



联合国
粮食及
农业组织

Food and Agriculture
Organization of the
United Nations

Organisation des Nations
Unies pour l'alimentation
et l'agriculture

Продовольственная и
сельскохозяйственная организация
Объединенных Наций

Organización de las
Naciones Unidas para la
Alimentación y la Agricultura

منظمة
الغذية والزراعة
للأمم المتحدة

E

COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE

Item 6 of the Provisional Agenda

INTERGOVERNMENTAL TECHNICAL WORKING GROUP ON ANIMAL GENETIC RESOURCES FOR FOOD AND AGRICULTURE

Eighth Session

Rome, 26 – 28 November 2014

**SUBMISSION BY THE
EUROPEAN REGIONAL FOCAL POINT FOR ANIMAL GENETIC
RESOURCES (ERFP)
ON VOLUNTARY CODES OF CONDUCT, GUIDELINES AND BEST
PRACTICES AND/OR STANDARDS IN RELATION TO ACCESS AND
BENEFIT-SHARING FOR ANIMAL GENETIC RESOURCES FOR
FOOD AND AGRICULTURE**

The European Regional Focal Point for Animal Genetic Resources (ERFP) submission in response to the CGRFA notification of 31st January 2013

on voluntary codes of conduct, guidelines and best practices, and/ or standards in relation to access and benefit-sharing for all subsectors of genetic resources for food and agriculture

submitted by the ABS Task Force and the Secretariat

of the European Regional Focal Point for Animal Genetic Resources (ERFP)

(Elżbieta Martyniuk, Beate Berger, Danijela Bojkovski, Didier Bouchel, Sipke Jost Hiemstra, Catherine Marguerat, Vera Matlova, Nina Sæther, Francois Pythoud, and Frank Begemann et al.)

1. Introduction

The livestock sector has specific and unique features which have been underlined in several research studies (e.g. Hiemstra et al., 2006). The distinctive features of genetic resources for food and agriculture (GRFA) in comparison with genetic resources of wild species and their potential impacts on access and benefit sharing (ABS) were discussed in details during the first session of the *Ad Hoc* Technical Working Group on ABS, held in Svalbard, in September 2012. The main outcomes of these deliberations regarding animal genetic resources (AnGR) were presented at the 7th session of the ITWG-AnGR in Rome, October 2012, and then at the 14th Session of the Commission on Genetic Resources for Food and Agriculture. Biological, technical and institutional differences between sectors of genetic resources for food and agriculture and their distinctive features have to be taken into consideration, when developing access and benefit-sharing arrangements.

The following list shows relevant specific features of AnGR:

- Live animals are mainly under private control and ownership (individual farmers, national and international companies), sometimes they belong to public institutions;
- The value of individual breeding animals or their genetic material might be high or very high;
- Cryo-preserved germplasm stored in national gene banks is mostly under national or cooperative ownership or is privately owned;
- Genetic material for research purposes is stored and exchanged by a variety of public institutions and/or private actors;
- Cryo-preserved genetic material used for routine reproduction purposes (AI, ET) is generally owned by private companies or belongs to members of cooperatives;
- Costs of collecting genetic material for cryo storage are relatively high (infrastructure and staff);
- The major gene flow of animal genetic resources is between North-North and North-South; currently the South-South flow is low or less documented, and South-North negligible (Zárate et al., 2006; Mathias and Mundy, 2005);
- Exchange and trade of breeding stock in the livestock sector is mostly implemented by the transfer of private ownership;
- The providers of AnGR are mostly also users of AnGR;

- There is no specific legal framework that would safeguard Intellectual Property Rights in animal breeding as compared to plant variety protection.

The livestock sector has developed a wide range of well-functioning exchange practices that are based on private contracts or Material Transfer Agreements (MTA); these range from very simple to sophisticated agreements.

In the ERF submission we would like to present various types of agreements and contracts that are applied to animal genetic resources used for breeding and production, research, and conservation. The majority of exchange for breeding and production is characterized by private-private agreements, while in exchange for research and conservation often public institutions are also involved. Typical examples of Material Transfer Agreements will be illustrated.

2. Characteristics of AnGR management and gene flow

2.1 Breeding process

Each animal is a genetically unique with the rare exception of clones. Management of within breed genetic diversity is of a key importance. Wild relatives of our farm animal species no longer exist or are not used in current breeding activities. In some species they are still found in the nature, but they do not play any role in animal breeding and improvement. On the contrary in plant breeding industry genetic resources of wild relatives are often used in modern breeding (with the exception for pigs/wild boar for research purposes (QTL detection), for aquatic genetic resources (not in the scope of this document), and marginally for some game avian and mammalian species for restocking purposes: such as pheasant, partridges, rabbit).

Animal breeding is based on a cumulative genetic progress; the average genetic value of each generation in purebred population is slightly increased in comparison with the previous one. The enhancement of genetic value results from selection of parents that have higher utility or genetic value than the average of their population. The existing breeding populations are the main source of genetic diversity in the sector, and selection within these populations is the main method to achieve genetic progress.

The crossbreeding, so crucial in plant breeding, is also applied in animal breeding for upgrading, backcrossing or creation of new synthetic lines or breeds. Crossbreeding plays an important role in commercial production, especially in meat or egg production but recently also in milk production.

With the intensification of agricultural production some breeds of farm animals, like the Holstein-Friesian cattle, were developed into the high yielding, mainstream breeds. They are used internationally and achieve high performance in intensive production systems. The local breeds are bred in smaller geographical areas, usually in one country only. Some local breeds in which the population is not restricted to one country have obtained the status of a transboundary regional breed.

2.2 Exchange of AnGR

The commercial gene flow in animal genetic resources is mostly between developed countries (North-North) and from developed countries to developing countries (North-South), resulting in breeding progress being achieved in selected populations is transferred to recipient countries in a form of the acquired breeding stock. Currently, gene flow between South-South is rather low or less documented, while the flow South-North is negligible (Mathias and Mundy, 2005; Zárate et al., 2006, Golin et al., 2008).

The exchange of AnGR between breeding companies is very rare in the poultry sector while in the pig breeding industry it is more frequent, usually based on short-term bilateral strategic alliances (EFFAB, 2011).

The exchange of AnGR between two individual private breeders is dominant, with each transaction agreed on a bilateral basis. The range of “breeders” is very wide, including private breeders specialising in purebred stock production, farmers practising breeding within their herds and participating in the exchange of AnGR, hobby breeders as well as variety of enterprises (family owned, cooperative, or listed public companies) belonging to the breeding industry that operates at the regional or the global level.

Exchange for research has a wide range of applications, from national to international levels. International multidisciplinary projects, involving various research groups is becoming more common.

2.3 Conservation

The conservation, storage and transport of animal genetic resources (live animals, fresh or frozen semen/embryos/oocytes) requires adequate capacity, knowledge and infrastructure. It is mainly regulated by national and international veterinary and zoosanitary laws. Cryopreservation techniques provide a convenient method to establish genetic backup collections for breeding purposes and gene banks. Many developed countries have established their own national collections or are planning to regularly collect genetic material often both from local and international breeds. The Working Group on *Ex-situ* Conservation operating within the framework of the European Regional Focal Point for Animal Genetic Resources, has initiated in 2013, the establishment of the European Genebank Network for Animal Genetic Resources, EUGENA (ERFP, 2013). The objectives of EUGENA are:

- to support gene banks in the European countries to fulfill their individual roles and objectives;
- to improve monitoring and assessment of AnGR kept in *ex situ* collections in European countries by sharing information on gene bank collections;
- to improve gene bank operations and procedures in the European countries by sharing information;
- to use synergies for *ex situ* conservation and sustainable use of AnGR by joint activities of gene banks in the European countries;
- to increase the efficiency of *ex situ* conservation of the genetic diversity of transboundary breeds;
- to promote harmonization of acquisition and access terms for *ex situ* conservation throughout the gene banks in the European countries;

- to facilitate a quality improvement in *ex situ* collections of the gene banks in the European countries;
- to promote harmonization and facilitate improvement of quality standards in *ex situ* collections of the gene banks in the European countries;
- to create an element of the European research infrastructure for the conservation and sustainable use of AnGR;
- to facilitate a European approach for international cooperation and exchange of AnGR in the context of the Nagoya Protocol for Access and Benefit Sharing (Hiemstra et al., 2014)

One of very important tasks for the EUGENA network is to develop standardised best practices for acquisition, transfer and use of genetic material from national gene banks and encourage their application in EUGENA member countries.

