

Agreement for the Supply of Biological Material from the Royal Botanic Gardens

Upon receipt of the Agreement, **signed below by the Recipient**, and because the Recipient has agreed to comply with the terms and conditions set forth in this Agreement, the Royal Botanic Gardens Board Victoria (RBG) will supply to the Recipient such of the Biological Material[†] requested by the Recipient as is, in the RBG's sole judgement, reasonable and appropriate. Such Biological Material as is supplied to the Recipient will be accompanied by a copy of this Agreement, on the reverse of which the Biological Material being supplied ('the Material') will be itemised.

The RBG intends to honour the letter and spirit of the *Convention on Biological Diversity* in the use of its collections. Accordingly, the supply of any and all Biological Material by the RBG to the Recipient, including any Material to be supplied under this Agreement, will be subject to the following conditions:

1. Subject to Clauses 2 and 4 below, the Recipient may use the Material and any progeny or Derivatives* thereof (such as modified or unmodified extracts) for **non-commercial purposes only**.
2. The Recipient will provide the RBG with a fair and equitable share of any benefits obtained by the Recipient arising out of any utilisation by the Recipient of the material or its progeny or Derivatives, including benefits such as research results and copies of publications. In addition, the recipient shall acknowledge the RBG and, where determinable, the Country of Origin, in all research publications resulting from the use of the Material.
3. Under this Agreement, the Recipient **may not Commercialise**[∇] the Materials or any progeny or Derivatives thereof.
4. If at any point in the future the Recipient wishes to Commercialise the Material or its progeny or Derivatives, the Recipient must first obtain the written permission of the RBG. Any Commercialisation to which the RBG agrees will be subject to a separate written Agreement between the Recipient and the RBG consistent with the RBG's policy that benefits be shared fairly and equitably with the Country of Origin[®] of the Material.
5. The Recipient **may not transfer the Material or any progeny or Derivatives thereof** to any party other than the Recipient or the RBG without the prior informed consent in writing of the RBG, and then only under a legally binding written agreement containing terms no less restrictive than those contained in this Agreement unless otherwise agreed in writing by the RBG.

6. The RBG makes no representation or warranty of any kind, either express or implied,
 - (i) as to the identity, safety, merchandisability or fitness for any particular purpose of the Material or its progeny or Derivatives; or
 - (ii) that the material provided to the Recipient under this Agreement is or will remain free from any further obligation to obtain prior informed consent from, to share benefits with or to comply with restrictions on use imposed by the Country of Origin of the Material or any other country.
7. The Recipient will indemnify the RBG from any and all liability arising out of the Material or its progeny or Derivatives and their use.
8. This agreement is governed by and shall be construed in accordance with the laws of the State of Victoria.

⁺ *Biological material* includes, but is not limited to, plants, plant parts or propagation material (such as seeds, cuttings, roots, bulbs, corms or leaves), fungi or other fungal material, and any other material of plant, animal, fungal, microbial or other origin and the genetic resources contained therein; *Genetic resources* mean any material of plant, animal, fungal, microbial or other origin containing functional units of hereditary of actual or potential value. This definition of genetic resources is adapted from the definitions of genetic materials and genetic resources set forth in Article 2 of the *Convention on Biological Diversity*.

* *Derivatives* include, but are not limited to, modified or unmodified extracts and any compounds or chemical structures based on or derived from genetic resources and their progeny, including analogues.

[∇] *Commercialisation* means the use or exploitation of genetic resources, their progeny or Derivatives, with the object of, or resulting in, financial gain, and includes but is not limited to the following activities: sale, applying for, obtaining or transferring intellectual property rights or other tangible or intangible rights by sale or licence or in any other manner, commencement of product development, conducting market research, and seeking pre-market approval.

[⊗] *Country of origin* of genetic resources means the country which possesses those genetic resources in *in situ* conditions.

RBG Use only

Checked against regulations under CITES

Checked against regulations under Environment Protection & Biodiversity Act 1999

Signed

Position

DECLARATION

I understand that any Material supplied to me by the Royal Botanic Gardens pursuant to this Agreement will be subject to, and I agree to comply with, the conditions above.

Name: [name of individual].....

Title: [title of individual]

Date:/...../.....

Address of Recipient:.....
.....
.....

SIGNED BY :

for and on behalf of [Recipient institution]

.....

SIGNED BY:

for and on behalf of the Royal Botanic Gardens, Melbourne