THE UNIFORM BIOLOGICAL MATERIAL TRANSFER AGREEMENT
(UBMTA)

For transfer of Intellectual Property, biological MATERIALS

Source of MATERIALs:

Arizona Genomics Institute
Resource Center
Plant Sciences Department
The University of Arizona
Tucson, AZ 85721-0036
USA

Leader of the Resource Center: Dave Kudrna
dkudrna@genome.arizona.edu; 520-626-9596
Research Specialist: Wolfgang Golser
wolfgang@Ag.arizona.edu; 520-626-9602
Director of Arizona Genomics Institute: Rod Wing
rwing@genome.arizona.edu; 520-626-9595

Directions:

1. Complete the signature page of the UBMTA and be sure that names and titles are written clearly and legibly. All signatures are required. Include list of requested materials.
2. Prepare a cover page for FAX to include the investigators name who is requesting the MATERIALS, what the materials are, and contact information (phone, email) of the requesting scientist.
3. FAX the executed (completed) UBMTA to: Dave Kudrna, 520-621-1259.

UBMTA to follow; 6 pages

The Uniform Biological Material Transfer Agreement as modified herein
University of Arizona, Arizona Genomics Institute

I. Definitions:

1. PROVIDER: Organization providing the ORIGINAL MATERIAL. The name and address of this party will be specified in an implementing letter or order.

2. PROVIDER SCIENTIST: The name and address of this party will be specified in an implementing letter or order.

3. RECIPIENT: Organization receiving the ORIGINAL MATERIAL. The name and address of this party will be specified in an implementing letter or order.

4. RECIPIENT SCIENTIST: The name and address of this party will be specified in an implementing letter or order.

5. ORIGINAL MATERIAL: The description of the material(s) being transferred will be specified in an on-line order from the RECIPIENT SCIENTIST (or their representative) to the PROVIDER (or their representative) and recorded at the Arizona Genomics Institute "Invoice and Order Editing System". Descriptions of all materials are accessible from the University of Arizona - Arizona Genomics Institute (AGI) BAC/EST Orders Page web site: (http://genome.arizona.edu/orders/) and materials containing INVITROGEN CORPORATION technology (see section II. 6. below) are identified as containing pCMV vectors. RECIPIENT SCIENTISTS should attach a copy of the returned confirmation order email, or a list of requested material(s), to this UBMTA for clear identification of requested MATERIALS.

6. MATERIAL: ORIGINAL MATERIAL and PROGENY. The MATERIAL shall not include substances created by the RECIPIENT through the use of the MATERIAL, which is not PROGENY.

7. PROGENY: Unmodified descendant from the MATERIAL, such as virus from virus, cell from cell, or organism from organism.

8. MODIFICATIONS: Substances created by the RECIPIENT which contain / incorporate the MATERIAL.

9. COMMERCIAL PURPOSES: The sale, lease, license, or other transfer of the MATERIAL or MODIFICATIONS to a for-profit organization.

10. NONPROFIT ORGANIZATION(S): A university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization

qualified under a state nonprofit organization statute. As used herein, the term also includes government agencies.

11. RECIPIENT CLIENT shall mean third party to whom RECIPIENT provides MATERIAL or PROGENY.

II. Terms and Conditions of this Agreement:

1. The PROVIDER retains ownership of the MATERIAL, as described in the implementing letter or order, including any PROGENY created by the RECIPIENT.

2. The RECIPIENT and the RECIPIENT SCIENTIST agree that the MATERIAL:

   a) subject to limitations of Section II.6, will be made available as a service to RECIPIENT CLIENTS in the not-for-profit research community;

   b) will be used for teaching and academic research purposes, and that NO COMMERCIAL PURPOSES will be permitted.

   c) will not be used in human subjects, in clinical trials, or for diagnostic purposes involving human subjects without the written consent of the PROVIDER.

3. The RECIPIENT CLIENTS will:

   a) use the MATERIAL solely for teaching and academic research purposes; and not for any COMMERCIAL PURPOSES; and

   b) will not use the MATERIAL in human subjects, in clinical trials, or for diagnostic purposes involving human subjects without the written consent of the PROVIDER.

4. The RECIPIENT and the RECIPIENT SCIENTIST AGREE to refer to the PROVIDER any request for the MATERIAL from anyone other than not-for-profit clients seeking to use the MATERIAL under the provisions of II.3 above.

5. The RECIPIENT and/or the RECIPIENT SCIENTIST shall have the right to distribute Material, except Material that falls under the provisions of Sec. II.6, under a separate appropriate Material Transfer Agreement, to other RECIPIENT CLIENTS, with written approval of the PROVIDER. A Material Transfer Agreement proposed for use by RECIPIENT or RECIPIENT SCIENTIST should be sent to PROVIDER for approval. The proposed MTA format is attached to this Agreement as Appendix 1.

6. The RECIPIENT acknowledges that the requested MATERIAL is, or may be, the subject of one or more third party patents. MATERIAL containing pCMV.SPORT-6.1 vector, or derivatives there of, component(s) of "Gateway®" cloning technology from INVITROGEN

CORPORATION, is subject to specific patents and other restrictions as described in the INVITROGEN CORPORATION Limited Use Label License, attached hereto as Exhibit A, and may NOT be transferred to a third party nor used for commercial purposes. Except as provided in this Agreement, no express or implied licenses or other rights are provided to the RECIPIENT under any patents, patent applications, trade secrets or other proprietary rights of the PROVIDER, including any altered forms of the MATERIAL made by the PROVIDER. In particular, no express or implied licenses or other rights are provided to use the MATERIAL, MODIFICATIONS, or any related patents of the PROVIDER for COMMERCIAL PURPOSES.

7. Any MATERIAL delivered pursuant to this Agreement is understood to be experimental in nature and may have hazardous properties. The PROVIDER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE MATERIAL WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS.

8. Except to the extent prohibited by law, the RECIPIENT assumes all liability for damages which may arise from its use, storage or disposal of the MATERIAL. The PROVIDER will not be liable to the RECIPIENT for any loss, claim or demand made by the RECIPIENT, or made against the RECIPIENT by any other party, due to or arising from the use of the MATERIAL by the RECIPIENT, except to the extent permitted by law when caused by the gross negligence or willful misconduct of the PROVIDER.

9. This agreement shall not be interpreted to prevent or delay publication of research findings resulting from the use of the MATERIAL or the MODIFICATIONS. The RECIPIENT SCIENTIST agrees to provide appropriate acknowledgement of the source of the MATERIAL in all publications.

10. The RECIPIENT agrees to use the MATERIAL in compliance with all applicable statutes and regulations, including Public Health Service and National Institutes of Health regulations and guidelines such as, for example, those relating to research involving the use of animals or recombinant DNA.

11. Either party may terminate this Agreement upon at least thirty (30) days' written notice to the other. RECIPIENT may terminate this Agreement should Federal or State of Arizona funding no longer be available for support of the RECIPIENT'S unit that is conducting activity under this Agreement. Neither party shall be obligated to reimburse the other for costs incurred in accord with this Agreement subsequent to the termination date. This Agreement will terminate on thirty (30) days written notice by either party to the other, provided that:

a) RECIPIENT will discontinue its use of the MATERIAL and PROGENY and will, upon direction of the PROVIDER, destroy or return any remaining MATERIAL or PROGENY to PROVIDER; and

b) In the event the PROVIDER terminates this Agreement other than for breach of this Agreement or for cause such as an imminent health risk or patent infringement, the PROVIDER will defer the effective date of termination for a period of up to three months, upon request from the RECIPIENT, to permit RECIPIENT time to notify RECIPIENT CLIENTS who have received MATERIAL or PROGENY from RECIPIENT.