In comparison to plant genetic resources, gene banking is still relatively new to the livestock sector. The *Ex-situ* Working Group of the ERFP, conducted in 2012/2013 a survey about the state of the national gene banks across Europe. In total, 25 European countries contributed gene-banks relevant information about 1) the host institution(s), 2) the legal basis, 3) ownership of the material, 4) governance, 5) history of a national gene bank, 6) gene bank objectives, and 7) the state of documentation. Preparation of the overview was an important first step to facilitate further development of EUGENA, in order to show similarities and differences between countries and to identify issues for harmonization at the European level. The tables below show the state of development of the gene banks in Europe.

Table 1. Percentage (%) of countries indicating specific institutional and legal arrangements of their national gene banks (Hiemstra et al., 2014).

Host institution for gene bank collections	
- public or semi-public institution	72%
- breeding association or AI centre	8%
- network of organizations	20%
Legal basis for national gene bank	
- national/regional law or regulation	38%
- agreement on (research) programme	31%
- not mentioned	31%
Ownership of genetic material	
- public or semi-public ownership	56%
- breeding association or AI centre	8%
- provider or depositor	4%
- mixed public-private	32%

Table 2. Percentage (%) of countries indicating which species and type of material is represented in their national gene bank collections (Hiemstra et al., 2014).

Species represented in gene bank collections			
Cattle	92%	Rabbit	8%
Sheep	64%	Duck	8%
Goat	52%	Bee	8%
Horse	60%	Dog	4%
Pig	56%	Goose	4%
Chicken	20%		
Type of genetic material represented in gene banks			
Semen	84%	Ovarian cells/oocytes	20%
Embryos	44%	Gonadal tissue	4%
Embryonic cells	4%	Somatic cells/tissue	20%
DNA/blood	44%		

National gene banks, due to their different history and legal/institutional arrangements use their own procedures and conditions for acquisition of biological material and for providing access to material stored in their gene bank. Further work is needed to get a detailed overview of access and acquisition procedures currently applied by national gene banks. Acquisition procedures have to follow national objectives and strategies how to establish 'core collections' per breed. In light of implementation of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization, there is a need both to develop and strengthen animal genetic resources collections that are in the public domain, to become transparent about access rules for all national gene banks, and to work further towards harmonization of procedures and conditions for acquisition and access in order to propose model acquisition and access agreements.

3. Legal frameworks related to exchange, breeding and conservation

Breeding, trade, movement and transport of animal genetic resources are regulated by the following legal frameworks:

- ✓ veterinary and sanitary OIE and EU regulations (to protect human and animal health);
- ✓ regulations on animal identification and registration (to ensure traceability of animals in case of disease outbreak and to provide basis for breeding work);
- ✓ zootechnical regulations, within the framework of EU legislation (framework for intracommunity trade of breeding animals, sustainable breeding programmes and breed conservation); and
- ✓ animal welfare regulations (to ensure animal welfare on farm, during transportation and at slaughter).

It has to be underlined that zootechnical legislation protects the interests of all parties that are involved in trade in the livestock sector. The setting of standards for the exchange of live animals and their biological material is meant to ensure transparency, reliability and high quality of transferred breeding stock. The zootechnical legislation contributes to development of the sector and food security.

4. Practices of exchange of AnGR and types of contracts

According to Welch (2012), the private trade of farm animals and their biological material can be considered in three interlinked dimensions: the market, research and culture. In the European context, beyond trade in breeding stock and its biological material to serve livestock production and other purposes of livestock utilisation (e.g. cultural exchange) and the exchange of AnGR to undertake research, there is growing flow of animal genetic resources collected for conservation purposes and establishment of gene banks.

The following chapters provide details on contract used in these four areas of animal genetic resources trade and exchange.

4.1 Breeding

The exchange of animal genetic resources has evolved with development of agriculture and human societies (FAO, 2009). At present, the exchange and trade of animal genetic resources is very important for breeding, enhancing genetic progress and improving performance of livestock populations.

The access to highly performing breeds from the North enabled livestock revolution and introduction of intensive, industrial production systems globally, thus contributed to development of the livestock sector and to improved food security.

Since modern animal breeding, trade in livestock sector had intensified. This was due to a number of factors:

- successful selection and development of highly productive breeds and crosses for intensive, industrial production;
- development of biotechnology in reproduction that enabled trade in semen and embryos; and
- wide spreading of commercial air transport that enabled fast movement of animal genetic resources across and between continents.

The ways and means of trade and exchange of livestock genetic resources have evolved over centuries. Since farm animals were primarily under private ownership, private transactions were facilitating their trade. Over time, the customary trade, often concluded by simple shaking hands, was gradually accompanied or replaced by some sort of documentation. Since the 1990s, documentation became necessary to trace animal movement under identification and registration requirements, introduced by zootechnical legislation. It became also important to specify both genetic value and the health condition of animals and conditions of sale. At present, there are a wide range of practices with different levels of formalization that are applied between sellers and buyers of animal genetic resources.

Contracts in use for commercial breeding purposes

The fact that a large proportion of animal genetic resources are privately owned implies that the majority of transactions occur on the market and the price that buyers pay appropriately compensates the seller for the genetic resource.

The seller (breeder) usually knows the actual value of their animal and sells it at a price that provides a fair and satisfactory return. If one of the contracting parties (seller or buyer) has more information than the other, the transaction may not be perceived as fair. The sophistication and transparency of the market varies substantially across nations (Welch, 2012).

There are a wide range of instruments in place to facilitate trade in the livestock sector, from simple to complex contracts (see examples in the Annex). Many common elements are included in commercial contracts, such as the ID of animal genetic resources, the pedigree, own performance or performance of relatives, estimated breeding value, and the confirmation of good health status. Sometimes the buyer, to be able to get access to the given breeding stock or genetic material, has to be a member of a certain organization (e.g. obligatory membership in slaughterhouse chain to have access to pig breeding material).

In species that are distributed through a pyramid (purebred stock, multipliers and individual breeders/ commercial farms) there are often bilateral agreements for multiplication /distribution in place between a provider (breeding company) and a buyer (user/ multiplier/ distributor). Many companies apply in-house developed standard contracts for their breeding material provided to multipliers/ distributors or private breeders/ commercial farmers. Large scale trade in livestock relates primarily to breeding material of high-output breeds and their hybrids that are used in intensive and industrial production systems.

The breeding industry in general does not use wild relatives and so far was only experimenting with AnGR from the South in their commercial breeding programmes. Currently, the uptake of local breeds in commercial breeding programmes is in particular limited due to their lower performance. According to EFFAB (2011) the in-house selection towards novel traits (adaptation to hot climate, ability to utilise low quality fodder and overall disease resistance) might be more successful than immigration and introgression of genetic material from adapted breeds from developing countries. Therefore, it seems that trade of locally adapted breeds may remain related to their other roles and values, including utilisation of marginal areas, niche products, as well as cultural and social value.

Trade in live animals and their germinal material (semen, embryos, material for multiplication) is a world-wide industry with well established rules and conditions, including the following:

- Veterinary and breeding conditions are defined by national and international law and agreements.
- Additional requirements may be required by national law/ breeding organization on the breeding animals to be sold (participation in recording scheme, number of points for phenotype according to the breed standard, minimal performance, minimal index value etc...).
- Breeding companies usually have their own rules for distributing breeding material and restrict buyers' rights to utilization of AnGR as specified in contract/ terms of delivery (e.g. examples from NL, FR, CH).

- Usually terms of delivery are defined by the supplier.
- The end-user usually is not allowed to distribute genetic material to a 3rd party. Some suppliers grant protection to a single distributor within a given territory (e.g. examples from FR, NO).
- Usually there is a fixed sharing of income between partners, if distributors are involved in the supply chain of breeding stock.
- Contracts may include confidentiality clauses that are related to knowledge transfer, documentation, financial transactions and other information.

Examples of benefit sharing

The global trade in international breeds contributes to the enhancement of livestock production, both in developed and developing countries; it is beneficial for buyers (users) that have access to high performing stock. Breeding companies (providers of AnGR) usually do not expect additional benefits arising from utilisation of their breeding stock; the price and ability to supply „breeding products” provides sufficient benefits.

Animal breeding as such is beneficial for breeders, including breeders in developing countries, as modern breeding stock from the North enabled intensification, concentration and enhancement of livestock production. Undisturbed exchange of AnGR is critical for food security and future of the breeding sector.

