

NON COMMERCIAL MATERIAL SUPPLY AGREEMENT (with effect from 5 April 2018)

The Royal Botanic Gardens, Kew (“Kew”) is committed to the letter and spirit of the Convention on Biological Diversity (“CBD”) and its Nagoya Protocol on Access to Genetic Resources and Benefit sharing (“the Nagoya Protocol”) and expects its partners to act in a manner consistent with these international obligations. This agreement is designed to promote scientific research and exchange, whilst recognising the terms on which Kew acquired the plant or fungal material and the important role played by *ex situ* collections in the implementation of the CBD. Kew reserves the right not to supply any plant or fungal material if such supply would be contrary to any terms attached to the material and/or to the CBD.

Kew will supply the material listed at the bottom of this agreement (“Material”) subject to the following terms and conditions:

1. The recipient may only use the Material, its progeny or derivatives for the common good in **scientific research, education, conservation and the development of botanic gardens**;
2. The recipient shall **not sell, distribute or use for profit or any other commercial application**¹ the Material, its progeny or derivatives;
3. The recipient shall **share fairly and equitably** the benefits arising from their use of the Material, its progeny or derivatives in accordance with the CBD. You will find a non-exhaustive list of non-monetary and monetary benefits at Appendix II to the Bonn Guidelines: <https://www.cbd.int/doc/publications/cbd-bonn-gdls-en.pdf>;
4. The recipient shall **acknowledge** Kew, as supplier, in all written or electronic reports and publications resulting from their use of the Material, its progeny and derivatives and shall **lodge a copy** of all such publications and reports with Kew; if Material (e.g. leaf, flower, etc) is provided for DNA extractions outside Kew, the recipient shall provide to Kew a reasonable size aliquot (usually 50%) of the resulting DNA extract to be stored in the Kew DNA & Tissue Collection, which may be used by Kew for all and any purposes and made available to third parties for research purposes, subject to negotiation²;
5. The recipient shall take **all appropriate and necessary measures** to import the Material in accordance with relevant laws and regulations and to contain the Material, its progeny or derivatives, to prevent the release of invasive alien species or pathogens;
6. The recipient must ask permission from RBG Kew to transfer material to a third party and, on request, shall provide Kew with copies of the relevant material **transfer** agreement. The recipient may only **transfer** the Material, its progeny or derivatives, to a bona fide third party such as a botanic garden, university or scientific institution for **non-commercial** use in the areas of scientific research, education, conservation and the development of botanic gardens. All transfers shall be subject to the terms and conditions of this agreement.
7. The recipient shall maintain **retrievable records** linking the Material to these terms of acquisition and to any accompanying Data provided by Kew;
8. Unless otherwise indicated, **copyright** in all information or data (“Data”) supplied with the Material is owned by Kew or Kew’s licensors. You may use this Data on condition that it is used solely for scholarly, education or research purposes; that it is not used for commercial purposes; and that you always acknowledge the source of the Data with the words “With the permission of the Board of Trustees of the Royal Botanic Gardens, Kew”;
9. Kew makes **no representation or warranty** of any kind, either express or implied, as to the identity, safety, merchantability or fitness for any particular purpose of the Material, its progeny or derivatives, or as to the accuracy or reliability of any Data supplied. The recipient will indemnify Kew from any and all liability arising from the Material, its progeny or derivatives and/or the Data and from their use or transfer, including any ecological damage. This agreement is governed by and shall be construed in accordance with English law;
10. The recipient will contact Kew to request **prior permission** from Kew or, where appropriate, from the provider of the Material to Kew, for any activities not covered under the terms of this agreement.

¹ For the purposes of this agreement, commercial application shall mean: 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; seeking pre-market approval; and/or the sale of any resulting product.

² Details of extraction methods used and resulting volume to be shared by the recipient with Kew DNA and Tissue Collection.

Recipient(s) requesting the samples:

Name:

Institution:

Position (list supervisor if student):

Address of institution:

Institutional e-mail address and telephone number:

Supervisor details:

Institutional VAT number:

Institutional CITES number:

Title of research programme /project

Short description of research programme, justification for use of the sample:

Contributing partners in research programme

Name(s) and address(es) of collaborators (including any at Kew):

Laboratory analysing the sample

Name and address (if different to applicant's address):

Remains of unused sample and any (by)-products from the sample

Destiny of unused sample:

Destiny of any products resulting from the sample (PCR products, extracts etc.):

Destiny of raw data (e.g. DNA libraries) resulting from the analysis of the sample:

