGHBORHOOD], in the municipality of [MUNICIPALITY], [STATE], postal code - CEP [NUMBER OF THE POSTAL CODE], herein represented in the form of [ENTITY INCORPORATION INFORMATION] through [EMPOWERMENT DOCUMENT] by [COMPLETE NAME OF LEGAL REPRESENTATIVE], [NATIONALITY], [MARITAL STATUS], [PROFESSION], Tax Number - CPF no. [CPF no.], identity card no. [IDENTITY CARD NUMBER], identity card issue office [NAME OF OFFICE], State [STATE], hereinafter simply referred to as the "SENDER",

If the sender is Natural Person² :

[FULL NAME], nationality [NATIONALITY], [MARITAL STATUS], [PROFESSION], Tax Number - CPF no. [CPF no.], identity card no. [IDENTITY CARD NUMBER], identity card issue office [NAME OF OFFICE], State [STATE], residing at [NAME OF THE STREET], number [NUMBER], [ADDITIONAL ADDRESS INFORMATION], neighborhood [NEIGHBORHOOD], in the municipality of [MUNICIPALITY], [STATE], postal code - CEP [NUMBER OF THE POSTAL CODE], hereinafter simply referred to as the "SENDER",

And:

If the recipient is a Legal Entity:

[NAME OF THE RECIPIENT INSTITUTION according to its registration in the host country], a legal entity with its main headquarters located at [COMPLETE ADDRESS], [CITY OR MUNICIPALITY], [REGION/STATE], postal code [POSTAL CODE], [COUNTRY], herein represented by [FULL NAME OF THE LEGAL REPRESENTATIVE], [NATIONALITY], [POSITION in the institution], hereinafter simply referred to as the "RECIPIENT".

If the recipient is Natural Person:

[FULL NAME], nationality BRAZILIAN, [MARITAL STATUS], [PROFESSION], tax Number - CPF no. [CPF no.], identity card no. [IDENTITY CARD NUMBER], identity card issue office [NAME OF OFFICE], State [STATE], residing at [FULL ADDRESS], [CITY OR MUNICIPALITY], [REGION/STATE], postal code [POSTAL CODE], [COUNTRY], hereinafter simply referred to as the "RECIPIENT".

WHEREAS the transfer of sample(s) of genetic heritage3 to an institution located abroad, intended for access4, shall comply with the provisions of Law no. 13.123, of 20 May 2015, and Decree no. 8.772, of 11 May 2016;

WHEREAS these requirements include:

a) the formalization of the Material Transfer Agreement – MTA, between SENDER and RECIPIENT prior to shipment5;

b) the obtention of Prior Informed Consent (PIC)6 from the provider of associated traditional knowledge7, in the case of research or technological development related to associated traditional knowledge8,9 to the samples of genetic heritage subject to the Shipment Invoice(s) attached to this MTA;

c) the partnership of the RECIPIENT, when it is a legal entity located abroad, with a Brazilian scientific and technological research institution, for the registration of research and technological development activities carried out from the sample(s) of genetic heritage object to the Shipment Invoice(s) attached to this MTA, or from the associated traditional knowledge related to these samples, being this MTA a legal instrument able to characterize the referred partnership between the undersigned parties, as long as it contains specific clauses for this purpose;

d) the registration of research10 and technological development11 activities performed with the sample(s) of genetic heritage object to the Shipment Invoice(s) attached to this MTA, or with the traditional knowledge associated with these samples, by the Brazilian scientific and technological research institution associated with the RECIPIENT in SisGen (sisgen.gov.br), prior to the application of any intellectual property rights; or the commercialization of intermediate product; or the publication of results, partial or final, in scientific or communication media; or the notification of a finished product or reproductive material developed as result of the access;

e) the notification12, through SisGen (sisgen.gov.br), and benefit-sharing, in case of commercial exploitation of finished product13 or reproductive material14 developed from the samples of genetic heritage subject to the Shipment Invoice(s) attached to this MTA; and

f) the obtention of the Prior Informed Consent (PIC) from the provider of the local traditional variety or landrace, or locally adapted breed or creole breed 16, to perform research or technological development, in case the samples of genetic heritage are not used for agricultural activities17; and

WHEREAS, in the case of transfer of samples of genetic heritage subject to the Shipment Invoice(s) attached to this MTA to a third party, this third party shall comply with the legal requirements described previously in items “a)” to “f)”;

The undersigned parties identified above hereby agree to this MTA, by their duly authorized representatives, and do so in conformity with the following terms and conditions:

1. The RECIPIENT acknowledge that they shall comply with the requirements of Law no. 13.123, from 2015, and Decree no. 8.772, from 2016, including the requirements described in “whereas” items;

2. The purpose of this Agreement is to formalize the Shipment of genetic heritage samples identified in the Shipment Invoices(s) which accompany the samples, pursuant to art. 12, IV, of Law no. 13.123, of 2015, and will integrate the shipment registration to be made at the National System for the Management of Genetic Heritage and Associated Traditional Knowledge – SisGen.