At present, contracts are more content detailed and specific. Breeding companies develop contracts for their distributors and customers, which could be considered as examples of best practices for this sector. Such contracts may contain provisions similar to benefit sharing arrangements between provider and user. Examples of such arrangements are given below.

As example from France, the owner of the bull dam (that was inseminated with semen of the bull sire in a required period) sells the male progeny born from this planned mating. The initial price is a minimum of 2750 € for a male calf, and an additional 120 € is paid if the calf growth rate is over 1.3 kg/day between day 0 and 210. An additional 300 € is paid if the young bull was selected for performance testing, and a final 750 € is paid if the bull was chosen for progeny testing. So the payment is depending on the usefulness of the bull for the breeding company and the breeder is rewarded for that.

Another example comes from the Netherland, Poland and Switzerland, where similar arrangements are in place or being considered. Based on a contract, the owner of a bull dam is entering into a partnership with an AI organization – and sells to the AI organization a male calf on the price of beef cattle for slaughter. The young bull undergoes testing, and if selected as a sire, the initial owner participates in profits obtained from selling its semen.

A quite different example comes from Norway, and was introduced by GENO already in the 1960s. GENO is a breeding company organized as a cooperative, own by dairy farmers. Every year 2000 bull calves are selected for genotyping based on pedigree information. 230 of these bull calves are purchased by GENO based on genotypic values and phenotypic assessments. The price of these calves is fixed and set by GENO. After phenotypic and progeny testing 10-12 bulls are annually selected as elite bulls. There is no additional benefits provided for primary breeders of the elite bulls, except for a grant of 0.123 € per domestic sold semen doses, on average up to approximately 4000 €. If the bull is sold on the export market, the breeder gets a lump sum payment of 1230 €. The benefits from genetic

progress are available to all members of the cooperative. Moreover, there is restriction in using of elite bulls - to only 40% of the matings in each herd, to ensure that all the young and untested bulls get enough daughters (minimum 140) for the progeny testing.

Sometimes, if two breeding companies are entering into a strategic alliance, and exchange purebred animals, the payment might be direct or postponed and based on royalties from utilization of this genetics in the breeding programme of the recipient company (EFFAB, 2011).

Certain elements of international activities related to animal breeding can be also considered as beneficial both to users and to providers of genetic resources. The standards developed for performance evaluation for a number of livestock species and direction of their utilization by the International Committee on Animal Recording ICAR (www.icar.org) , the International Bull Evaluation Service provided by Interbull (<http://www.interbull.org>), and global breeding efforts to improve beef production by INTERBEEF (http://www.icar.org/pages/working_groups/wg_interbeef.htm) facilitate higher reliability and accuracy in estimation of the breeding value of individuals, and therefore support building trust and confidence in improved breeding stock in users.

4.2 Cultural purposes

Livestock farming is often a culturally embedded. Local breeds are often recognized and appreciated by farmers due to their specific cultural/social roles and values. Their management is based on traditional knowledge accumulated over generations. There are many examples where national governments and local communities have a strong identification with particular livestock breeds. However, it is not clear how cultural norms and practices will affect ABS implementation (Welch, 2012).

In Europe, the Spanish cattle breed Toro de Lidia provides a good example on exchange of genetic material for cultural purposes. It is one of the oldest recorded breeds of cattle in Europe and has been used for centuries for bull fighting. So the selection is specific, based on animal performance during corrida. Traits included as selection criteria include: bravura; ability of the animal to fight to the end of corrida; strength and resistance; mobility, agility and speed and the presence in the ring.

The Lidia is a native Spanish breed based on original local groups (Casta), such as Casta Vista Hermosa, Casta Navarra, Casta Jijona, Casta Cabrera, and Casta Vazqueña (Spanish National Breed Information System, 2014). Development of Castas was dependant on traditional knowledge of local people involved in this unique purpose of cattle breeding. A number of breeders' organizations (Union de Criadores de Toros de Lidia, Asociacion de Ganaderias de Lidia, Asociacion de Ganaderos de Reses de Lidia, Agrupacion Española de Ganaderos de Reses Bravas and Ganaderos de Lidia Unidos) are involved in purebred breeding (Cleary, 2013). Moreover, a number of countries (Portugal, France, Mexico, Venezuela, Colombia, Ecuador, Peru and some States of the USA) are involved in carrying out bull fighting spectacles and are members of the World Congress of Lidia Cattle Breeders. A gene bank was established in Spain to enable conservation of the breed important for cultural purposes.

Other examples of marketing of genetic material important for cultural purposes as well as for preservation and utilization of traditional knowledge come from the horse sector. Some

horse breeds have been recognized as national cultural monuments because of their history and national identity and pride.

For instance, the Lipizzan horse breed has a cultural importance to a number of countries (Austria, Slovenia, Croatia, Czech Republic, Hungary and Italy) that have used traditional methods of training based on the Spanish Riding School, dating back hundreds of years. The breed originates from the Lipica Stud Farm that was established in Slovenia's Karst Plateau in 1580, (at that time being a part of the Austrian Empire) and the first horses were brought there from Spain a year later (<http://www.lipica.org/en/stable/stud-farm.>) Similarly, the famous and reputable horse breeding in Kladruby was initiated in 1563, when the National stud was founded by the Emperor Caesar Maxmilián II (<http://www.nhkladruby.cz>).

Specific traditional knowledge associated with locally selected horse breeds has been utilized in cultivating vineyards in several European regions (e.g. Bohemio-moravian Belgian horse in Moravian region of the Czech Republic, a number of French breeds used in different regions of the country). Some working breeds have been selected for their unique physical characteristics, and specially trained for logging in sloping mountainous terrain (e.g. Silesian Norik in the Czech Republic). Exchange of these breeds therefore might have a cultural importance.

4.3 Research

The access to and provision of animal genetic resources is also very important in research, both basic and applied research, that contribute to enhancing the knowledge base in the livestock sector and contributes to improvement of efficiency, sustainability and profitability within livestock sector.

Contracts for scientific purposes

Exchange of animal genetic resources in the context of research projects is diverse, sometimes based on personal informal contacts, but more often, a formal agreement (MTA) between research partners is required before any exchange of biological material takes place (Welch et al., 2013). The “genomic revolution” will provide new opportunities for characterization of AnGR, and will probably result in increased exchange of AnGR for research purposes.

The contracts (examples in Annex) or agreements for research purposes aim to determine conditions of cooperation, and specify utilization of genetic/biological resources as well as secure the interests of parties (including benefit sharing between the partners). Common elements in such agreements/contracts include:

- Parties of the agreement (providing partner and recipient partner).
- Background/Introduction (intentions and obligations of the partners):
 - ✓ Use of the biological/genetic material: usually contains a statement that the biological/genetic material is being supplied on a non-exclusive basis and for the exclusive purposes of research and given experiment.
 - ✓ The biological/genetic material shall be used solely in connection with the current research project.
- Definitions of terms used within the agreement.

- Obligations of the provider; provide the biological/genetic material as agreed.
- Obligations of the recipient:
 - ✓ May use the biological/genetic material only for specified research.
 - ✓ Biological/genetic material and the results shall be treated confidentially unless publication is agreed.
 - ✓ Cannot supply the biological/genetic material to any third party.
- Terms of transfer of rights, inventions and publication:
 - ✓ No right or license to genetic material is granted by the providing partner of the biological/genetic material to the recipient of the biological/genetic material.
 - ✓ If the research results in any invention or inventions, the recipient of the biological/genetic material shall disclose such inventions promptly to the provider.
 - ✓ The recipient and the provider shall then negotiate the ownership and licensing of such inventions and the apportionment of any commercial benefits arising from them.
 - ✓ The recipient will not include the biological/genetic material and/or the information in patent application or other deed of intellectual property rights without the preliminary written agreement with the provider.
 - ✓ The provider and the recipient shall agree on the publication of results.
- Reports on project progress.
- Return of the material. Contract specifies what to do with the remaining material, either destruction or return to the provider, or otherwise.
- Warranty:
 - ✓ The biological/genetic material is understood to be experimental in nature and may e.g. have hazardous properties.
 - ✓ The recipient acknowledges that the biological/genetic material or the use thereof may be considered to infringe the patent rights of others and therefore agrees not to make any use of the biological/genetic material other than agreed on in the current agreement.
- Liability:
 - ✓ The biological/genetic material understood to be experimental in nature and as such will be used at the recipient's own risk.
 - ✓ The transport of the biological/genetic material is the responsibility of provider
- Governing law. The agreement is subject to the law of the provider country.
- Miscellaneous.

4.4 Conservation

There is enhanced movement to store biological material in AnGR gene banks that are usually in the public/cooperative domain. Public sector collections could be considered as important in the context of implementation of the Nagoya Protocol on Access to Genetic

Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the livestock sector.

Gene banks and other (research or breeding) organisations acquire genetic material for storage, and also distribute genetic material from their collections. For these purposes they might choose to use both Material Acquisition Agreements (MAA) and/or Material Transfer Agreements (MTA). The typical content of a MAA and a MTA used in European countries is summarized below.

Acquisition agreements in use for long term conservation/gene banking

Usually gene banks acquire genetic material for long term conservation/gene banking purposes from private parties and also from public (research) institutions. Acquisition agreements between two parties typically include the following elements:

- Identification of legal partners (provider and recipient);
- Objectives of acquiring genetic material;
- Description of conservation objectives (e.g. category, size, diversity of collection);
- Agreement of provider to make material available;
- Identification of material (type of genetic material, identification of donor animal, amount);
- Agreement that provider will make available additional information related to the material (e.g. performance data, health data, etc.);
- Ownership of material collected (e.g. with private party, joint ownership, gene bank/public);
- Storage conditions and responsibility of recipient (e.g. veterinary standards);
- Financial conditions (e.g. collection costs, storage costs, documentation costs);
- Payments for collection and storage by either provider or recipients;
- Conditions for removal of material from the collections (e.g. destroy);
- Decision making process that will grant access;
- Specific access conditions to material from collections:
 - ✓ material for commercial use or not commercial use (often different criteria for conservation, breeding and research),
 - ✓ level of payments,
 - ✓ restriction to use only after embargo period (e.g. 15 or 20 years) or consent of the original provider,
 - ✓ access only above threshold of minimum remaining size of core collection,
 - ✓ often no IP protection allowed based on the use of the acquired material.
- Liability (e.g. for donor animal in case genetic material is collected);
- Responsibility for documentation;
- Data confidentiality.

Material transfer agreement in use for access to national gene bank collections

In a case of access to gene bank collections, the provider (gene bank) and the recipient (user) will usually sign an MTA, if the access request complies with the gene bank access criteria, when established.

Countries or organizations hosting gene bank collections use different type of criteria, e.g.

- The type of use (conservation/breeding or research; commercial or non-commercial use; national or international transfer; etc.);
- The amount of material available in the gene bank for access (by collection category);
- Potential restrictions on use included in the contract between original provider of biological material and the gene bank.

Typically, MTAs used include the following elements:

- The purpose of use declared by recipient, often in the form of a written request/form;
- Specification of material (type of genetic material, identification of donor animal, amount);
- Recipient declaration to respect veterinary and other relevant legislation;
- Provider and recipient agreement on possible payments for material and associated additional costs;
- Recipient commitment on possible non-monetary benefit sharing;
- Recipient declaration on the use the material for the described purpose;
- Recipient declaration not to distribute material further and to report on leftovers;
- Recipient declaration to inform the gene bank of the results and potential problems with utilisation of biological material;
- Provider requirement for rights to offspring or/and results of research;
- Agreement that IP will not be claimed by recipient on the basis of use of the material;
- A liability statement associated with the use of the material.

5. Conclusions

Over time, the livestock sector developed different practices that are accepted both by users and providers of genetic material. Besides the most dominant exchange between private parties, there are also substantial national and international exchanges of genetic material among private parties and public institutions, and among public institutions. Examples were provided here for ABS arrangements and for contracts used in current exchange practices.

At the global level, the FAO Funding Strategy for the Global Plan of Action for AnGR can be considered as a key benefit sharing mechanism (Martyniuk and Diop, 2010) as it provides additional support on a project basis for the conservation and sustainable use of AnGR in developing countries and countries with economies in transition.

It should be also taken into account that livestock breeding is the least profitable part of the entire livestock production (EFFAB, 2011); the vast majority of potential benefits are realized at the breeders' customer level, i.e. on commercial farms. It is also worth underlining that in the livestock sector providers of genetic resources are most often from developed countries, while users are both from developed and developing countries. Given that gene flow of animal genetic resources is primary from developed countries, this is contrary for the principal basis of the Nagoya Protocol. At present, the breeding industry, as a provider of animal genetic resources, has not claimed additional benefits for using their resources, beyond the original price paid for the stock and biological material.

It is also important to realize that the current genetic resources used by animal breeding industry do not fall under the scope of the Nagoya Protocol as they have been accessed before the Protocol comes into force.

There is a concern within the livestock breeding sector that the application of the Nagoya Protocol could potentially be damaging on international/ national trade and access to animal genetic resources and result in higher transaction costs if existing practices and arrangements are not respected.

The implementation of ABS modalities must take into account existing informal and formal arrangements and practices being applied within the livestock sector. To facilitate acquisition and access to AnGR maintained in public genebanks and AnGR for research purposes, there will be need to standardize both MTA and MAA. Initial work in this respect has been undertaken as a part of the ERFP activities and EUGENA network.

6. Information sources

This paper was prepared on contributions provided by the members of the ERFP ABS Task Force as well as NCs on AnGR from the European countries (Austria, Czech Republic, Finland, France, Norway, Poland, Portugal, Slovenia, Switzerland and the Netherlands); and documents available from the ERFP technical meetings (Working Group on *Ex-situ*).

7. Reference list

Cleary C.D., 2013. Gene banks and their role. Case study: Toro de Lidia. Project of the Erasmus student from Universidad Politecnica de Madrid conducted in the Warsaw University of Life Sciences.

EFFAB, 2011. Questions to EFFAB– European Forum of Farm Animal Breeders - in the context of a GIZ commissioned study on developing an ABS regime for animal genetic resources

ERFP, 2014. <http://www.rfp-europe.org/>

FAO, 2009. The Use and Exchange of Animal Genetic Resources for Food and Agriculture Commission on Genetic Resources for Food And Agriculture, Background Study Paper No. 43

Gollin D., Van Dusen E. & Blackburn H., 2008. Animal genetic resource trade flows: Economic assessment. *Livestock Science*, 120 (3), 248-255.

Hiemstra S.J., Drucker A.G., Tvedt M.W., Louwaars N., Oldenbroek J.K., Awgichew K., Abegaz Kebede S., Bhat P.N. & da Silva Mariante A., 2006: Exchange, Use and Conservation of Animal Genetic Resources. Policy and regulatory options. Centre for Genetic Resources, the Netherlands and Wageningen University and Research Centre December 2006; CGN Report 2006/06

ftp://ftp.fao.org/DOCREP/fao/010/a1250e/annexes/Thematic%20studies/Exchange_use_and_conservation.pdf

Hiemstra S.J., Martyniuk E., Ducheve Z. & Begemann F. et al., 2014. European Gene Bank Network for Animal Genetic Resources (EUGENA). World Congress of Genetic Applied for Livestock Production, Vancouver, Canada

Martyniuk E. & Diop M., 2010. Sense and nonsense of a fully developed binding treaty on AnGR (from an ABS perspective). A cost-benefit analysis". Proceedings of the International Technical Expert Workshop "Exploring the need for specific measures for access and benefit-sharing of animal genetic resources for food and agriculture" Wageningen, The Netherlands, 7-10 December 2010

<http://documents.plant.wur.nl/cgn/seminars/Worshop20100812/Martyniuk%20and%20Dio%20doc.pdf> and <http://www.wageningenur.nl/en/show/Exploring-the-need-for-specific-measures-for-access-and-benefitsharing-of-animal-genetic-resources-for-food-and-agriculture.htm>

Mathias, E. & Mundy P., 2005. *Herd movements: The exchange of livestock breeds and genes between North and South*. League for Pastoral Peoples and Endogenous Livestock Development, Ober-Ramstadt, Germany.

<http://www.pastoralpeoples.org/docs/herdmovements.pdf>).

Welch E. W., 2012. Potential implications of the Nagoya Protocol for the livestock sector. *J. Anim. Breed. Genet.* 129, 423–424, ISSN 0931-2668

Welch E. W., Shin E. & Long J., 2013. Potential effects of the Nagoya Protocol on the exchange of non-plant genetic resources for scientific research: Actors, paths, and consequences. *Ecological Economics* 86, 136–147

Spanish National Bred Information System, 2014.

<http://www.magrama.gob.es/es/ganaderia/temas/zootecnia/razas-ganaderas/razas/catalogo/autoctona-fomento/bovino/lidia/default.aspx>

Zárate, A.V., Musavaya K. & Schäfer C., 2006. Gene Flow in Animal Genetic Resources. A Study on Status, Impact and Trends. Institute of Animal Production in the Tropics and Subtropics, University of Hohenheim, Germany. Commissioned by GTZ, FAO and Federal Ministry of Economic Cooperation and Development 518 pp. Available in the annex to *The State of the World's Animal Genetic Resources for Food and Agriculture* at <ftp://ftp.fao.org/docrep/fao/010/a1250e/annexes/Thematic%20Studies/Geneflow/GeneflowStudy.pdf>

Annex
Examples of contracts

Austria:	Genebank agreement
Switzerland:	Sales contract
Czech Republic	Kladruby horses - sale contract Model MTA
France	Contract GP poultry distribution Research MTA
Norway	Terms of delivery of semen

Austria
Genebank agreement

Agreement¹

on acceptance and storage of and access to semen of established and endangered cattle breeds for
the set-up of a gene bank

between

(the owner of semen, AI-centre)

and

LFZ Raumberg-Gumpenstein
Institute of Organic Farming and Biodiversity of Farm Animals
Austraße 10
4606 Thalheim
Austria

- A) Acceptance of semen, storage of semen
 - 1. Starting with 1999 the signed AI-centre (owner of semen) makes 50 doses of each new test-bull available for unlimited time for long-storage to build a genetic reserve. Furthermore the AI-center also makes available 50 doses of each proven sire for unlimited time for long-storage to build a genetic reserve if dispensable. A copy of the pedigree and the blood type (DNA analysis) has to be made available together with the semen.
 - 2. The Institute of Organic Farming and Biodiversity of Farm Animals takes over the semen for long-time storage. The semen has to be delivered at least once a year with the protocol of acceptance (appendix 1). After the taking over of the semen the Institute is responsible for the adequate storage.
The storage cost is met by the Institute (Republic of Austria). The semen doses are provided by the owner free of charge. The ownership remains with the producer (AI-centre or breeding organisation).
 - 3. If the Republic of Austria is unable to provide the storage and no successor organization can be found by mutual agreement the stored semen is returned to the owners.
- B) Access to and removal of semen
 - 1. Removal of semen doses is only possible in accordance with the following requirements:
 - 1a) removal for genetic-scientific investigations
 - 1b) removal for genetic-economic use
 - 1c) removal for other purposes (re-vitalizing endangered breeds)

Ad 1a) with the transfer of the semen the owner gives permit to the Institute to remove max 10 doses (20% of the stored doses) for genetic-scientific investigations. Accordingly in case of removal of semen doses for genetic scientific purposes the applicant (analyzing institute) has to provide an agenda on the

¹ Unauthorized translation by Beate Berger

procedure of the scientific investigation and on the information of possible results. This agenda is evaluated by the general assembly of the Austrian Association for Rare Endangered Breeds (ÖNGENE). The owner is informed about the agenda and invited to deliver an opinion. The ÖNGENE and the owner will be provided with the results of the investigation.

Ad 1b) the removal for genetic economic use by the owner is possible 15 years after acceptance into storage at the earliest whereupon 20 doses must be preserved as long time genetic reserve or for other purposes.

Ad 1c) the general assembly of the ÖNGENE decides on removal for other purposes (re-vitalizing endangered breeds). The owner is informed about the decision.

Date

Owner
(AI-centre, breeding organisation)

Institute of Organic Farming and
Biodiversity of Farm Animals

Appendix 1

**Protocol of acceptance into long-term storage for the purpose of genetic reserve
for bull semen***Provider*

Date

Recipient

Institute of Organic Farming and Biodiversity of Farm Animals
Austraße 10
4606 Thalheim
Austria

Breed	Name of bull	Birth date	Life number	Number of doses	DNA reference number

*Provider**Recipient*_____
Signature_____
Signature

For your information

Switzerland Sales contract



Aktiengesellschaft für Dienstleistungen in der Schweineproduktion
Allmend 8 CH-6204 Sempach
Telefon +41 (0)41 462 65 50 Fax +41 (0)41 462 65 49
Info@sulsag.ch www.sulsag.ch MWST 525 317

SwissLW - Schweizer Edelschwein

Sperma Käufer-Erklärung

1. Angaben zum Betrieb

Name: _____
Strasse: _____
PLZ/Ort: _____
Ihre übliche KB-Station: _____ Ihre Kundennr.: _____

- Haben Sie reinrassige Edelschweinsauen in Ihrer Herde?

☐ Nein ☒ Ja

- Verkaufen Sie Zuchttiere?

☐ Jungsaue ☐ Eber ☐ Sonstiges (z.B. Zuchtferkel)

(zutreffendes bitte ankreuzen)

2. Bestimmungen zum Spermaeinsatz von SwissLW Ebern

SwissLW Eber sind an dem „CH“ vor dem Ebernamen zu erkennen

- Das Sperma von SwissLW Ebern darf nicht an Dritte weiterverkauft werden.
- Das Sperma von SwissLW Ebern darf zum Erzeugen von Kreuzungsjungsaue genutzt werden (Besamung von Landrassesauen). Diese Kreuzungsjungsaue können uneingeschränkt verkauft werden.
- Das Sperma von SwissLW Ebern darf zum Erzeugen von reinrassigen Edelschwein Jungsaue für die Remontierung der eigenen Herde genutzt werden.
 - o Weibliche, reinrassige Edelschwein Tiere (Zuchtferkel, Jungsaue, Säue, etc.), die von SwissLW Sperma abstammen oder ≥50% SwissLW Genetik besitzen, dürfen nur nach voriger, schriftlicher Zustimmung der SUISAG verkauft werden! Für den Ferkelverkauf an Mäster ist keine Zustimmung der SUISAG nötig.
- Alle männlichen Ferkel, die von SwissLW Sperma abstammen oder ≥ 50% SwissLW Genetik besitzen, werden als Ferkel kastriert.
 - o Eine züchterische Nutzung (Natursprung, Hofabsamung, etc.) von Ebern, die von SwissLW Sperma abstammen oder ≥50% SwissLW Genetik besitzen, ist nicht gestattet.

3. Kontrollmöglichkeiten der SUISAG

- Mitarbeitern der SUISAG wird auf Verlangen, unter Beachtung der üblichen sanitärischen Regeln, Zutritt zum Betrieb gewährt, um die Einhaltung der Bestimmungen dieser Käufererklärung zu kontrollieren.
- Die Gewinnung von Haarproben für Abstammungskontrollen wird hierfür gestattet.

4. Konventionalstrafen

Sollte der Betrieb im Widerspruch zu den im Punkt 2 dieser Käufererklärung genannten Nutzungsbeschränkungen reinrassige Edelschwein Jungsauen verkaufen oder Eber aufziehen, so ist eine Geldstrafe an die SUISAG zu leisten:

- Weiterverkauftes Sperma: mindestens 300 EUR pro Tube
- Weibliche reinrassige Tiere: 200% des Verkaufspreis oder mind. 500 EUR pro Tier
- Eber aufgezogen und in eigener Herde genutzt: mindestens 1000 EUR / Eber
- Eber verkauft: 200% des Verkaufspreis oder mind. 2000 EUR pro Eber
- Eber verkauft an KB-Stationen: 6500 EUR pro Eber.

5. Gerichtsstand und Erfüllungsort

Etwaige Streitfälle betreffend der Bestimmungen dieser Käufererklärung sind nach schweizerischem Recht in der Schweiz zu entscheiden.

Der Unterzeichnende erklärt:

- Dass er die Bestimmungen dieser Käufer-Erklärung akzeptiert.
- Dass alle Angaben wahrheitsgemäß gemacht wurden.

Ort / Datum:

Unterschrift:

Diese Sperma Käufer-Erklärung ist ausgefüllt und unterzeichnet an Ihre KB-Station zurückzusenden.

Czech Republic
Kladruby horses -Sales Contract

SALES CONTRACT

National Horse-Breeding Farm Kladruby nad Labem, government subsidized entity

Represented by :
 ID.No.: 72048972
 with its registered office at 533 14 Kladruby nad Labem
 (hereinafter referred to as the "Seller")

and
 (hereinafter referred to as the "Purchaser")

have entered on the below mentioned day and year into the following

Sales Contract:

I

Subject Matter of the Contract

1. The subject matter of the Contract is the sale of the herein mentioned horse for the following purpose: hobby.

name:	breed: oldkladruber
date of birth:	colour:
sex:	identification No.
sire:	dam:
breeder: National Horse-Breeding Farm Kladruby nad Labem, 533 14, CZE	
owner: National Horse-Breeding Farm Kladruby nad Labem, 533 14, CZE	

Health at time of sale: to the best of Seller's knowledge, the horse is in good health condition with no clinical changes.