III. IDENTIFYING INFORMATION AND APPROVAL SIGNATURES

1. RECIPIENT ORGANIZATION

a) RECIPIENT INVESTIGATOR/SCIENTIST

Name:

Title:

Address:

Phone: FAX:

Email address:

Signature:_____ Date:_____

b) RECIPIENT INSTITUTION AUTHORIZATION
Name:

Title:

Address:

Phone: FAX:

Email address:

Signature:_____ Date:_____

2. PROVIDER ORGANIZATION: ARIZONA BOARD OF REGENTS ON BEHALF OF THE UNIVERSITY OF ARIZONA.

a) PROVIDER INVESTIGATOR/SCIENTIST
Name: Rod A. Wing or David A. Kudrna

Title: Director, Arizona Genomics Institute

Address: Department of Plant Sciences, University of Arizona, Forbes Bldg. Rm. 303, P.O. Box 210036, Tucson, AZ 85721

Phone: 520-626-9596 FAX: 520-621-1259

Email address: dkudrna@ag.arizona.edu

Signature: Dave Kudrna date: Dec. 21 2005

b) PROVIDER AUTHORIZATION
Name: Patrick L. Jones, Ph.D.

Title: Director, Office of Technology Transfer, University of Arizona

Address: P.O.Box 210158, Tucson, AZ 85721-0158

Phone: 520-621-5000 FAX: 520-626-4600

Email address: pljones@ott.arizona.edu

Signature: Patrick L Jones date: DECEMBER 19TH 2005

Patrick L. Jones, Ph.D., MBA
Director, Office of Technology Transfer

(ubmta.agi.12.13.05)

Exhibit A

Limited Use Label License

This product and its use is the subject of one or more of U.S. Patent Nos. 5,888,732, 6,143,557, 6,171,861, 6,270,969, and 6,277,608 and/or other pending U.S. and foreign patent applications owned by Invitrogen Corporation. The purchase of this product conveys to the buyer the non-transferable right to use the purchased amount of the product and components of the product in research conducted by the buyer (whether the buyer is an academic or for profit entity). The purchase of this product does not convey a license under any method claims in the foregoing patents or patent applications, or to use this product with any recombination sites other than those purchased from Invitrogen Corporation or its authorized distributor. The right to use methods claimed in the foregoing patents or patent applications with this product for research purposes only can only be acquired by the use of Clonase™ purchased from Invitrogen Corporation or its authorized distributors. The buyer cannot modify the recombination sequence(s) contained in this product for any purpose. The buyer cannot sell or otherwise transfer (a) this product, (b) its components, or (c) materials made by the employment of this product or its components to a third party or otherwise use this product or its components or materials made with this product or its components for Commercial Purposes. The buyer may transfer information or materials made through the use of this product, provided that such transfer is not for any Commercial Purpose, and that such collaborator agrees in writing (a) not to transfer such materials to any third party, and (b) to use such transferred materials and/or information solely for research and not for Commercial Purposes. Transfer of such materials and/or information to collaborators does not convey rights to practice any methods claimed in the foregoing patents or patent applications. Commercial Purposes means any activity by a party for consideration and may include, but is not limited to: (1) use of the product or its components in manufacturing; (2) use of the product or its components to provide a service, information, or data; (3) use of the product or its components for therapeutic, diagnostic or prophylactic purposes; or (4) resale of the product or its components, whether or not such product or its components are resold for use in research. Invitrogen Corporation will not assert a claim against the buyer of infringement of the above patents based upon the manufacture, use or sale of a therapeutic, clinical diagnostic, vaccine or prophylactic product developed in research by the buyer in which this product or its components was employed, provided that none of (i) this product, (ii) any of its components, or (iii) a method claim of the foregoing patents, was used in the manufacture of such product. Invitrogen Corporation will not assert a claim against the buyer of infringement of the above patents based upon the use of this product to manufacture a protein for sale, provided that no method claim in the above patents was used in the manufacture of such protein. For information on purchasing a license to use this product for purposes other than those permitted above, contact Licensing Department, Invitrogen Corporation, 1600 Faraday Avenue, Carlsbad, California 92008. Phone (760) 603-7200.