3. The RECIPIENT acknowledge that they are not the provider of the genetic heritage samples object of this MTA.

4. In the case of a shipment of genetic heritage samples of local traditional variety or landrace, or locally adapted breed or creole breed, a copy of this MTA and its respective Shipment Invoice(s) shall be sent by the SENDER to the provider(s), if the latter is/are properly identified.

5. The RECIPIENT agrees to the conditions of use of the genetic heritage samples, as defined under items 7 and 8 of the Shipment Invoice(s) attached to this MTA.

6. The SENDER and the RECIPIENT agree that, through this instrument, is characterized the partnership between the undersigned parties, pursuant to the art. 12, II, of Law n° 13.123, of 2015.

7. The RECIPIENT acknowledges that any non-compliance with the provisions of this MTA may result in the enforcement of the legal sanctions provided in Law n° 13.123, of 2015, and its regulations.

8. This MTA shall be interpreted in compliance with Brazilian legislation and, in the case of litigation, the jurisdiction shall be that of Brazil, as indicated by the SENDER; arbitration may be admitted if agreed between the parties.

9. The responsibility over the genetic heritage samples identified in the Shipment Invoice(s) attached to this MTA is permanently transferred to the RECIPIENT, including in cases of deposit in *ex situ* collections.

10. This MTA shall remain valid for [TIME PERIOD] and may be renewed.

11. The validity indicated in item 10 refers solely to the present MTA and does not apply to genetic heritage samples identified in the Shipment Invoice(s) attached to it or to the possibility of transfers of these genetic heritage samples to third parties.

12. In the case that the Shipment Invoice(s) attached to this MTA allow(s) transfers of the samples of genetic heritage to third parties, these samples may be transferred even after the expiration of this MTA, and the RECIPIENT shall annually send to CGen (cgen@mma.gov.br), by the end of each tax year, all the MTAs signed with the subsequent recipients, accompanied by the respective Shipment Invoice(s) corresponding to each transfer.

And, by agreeing to all the above terms, the representatives of the RECIPIENT and of the SENDER sign this MTA in at least 2 (two) counterparts of equal form and content, constituting a single instrument in regard to its legal effects, being one of them in the official language of the Federal Republic of Brazil, and the other in the official language of the recipient country or in English language, being admitted, in any of the cases, a bilingual structure for the document.

Date and place:

Representative of the SENDER: (space for Signature) / (Name of the legal representative of the sender) (Tax no. – CPF)

Representative of the RECIPIENT: (space for Signature) / (Name of the legal representative of the recipient) (Position in the institution)

1st Counterpart (sender)

2nd Counterpart (recipient)

**MTA DEFINITIONS**

1 – Legal entity – consists of a group of persons or assets, legally constituted and incorporated into its own legal entity.

2 – Natural person – any person capable of acquiring rights and duties in the civil order.

3 – Genetic heritage - genetic information from plants, animals, and microbial species, or any other species, including substances originating from the metabolism of these living organisms;

4 – Access to the genetic heritage – research or technological development carried out on genetic heritage samples.

5 – Shipment – transfer of a sample of genetic heritage, intended for access, to an institution located abroad, in which responsibility for the sample is transferred to the recipient institution.

6 – Prior Informed Consent – formal consent previously granted by indigenous population or traditional community according to their uses, customs and traditions, or community protocols.

7 – **Associated traditional knowledge provider** – indigenous population, traditional community or traditional farmer who holds and provides associated traditional knowledge;

8 – Associated traditional knowledge – information or practice of indigenous population, traditional community or traditional farmer about the properties or direct and indirect uses associated with genetic heritage.

9 – Access to associated traditional knowledge - research or technological development carried out on traditional knowledge associated to genetic heritage that makes possible or facilitates access to genetic heritage, even if obtained from secondary sources such as: street markets, publications, inventories, films, scientific articles, registries and other forms of systematization and record of associated traditional knowledge;

10 – Research - experimental or theoretical activity carried out on genetic heritage or associated traditional knowledge with the objective of building new knowledge by means of a systematic process that creates and tests hypothesis and theories, describes and interprets fundamentals of observed phenomena and facts;

11 – Technological development – systematic work on genetic heritage or associated traditional knowledge based on existing procedures resulting from research or from practical experience carried out with the objectives of developing new materials, products or devices, or improving or developing new processes for economic exploitation;

12 – Product notification – declaration document required prior to economic exploitation of a finished product or reproductive material originating from access to genetic heritage or to associated traditional knowledge in which the user declares compliance with the requirements of Law 13,123, of 2015, and indicates the modality of benefit-sharing, when applicable, to be established in the benefit-sharing agreement;

13 - Finished product – a product originating from access to genetic heritage or associated traditional knowledge that does not need any additional processing, in which the genetic heritage or the traditional knowledge component is a key main element of value adding to the product, being it ready for use by the final consumer, whether a natural or a legal person;14 – Reproductive material – plant propagation material or animal reproductive material from any genus, species or crop, originating from sexual or asexual reproduction.

15 – **Local traditional variety or landrace** – variety originating from species occurring in *in situ* condition or kept in *ex situ* condition, comprising a group of plants within the lowest known taxon level, with genetic diversity developed or adapted by indigenous population, traditional community, or traditional farmer, including natural selection coupled with human selection in the local environment, that is not substantially similar to a registered commercial variety;

16 – **Locally adapted breed or creole breed** – breed originated from species occurring in in situ condition or kept in ex situ condition, comprising a group of animal with genetic diversity developed or adapted to a defined ecological niche and generated by natural selection or selection performed by indigenous population, traditional community, or traditional farmer;

17 – Agricultural activities – activities of production, processing and commercializing food, beverages, fibers, energy and planted forests.

**Annex II**

**SHIPMENT INVOICE**

Shipment Invoice Nº [ ] of the Material Transfer Agreement (MTA) signed by and between [SENDER] and [RECIPIENT] on [MTA DATE], valid until [DATE].

1. Identifying information on the genetic heritage samples to be shipped, to the most specific taxonomic rank possible:

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2. Origin of the samples to be shipped, indicating the municipality of the place of obtention *in situ*, even if it has been obtained from *ex situ* sources:

[OR]

2. Identifying information on the *ex situ* source of the genetic heritage samples to be sent, with the information contained in the deposit record, if it comes from an ex situ collection as determined in §1 of the article 22 of the Decree nº 8.772, of 2016:

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3. Is the sample a local traditional variety or landrace, or a locally adapted breed or creole breed?

( ) Yes

( ) No

4. Is it a species on the official list of endangered species?

( ) Yes

( ) No

Name of the Official List consulted: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

5. Information on the kind of sample and method of stowage:

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6. Number of containers, volume or weight:

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7. The RECIPIENT declares that he/she will use the genetic heritage samples for:

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| --- | --- |
| PURPOSE | INTENDED USE AND APPLICATION DOMAIN  |
| ( ) Research | Intended uses: |
| Project application domain / research activity:  |
| ( ) Technological development | Intended uses:  |
| Project application domain/ technological development activity:  |
| ( ) Deposit in *ex situ* collection.  |

7.1 The genetic heritage samples object of this Shipment Invoice(s) shall be used exclusively for the purposes, intended use and application sector indicated in item 7.

[OR]

7.1 Any change in the objectives, intended use and sector of application indicated in item 7 may only be carried out with the written authorization of the SENDER, who shall provide, within 15 (fifteen) days, the request for rectification of the corresponding shipment registration.

8. Genetic heritage samples subject to this Shipment Invoice may not be transferred to third parties.

[OR]

8. Genetic heritage samples subject to this Shipment Invoice may be transferred by the RECIPIENT to third parties during the duration of the MTA to which this Shipping Invoice is attached.

[OR]

8. The genetic heritage samples object of this Shipment Invoice may be transferred by the RECIPIENT to third parties indefinitely, even after the expiration of the MTA to which this Shipment Invoice is attached.

(Items 8.1. and 8.2. shall always be used in cases where the transfer of genetic heritage samples is authorized, regardless of the option on the clause that allows transfers to occur only during the term of the MTA or allows transfers to take place even after the expiration of the MTA)

8.1 For the transfer to third parties, the RECIPIENT shall sign with the subsequent recipient a new MTA containing, at least, the "whereas" and clauses 1., 3., 5. and 7. of the MTA model approved by CGen, and the identification of genetic heritage samples, including all information contained in this CGen-approved Shipment Invoice model.

8.2 The RECIPIENT shall send to CGen (cgen@mma.gov.br), annually, at the end of each fiscal year, all MTAs signed with subsequent recipients, together with the respective Shipment Invoice(s) corresponding to each transfer.

8.3 The provisions of items 8.1 and 8.2 apply to all subsequent transfers.