2. Seller represents and warrants to be a sole owner of the horse pursuant Section 1 above.
3. Seller represents and warrants that the transferred horse is not tied with any debts, liens or other legal obligations. Seller undertakes to transfer the ownership right to the horse sold in accordance with this Contract to the Purchaser.

II

Purchase Price

1. The Purchaser undertakes to pay the Seller for the horse referred to in Clause I Section 1 above the mutually agreed price amounting to

2. The Purchaser shall take over the horse from the Seller into his exclusive ownership for the specified purchase price, subject to the terms and conditions referred to in Art. IV. of this Contract.
3. The contracting parties have agreed that the Sales Contract shall be terminated if the Purchaser fails to pay the purchase price during the horse takeover at latest. Clause III. of this Contract.

III Payment

Seller and purchaser agreed that purchaser will make a payment in amount includes 21%VAT cash, tillat latest.

IV Terms of Delivery

1. The Seller undertakes to deliver the horse to the Purchaser not later than on however, subject to payment of the purchase price in full (Section 36 paragraph 2 of the Civil Code). The place of fulfilment for the tax purposes is Kladruby nad Labem.
2. The Purchaser is obliged to take over the horse on the date specified under Section 1 above, including the appropriate documentation, and at the same time to pay the purchase price pursuant Clause II above in full.
3. In the event the ownership right has passed to the Purchaser and the Purchaser has failed to accept the horse on the date specified by Section 1 above the goods (the horse) shall be considered delivered. Regarding to type of goods seller will provide stabling of horse. In that case purchaser is obligated to pay price for stabling of horse from first day following the day from paragraph 1 of this article in amount of,- CZK + 21 % VAT (except vet service) for one feeding day .

V Purchaser's Representations and Warranties

The Purchaser affirms that:

- he has acquainted himself with the horse's state of health;
- he will notify the change of the horse's owner to the authorized authority conducting the Register in accordance with section 46 of the Regulation No. 136/2004 Coll., on Details of Animals' Marking and Registration and on Registration of Farms and Persons Set out by the Breeding Law, within five (5) days following the date of taking over the horse.
-

VI Transfer of Ownership Right and Responsibility for the Horse

Ownership right to the horse passes to the Purchaser only at the time of payment of the purchase price in full. At the same time the liability for risk of damage caused to the horse passes to the Purchaser too.

VII Withdrawal

1. Within the framework of such withdrawal the Purchaser is obliged to send the Seller the written notice mentioning all the horse's defects, including the reasons and causes of their origin, results of the veterinary examination and in case of the horse's death the post-mortem information from the autopsy, attesting these hidden defects, as well as the proposed date of the horse's acceptance by the Seller at the place of delivery pursuant Clause IV Section 1 above.
2. Seller is entitled to withdraw from this Contract in the event the Purchaser has defaulted on payment of the purchase price within ten (10) days following the date determined under Clause IV Section 1 above, at the latest.

VIII Contractual Penalties

1. The contracting parties have agreed that in the event of delay connected with the proper delivery of the horse pursuant Clause I Section 1 above the Seller is obliged to pay the Purchaser the contractual penalty equal to 1% of the purchase price of the horse per day of delay, even if only commenced.
2. The contracting parties have agreed that in the event of Purchaser's default on payment of the purchase price the Purchaser shall pay the Seller the contractual penalty equal to 1% of the purchase price of the horse per day of default, even if only commenced. The claim to payment of the default interest at its statutory level from the due amount shall not be affected thereby.
3. Contractual penalties are due and payable within a period of fourteen (14) days following the date of delivery of the notice to pay to the other obligated party.
4. Contractual penalty shall be paid by the obligated party regardless of whether and at which value the other party has suffered a loss, which is recoverable separately, in addition to the contractual penalty in full.

IX Closing Provisions

1. This Sales Contract comes into force and effect on the date of signature by both the contracting parties.
2. Each and any written correspondence addressed to the Purchaser shall be considered delivered on the third day after it has been sent to the address referred to at the top of this Contract.
3. The Contract has been made in four counterparts, one of which will be received by either of the contracting parties after their signature.
4. The Contract may be only modified or amended by means of the written, mutually agreed amendments numbered in the ascending way, the substance and form of which will be approved and signed by both the contracting parties. These amendments come into effect on the date of their signature by both the contracting parties and they thus also become an integral part of this Contract.
5. The contracting parties mutually affirm that they have entered into the Contract freely and in earnest, are not aware of any circumstances which would exclude entering into the Contract, have not mutually misled each other and shall be responsible in full for any legal consequences resulting from any false information deliberately given by them in the Contract.

Kladruby nad Labem,

The Seller

Národní hřebčín Kladruby nad Labem, státní příspěvková organizace
Company Director

The Purchaser

Czech Republic
Model Material Transfer Agreement

GENERAL INFORMATION***Prior informed consent***

This model agreement is intended to be applied for genetic material supplied by participants in the National Program who, pursuant to the §14 of the Breeding Act No. 344/2006 Coll., provide samples on request of the authorized person coordinating the program. It is used whenever we ask for such a material from farmers. Other material which is produced for the National program directly through purchase order in standard commercial AI centres is not fit with such a document.

Recipient (requesting) party: *National Coordinating Centre for Animal Genetic Resources (NCC, designated by the national law)*

Procedure: *The requesting party has to sign the Material Acquisition Agreement and deliver it to the provider (donor). Subsequently, material supply follows, usually after technical conditions between genebank and (donor) are settled.*

Material Transfer Agreement

Access to ex-situ genetic resources in genebanks i.e. genetic material of farm animals (sperm, embryos, tissues and somatic cells, DNA)

Requesting party: *any subject, domestic or foreign*

Application submitted to: *National Coordinating Centre for Genetic Resources (NCC, designated by the national law)*

Procedure and required data: *Requesting party has to fill out page 1, fields A2, B and C of the MTA Form received on request from the National Coordinating Centre (later hopefully directly through the NCC webpage), sign on the page 3 (field E) and send it back. The NCC will then complete the form (field A1, F) sign on the page 3 and send it to the respective genebank. At the same time the NCC will notify it to the requesting party)*

Time limitation: *30 days (from the request receipt to the notification). The genebank and the requesting party (recipient) will subsequently sign and execute handover of the material.*

Material Acquisition Agreement Reg. Number

Preamble

This is a document, which expresses a prior informed consent of the donor (provider) with the provision of genetic material and governing conditions for the further use of this genetic material, hereinafter referred to as the “material”. The material is conveyed to a genebank with the guarantee of the National Coordinating Centre for Farm Animal Genetic Resources (NCC).

A. Parties to this agreement: *The supplier*.....

(Address)....., hereinafter referred to as the “donor“

Name of donor	
Address	
National Program registration number	

The recipient party: Genebank (Address)

..... hereinafter referred to as the „recipient“

Name of the Genebank	
Address	
Corporation Identification Number	

Nature and amount of the material provided (semen dose, embryo)
Minimum identification data (species, breed/line, identification of the donor’s animal(s), date of acquisition from in situ conditions) – in an attached list

B. Material Information

The donor grants material and related information to the recipient under the terms and conditions of this agreement. The material being provided is identified in the attached list, which forms part of this agreement. The donor asks that the recipient agree to the following before the recipient receives the material:

- 1) The above material is the property of the donor and is made available for purposes of the National Program on Farm Animal Genetic Resources (Decree of the Ministry of Agriculture No.20139/2006-13020) hereinafter referred to as the “National Program”). Donor warrants that he/she is legally free to provide the material.
- 2) The recipient will hold the material in its gene bank, periodically check it, and provide long-term conservation in compliance with all applicable statutes and regulations.
- 3) After placing into the gene bank, this material becomes a sample without market value.
- 4) The material will be used for non-profit activities in research, development, testing and/or evaluation, control, reference and training, for the breed support/reconstruction under the terms of the National Program, only.

- 5) Any delivery of the material for purposes mentioned in the paragraph 4) will be transferred under a separate Material Transfer Agreement having terms consistent with the terms of this Agreement, and will be referred to the donor.
- 6) Unless prohibited by law, recipient assumes all liability for claims for damages against it by third parties, which may arise from the use, storage or disposal of the material except that, to the extent permitted by law, the donor shall be liable to the recipient when the damage is caused by the gross negligence or wilful misconduct of the donor.
- 7) The material is provided at no cost -with a transmittal fee* solely to reimburse the donor for its preparation and distribution costs. (If a fee is requested, the amount will be indicated here: [..... insert fee].
- 8) The NCC authorized official must sign both copies of this Agreement and return one signed copy to the donor. The donor will then supply the material to the genebank following standard completion certificate.

