

Biobanking of Veterinary Resources (BVR)

MATERIAL DEPOSIT AGREEMENT

“OPEN DEPOSIT”

Between

The Istituto Zooprofilattico Sperimentale della Lombardia e dell'Emilia Romagna “Bruno Ubertini” - Biobank of Veterinary Resources (hereinafter referred to as **“IZSLER-BVR”**), in Brescia, Via A. Bianchi 9, VAT number 00284840170 represented by its Director General Dr Giorgio Varisco, born in Brescia on July 10th 1965, domiciliated for the purpose at Istituto

And

(hereinafter referred to as **“Depositor”**)

WHEREAS:

- IZSLER-BVR is a repository of biological Material, including bacteria, viruses and cell lines;
- Among the IZSLER-BVR services, the Open Deposit allows other institutions to deposit bacteria, viruses and cell lines in the public collection free of charge;
- The Depositor intends to deposit Material with IZSLER-BVR for the purpose of IZSLER-BVR distributing the Material to Recipients, subject to the terms and conditions of this Agreement.

NOW, THEREFORE IT IS AGREED AS FOLLOWS:

1. STRUCTURE OF THIS CONTRACT

This document consists of:

- Material Deposit Agreement for the open deposit of material
- Open Deposit Request Form
- Biohazard Risk Assessment Form

2. DEFINITIONS AND INTERPRETATION

For the purposes of this agreement the following definitions shall apply:

- **ABS Legislation** shall mean any biodiversity legislation governing the access to genetic resources and benefits-sharing, whether local or national rules, laws and regulations arising from the “Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity” which entered into force on October 12th, 2014.
- **Agreement** shall mean this Material Deposit Agreement, together with its appendices (Open Deposit

Request Form, Biohazard Risk Assessment Form, and MTA) and any future amendment which make an integral part of it. In case of contradiction between the terms of this material deposit agreement and its appendices, the terms of this material deposit agreement shall prevail.

- **Material** means any material or part of it provided by the Depositor and identified in the specific Open Deposit Request Form (attached hereto);
- **Services**: activities to be performed.
- **Depositor** means the party whose details are set out in the Open Deposit Request Form (attached hereto).
- **Open Deposit Request Form** means the form indicating data of the Depositor, the Material, any limitation of use and any other note relating to the nature of the Material and transfer.
- **MTA** shall mean the material transfer agreement or general terms and conditions of use to be concluded with any Recipient.
- **Intellectual Property Rights** means any rights in respect of trade marks (whether registered or not), get up or trade dress, brands, logos, service marks and trade names, all rights in or to any patent/patent application, copyright, database rights, design (whether registered or not) or other design right, utility model, moral right, eligible layout right, chip topography right and any other rights of a proprietary nature in or to the results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields, whether registrable or not and wherever existing in the world, including all renewals, extensions and revivals of, and all rights to apply for, any of the foregoing rights.
- **Recipient** shall mean any Third Party requesting the Material to the Distributor and obtaining it by signature of an MTA

3. SUBJECT OF THE AGREEMENT

- 3.1. IZSLER accepts to receive in its own repository (Biobank of Veterinary Resources - BVR) free of charge the Material that the Depositor requests to deposit subject to the terms contained in the Open Deposit Request Form.
- 3.2. IZSLER-BVR shall keep the Material in its repository (Biobank), in premises suitable for conservation.
- 3.3. IZSLER-BVR will distribute the Material at the price requested for their use for purposes and that covers the cost for storage and related activities.

4. GRANT OF RIGHTS

- 4.1 The Depositor is fully aware that the purpose of the Biobank of Veterinary Resources is to collect biological material to promote and share research outcomes for the benefit of the scientific community and the technological progress
- 4.2 Therefore the Depositor grants IZSLER-BVR an irrevocable, perpetual, non-exclusive, royalty free, transferrable, worldwide licence to hold on deposit and store the Material, use it for research and educational purposes and distribute the Material to third parties for research purposes only.
- 4.3 The Depositor undertakes and is aware that the Material may be transferred or granted by IZSLER-BVR to Third Parties who might request it for research purposes, for a fee to cover expenses.
- 4.4 The Depositor is also fully aware that the granted licence is perpetual and that it shall not request IZSLER-BVR to return the deposited Material.

5. THE DEPOSITOR'S WARRANTIES

5.1 The Depositor warrants to IZSLER-BVR that:

- (a) it has the necessary rights in and title to the Material to deposit the Material with IZSLER-BVR, to enter into the Open Deposit Form and to authorise use and distribution of the Material by IZSLER-BVR as provided for in the Material Deposit Agreement "Open Deposit";
- (b) it has supplied the Material and Information to IZSLER-BVR in a manner that complies with all Applicable Law;
- (c) all Information provided to IZSLER-BVR is true, correct and complete and allows a reasonable assessment of the Material's nature and associated risks and omits nothing of a material nature;
- (e) the Material has been legally and ethically obtained;
- (f) use of the Material and Information by IZSLER-BVR, as proposed by the Agreement, will not infringe the Intellectual Property Rights or any other rights of any third party;
- (g) the Material is pure at the time of deposit;
- (h) all supplied Material complies with its specification. In case the Material does not comply with the specification, IZSLER-BVR shall send a written notification to the Depositor within thirty (30) days after receipt of the Material (if requested to evaluate specification)
- (i) it has to communicate any and all relevant information related to the Material and necessary for its proper maintenance and handling by Distributor, by completing all mandatory fields of the Deposit Form;
- (l) it is understood between Parties that no confidential information is exchanged under this Agreement. Distributor may therefore publicly disclose (e.g. on its online catalogue or to Recipients) any data, information and documentation provided by the Depositor in order for the former to perform its obligation under this Agreement;

6. IZSLER-BVR'S OBLIGATIONS

- 6.1 IZSLER-BVR will handle the Material with due skill and care, taking into account the hazardous characteristics of the Material.
- 6.2 IZSLER-BVR will use its reasonable endeavours to maintain and use the Material with appropriate precautions to minimise any risk of harm to persons and property, taking into account the hazardous characteristics of the Material and to safeguard the Material from theft and misuse.
- 6.3 IZSLER-BVR acknowledges that the Material is not intended for use in humans and it will not knowingly provide the Material to any Third Party for use in, or with, human subjects without the prior written consent of the Depositor and, where applicable, from any applicable professional ethics or regulatory authority. This applies to both direct and indirect applications and includes diagnostic testing and production of substances for end-use in human subjects. IZSLER-BVR undertakes to contractually require all Recipients of the Material to undertake to IZSLER-BVR that they will not use the Material in humans.
- 6.4 Unless first authorised by the Depositor in writing, IZSLER-BVR shall not knowingly provide the Material to any Third Party for commercial use, or for any use involved in the preparation for sale of any biological materials. Any application made to IZSLER-BVR by a Third Party for commercial use will be referred directly to the Depositor.

- 6.5 IZSLER will communicate to any Recipients any information and documentation on the origin of the Material provided by the Depositor in the Deposit Form, in order for Recipients to comply with any applicable ABS Legislation.

7. RESPONSIBLE FOR IZSLER-BVR SERVICES

- 7.1 The Person Responsible for IZSLER-BVR services is Dr Maria Beatrice Boniotti. In case of absence she shall be substitute by Dr Antonio Lavazza.
- 7.2 It is intended that the Responsible Person is responsible for obtaining any necessary authorization to import and to handle the Material according to the applicable law.

8. LIABILITY AND INDEMNITIES

- 8.1 To the maximum extent permitted by law and notwithstanding any other provision of the Agreement, IZSLER-BVR is not liable in respect of any indirect, consequential or special loss, loss of revenue or loss of profit howsoever arising whether under contract, in tort, in equity, under statute or otherwise.
- 8.2 The Depositor agrees that IZSLER-BVR has not made any representations as to any matter, fact or thing that is not expressly provided for in the Agreement and IZSLER-BVR does not give any warranty or guarantee in relation to its obligations under the Agreement except to the extent required by law.
- 8.3 The Depositor indemnifies IZSLER-BVR against any contingent or actual loss incurred by IZSLER-BVR arising from or in connection with any breach of the Agreement by, or the negligence of, the Depositor.

9. OWNERSHIP OF INTELLECTUAL PROPERTY

- 9.1 The Depositor is the owner of the property and all the rights on the Material. The transfer does not grant to IZSLER-BVR the ownership of the Material, or any intellectual and industrial property rights.

10. SAFETY HAZARDS

See terms and conditions set in the Biohazard Risk Assessment Form.

11. RESEARCH OUTCOMES AND PUBLICATION

Every publication referred to the Material or Derivatives shall acknowledge the source of the Material (indicating IZSLER-BVR's catalogue reference number) giving the due reference to the activity of the original Depositor.

12. APPLICABLE LAW AND JURISDICTION

- 12.1 This Agreement shall be governed by the Italian or Belgian law. As regards with anything not expressly provided for in this agreement the Italian law shall apply.
- 12.2 Any disputes arising under this Agreement, even relating to interpretation and enforcement of this Agreement, will be disputed in the Court of Brescia or Bruxelles.

For Istituto Zooprofilattico Sperimentale della
Lombardia e dell'Emilia Romagna
"Bruno Ubertini" - IZSLER

For the Depositor or its Delegate / Researcher

The Legal Representative or
its Delegate

(date dd/mm/yyyy)

(date dd/mm/yyyy)

Under Articles 1341 and 1342 of the Italian Civil Code the Depositor expressly represents to approve rules under articles (3.1, 4, 7, 11) by additional signature below.

For the Depositor or its Delegate/Researcher