*) not accordant text be crossed out

C. Confirmation by the NCC:

I hereby warrant that I, as an Authorized Official of the NCC hereby certify my guarantee for the material usage pursuant to this Agreement.

Name of Authorized Official (NC):

Signature of Authorized Official

Date

Material Transfer Agreement* Reg. Number

Preamble

This is a document, which governs conditions for the transfer of genetic material, hereinafter referred to as the “material,” and any information relating thereto, hereinafter referred to as the “information,” from the Genebank to the requesting party. The material received under this Material Transfer Agreement (MTA) was acquired with the prior informed consent and will be used in a *bona fide* and sustainable way, in full respect of the principles laid down in the Convention on Biological Diversity (CBD).

A. Parties to this agreement:

A.1. the provider:

Genebank ... (address)...., hereinafter referred to as the “provider“

A.2. the requesting party hereinafter referred to as the “recipient.”

Name of recipient	
Address	
Identification Number	
End User	

B. Material requested

Material specification (species/breed of the donor animal)
Amount and nature of the material requested** (material type and form – lyophilized, deep frozen etc.)

C. Objectives of use of genetic resources provided under this agreement

The material and related information is intended only for use in non-profit activities in research, development, testing and/or evaluation, control, reference and training. For any other use which might ensue from results of that activities, a new agreement between the recipient and the donor of the material (see reference to PIC in the field F) has to be signed.

The recipient will use the material for (Specified by the recipient)

Reference to the corresponding project.
(Contracting body, name and identification number of the project, duration)

**) this model MTA is intended to be included into the national legislation. However, any changes resulted from future legally binding documents (EU relevant legislation) may come to. **) This model agreement is intended to be applied for DNA, somatic cells, tissue samples, ova, sperm, spermatogonial or blastodermal cells or embryos requested by laboratories.*

D. Conditions of transfer of the material

The material and information are provided on the following conditions:

- 1) The recipient agrees neither to claim ownership over the material nor to seek intellectual property rights over them or information passed along.
- 2) The recipient will not sell, distribute or otherwise made available the material and/or information to any other party for any purpose or use this material and/or information in any way for the commercial purposes.
- 3) The recipient will use the material and the information exclusively for the purpose described under Section C above. On completion of these activities any remaining quantities of the material and all the eventual derivates will be treated as follows:
..... (specified by the provider)
- 4) The recipient will ensure that the material will at all times be used and handled in compliance with all relevant laws, rules and regulations applicable, and for the purposes of testing will follow the protocols of standard test and reference procedure.
- 5) The recipient agrees to furnish relevant performance data arising from the evaluation of the material to the provider. Upon request of provider or recipient these data will only be made publicly available after an embargo period of.....years.
- 6) Any other information and/or research results obtained using the material, will be considered proprietary to the recipient. Prior to publication of such results, the recipient will provide the provider with a copy of such intended publication. All such intended publications will contain an acknowledgement of the provider.
- 7) The recipient is free to file patent application(s) claiming inventions made by the recipient through the use of the material but agrees to inform the provider prior to applying for any intellectual property rights related to the use of the received material and notify the provider upon filing a patent application claiming method(s) of manufacture or use(s) of the material.
- 8) The material is provided at no cost, the recipient will – will not (non-accordant text be crossed out) undertake to reimburse the provider for costs associated with distribution of the material to the recipient.
- 9) 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, damage, illness, or injury to person or property whatever the cause may be arising out of or pertaining to recipient's use of the materials, except to the extent permitted by law when caused by the gross negligence or wilful misconduct of the provider.
- 10) Any dispute relating to the interpretation of application of this Agreement will, unless amicably settled, be governed by the Court of the Czech Republic.
- 11) This agreement shall only be capable of change by written amendment executed by duly authorized officers of the parties.
- 12) The relevant signatories must sign each of three copies of this Agreement, one of which retained by the National Coordinating Centre for Farm Animal Genetic Resources, one retained by the recipient and one by the provider.

E. Recipient's acceptance

I hereby certify that as the Responsible Administrative Authority of the recipient, I have read and understood the conditions outlined in this Agreement and I agree to abide by them in the receipt and use of the material. I hereby warrant that I have the full authority to execute this Agreement and to thereby bind the recipient.

Name of Authorized Official: _____

Signature of Authorized Official Date

F. Approval by the NCC:

I hereby warrant that I, as an Authorized Official of the NCC hereby certify my approval of the transfer of the following material to the recipient.

Material provided (to be filled by the provider)

Amount and nature of the material provided (material type and form)
Minimum identification data (species/breed of the donor animal, accession number of the gene bank,)
Further material description (origin, place and date of acquisition from in situ conditions,)
Donor PIC (i.e. a reference to relevant Material Acquisition Agreement)

Name of Authorized Official:

Signature of Authorized Official Date

**G. Release of the material
Providing gene bank**

Name: _____

Address: _____

The undersigned parties certify hereby handover of the material specified under the filed F to the recipient.

Date of material release _____

Signature of Authorized Official Signature of Recipient of the genebank.

France

Grandparent and parent breeding stock sales and distribution agreement

**GRANDPARENT
AND
PARENT BREEDING
STOCK SALES
AND
DISTRIBUTION AGREEMENT**

TABLE OF CONTENTS

SECTION I - DEFINITIONS	
SECTION II - UNAUTHORIZED BREEDING AND REPRODUCTION.....	
SECTION III - SALE AND PURCHASE.....	
SECTION V - MINIMUM QUANTITIES	
SECTION VI - PRICE	
SECTION VII - PAYMENT	
SECTION VIII - REPRESENTATIONS OF BREEDER	
SECTION IX - TITLE AND RISK	
SECTION X - QUALITY CONTROL PRESERVATION	
SECTION XI - INSPECTION.....	
SECTION XIII - TRADEMARK.....	
SECTION XIV - NO PARTNERSHIP OR JOINT VENTURE	
SECTION XV - LIABILITY.....	
SECTION XVI - FORCE MAJEURE EVENTS.....	
SECTION XVII - TERM AND TERMINATION	
SECTION XVIII - MISCELLANEOUS	
SECTION XIX - CONFIDENTIALITY	
SECTION XX - ANNOUNCEMENTS	
SECTION XXI - COSTS	
SECTION XXII - WAIVER.....	
SECTION XXIII - SEVERABILITY.....	
SECTION XXIV - NOTICES	
SECTION XXV - GOVERNING LAW	
Disease Status	
Category 1	
Category 2	
Category 3	
Testing Regime.....	
Phase 1	
Phase 2.....	
Phase 3.....	
Disease Status	

This Agreement is made the first day of 18th March 2002 between

XXX

(hereinafter referred to as the "Breeder") (which expression shall include its legal successors and permitted assigns where the context so requires or admits) and

(hereinafter referred to as the "Importer") (which expression shall include its legal successors and permitted assigns where the context so requires or admits).

WITNESSETH:

WHEREAS the Breeder is engaged in the breeding, sale and distribution of the Products (as hereinafter defined).

WHEREAS the Importer is engaged in the rearing and sale of poultry in the Territory.

WHEREAS the Importer is desirous of obtaining, upon and subject to the terms and conditions set out in this Agreement, Grandparent (as hereinafter defined) from the Breeder to enable it to produce on farms owned or controlled by the Importer in the Territory (as hereinafter defined) Parent (as hereinafter defined).

WHEREAS the Importer may wish to import Parent from the Breeder from time to time to supplement its own production of said Parent upon and subject to the term and conditions set out in this Agreement.

WHEREAS the Importer has agreed to purchase a minimum quantity of Grandparent from the Breeder for each Contract Year (as hereinafter defined) during the term of this Agreement.

WHEREAS the Breeder is willing to supply the Importer with the Products upon and subject to the terms and conditions set out in this Agreement.

WHEREAS the Breeder is willing to grant a license of the Licensed Trademarks (as hereinafter defined) to the Importer upon and subject to the terms and conditions set out in this Agreement.

NOW THEREFORE, it is mutually agreed by and between the parties as follows:

SECTION I - DEFINITIONS

- (A) **"Affiliate"** when used with respect to any person, means any other person that Controls, is Controlled by or is under common Control with such person, whether through ownership of voting securities or otherwise. For the purposes of this Agreement, "Control" means the ownership of fifty percent or more, directly or indirectly, of the outstanding voting security or capital stock of a business entity or any comparable equity

or ownership interest with respect to a business entity other than a corporation.

(B) **“Agreed Interest Rate”** means ten percent (10%) per annum, accruing from day to day and compounded annually.

(C) **“Confidential Information”** shall have the meaning ascribed to it in Section XIX.

(D) **“Contract Year”** means each period of twelve (12) months commencing on the Effective Date and each anniversary of the Effective Date, or part thereof, until the earlier of the date of termination of this Agreement or the day immediately prior to the subsequent anniversary of the Effective Date, provided that no Contract Year shall extend beyond the termination of this Agreement, and any obligations measured by reference to a Contract Year shall be adjusted to reflect the *pro rata* portion of such year.

(E) **“Documents”** means duplicate of the following (i) a commercial invoice, (ii) a clean full set of the airway bill of lading confirming the delivery of the Products pursuant hereto, (iii) a certificate of origin, (iv) a packing list and (v) Official Health Certificate (vi) any other document notified by the Importer as being legally required for the customs clearance of the Product or its importation into the Territory (consistent with the delivery terms set out in this Agreement), in each case, duly notarised and legalised where required for customs clearance.

(F) **“Effective Date”** means XXX

(G) **“Full Production Cycle”** means the hatching eggs production period of the Grandparent finishing when such Grandparent complete 62 (sixty two) weeks of age or at any date when such Grandparent have to be depleted for whatever reason, which ever is the first to occur.

(H) **“Good Condition”** means, in respect of Grand Parent , to be in compliance with the testing protocol set out in Schedule G,

(I) **“Grandparent”** means the grandparent set out in Schedule A.

(J) **“Initial Term”** means three (3) years from the Effective Date.

(K) **“Licensed Trademark(s)”** means the trademark(s) set out in Schedule E, as may be amended from time to time by the written agreement of the Parties

(L) **“Maximum Supply Quantity”** means a total of [X Units], such Units to be delivered as follows:

(M) **“Minimum Purchase Quantity”** means the minimum quantity of Grandparent set out in Schedule C.

(N) **“Molt”** means inducing the replacement of feathers, the total regression of the reproductive organs and/or the cessation of lay by doing such things as restricting feed and/or water, decreasing day length or administering thyroxine, prolactin or large doses of progesterone.

(O) **“Parent”** means the parent set out in Schedule A.

(P) **“Products”** means the Grandparent and the Parent set out in Schedule A.

(Q) **“Territory”** means the territory set out in Schedule B.

(R) **“Units”** shall, in respect of Grandparent, have the meaning set out in Schedule A.

SECTION II - UNAUTHORIZED BREEDING AND REPRODUCTION

The Products offered for sale to the Importer represent in their development large investments in money and skill by the Breeder. It is therefore necessary to safeguard this investment by complete controls when these Products are distributed to third parties. Such controls are essential to the Breeder and failing such, the Breeder would not enter into this Agreement. The Importer fully understands that this Agreement prevents the Importer from unauthorised breeding and reproducing of the Products supplied to it, and in view of the trust and confidence placed in it, the Importer shall at all times use all reasonably and necessary care and precaution in respect thereof by observing the controls against unauthorised use, reproduction and multiplication of these lines by others as set out in this Agreement.

SECTION III - SALE AND PURCHASE



- A. **Sale and Purchase Obligations.** Subject to the terms and conditions set out in this Agreement, in each Contract Year, the Breeder agrees to sell and deliver to the Importer when ordered Grandparent up to the Maximum Supply Quantity, and the Importer agrees to purchase the Minimum Purchase Quantity of Grandparents. Notwithstanding the foregoing, there shall be no obligation upon the Breeder to accept orders for Products where delivery of the Products is to take place after the date of termination of this Agreement.
2. **Delivery.** Breeder shall notify importer within 30 days of receipt of an order and its acceptance of such order. If breeder fails to notify importer within such period, it shall be deemed to have accepted such order and the scheduled delivery date shall be deemed to be the date specified in the order. Once orders are accepted by the Breeder, they shall constitute a legally binding commitment to purchase by the Importer. Once orders for Products have been accepted by the Breeder, the actual date of the delivery of the Products shall be agreed between the Parties in writing or, if the parties do not agree, the delivery date shall be 30 calendar days after the delivery date set out in the Importer's order; provided that: a) the delivery date in such order shall not be less than 56 calendar days after the date on which the order is submitted to the Breeder; b) the order is for no less than 8 Units and no more than 20 Units; c) there is a time gap of 2 calendar months between the time orders are received by the Breeder; and the Breeder receives confirmation in writing from the airline company chosen by the Breeder of flight availability for the ordered shipment. The Breeder shall use its commercially reasonable endeavours to procure that a commercial airline company is available to meet such delivery date. If a change in date occurs at the request of Importer, the Breeder shall be permitted to supply at its earliest convenience, provided that the Breeder shall deliver any order the subject of such an altered delivery date as soon as reasonably practicable. The parties shall use reasonable efforts to accommodate the reasonable request of the other party to the extent that such accommodations do not prejudice the interests of such party. Without obligation on its part, the Importer may provide information regarding anticipated needs to the Breeder.

- C. **Replacement Product.** Should the Breeder be unable to supply Grandparent to the Importer, the Breeder may offer to supply, and the Importer may agree to accept, in writing, alternative breeds of the Breeder that are suitable for and compatible with conditions in the Territory, at a price not higher than the price for the corresponding Grandparent. The acceptance of any such replacement product shall reduce the Minimum Purchase Quantity obligations of the Importer for the Products by the amount of replacement product .
- D. **Specifications.** Grand Parent supplied hereunder shall be delivered in Good Condition as per schedule G and the terms set out in this Agreement.

SECTION IV - APPOINTMENT

- The Breeder hereby appoints the Importer as its sole distributor of Parent and sole end recipient of Grandparent in the Territory during the term of this Agreement.
-
- B. The Breeder hereby agrees and undertakes that for the term of this Agreement, no Grandparent as set out in schedule A shall be sold in the Territory by the Breeder or its Affiliates other than to the Importer. For the avoidance of doubt, the Breeder and its Affiliates may supply Parent to third parties in the Territory provided however, the Importer is unable to satisfy the market demands within the Territory and provided further the Importer receives the commission contemplated under Section VI C.
- C. Grandparent shall be supplied to the Importer solely to enable the Importer to breed Parent in accordance with Schedule D and to resell Parents to customers within the Territory.
- D. For the duration of this Agreement and in respect of the Territory, the Importer shall a) only source Product from the Breeder; b) not distribute products from third parties which compete with the Products; and c) in relation to the Parent, refrain from seeking customers therefor outside the Territory, whether by establishing any branch or maintaining any distribution depot therefor.

SECTION V - MINIMUM QUANTITIES

- A. The Importer shall purchase from the Breeder during each Contract Year during the term of this Agreement the Minimum Purchase Quantity for such Contract Year or a pro rata portion thereof for any Contract Year that is less than a twelve month period provided that the obligation to purchase any Product (or, where in writing, replacement product) hereunder shall be subject to:
1. the Breeder not failing or having failed to provide the Importer with Grandparents in compliance with its obligations hereunder;
- Force Majeure; and
 - all applicable Egyptian laws and regulations affecting the ability of the Importer to

import, rear and market the products and their progeny including the availability of quotas.

The sole remedy of the Breeder for failure of the Importer to purchase the Minimum Purchase Quantity shall be the prompt termination of this Agreement by notice in accordance with Section XVIIC.

SECTION VI - PRICE

- The price to be paid by the Importer to the Breeder for Grandparent and the Parent shall be as set out in Schedule F. Unless otherwise agreed in writing, all prices shall be C.P.T. XXX airport (as defined by INCOTERMS 2000 Edition).
- B. Any taxes, levies and other similar payments due in the Territory shall be borne and paid by the Importer. All other taxes, levies and other similar payments due in the country of export shall be borne and paid by the Breeder.
- C. When Parents are purchased directly from Breeder by a Parent stock customer in the Territory, Breeder shall pay Importer a commission of (five percent) 5% of the net FOB value of Parents purchased, such amount to be due and payable to the Importer one calendar month after payment is received at Breeder's bank account.

SECTION VII - PAYMENT

- A. Payments by the Importer to the Breeder shall be in Dollar by Irrevocable Letter of Credit, opened at least five (5) weeks prior to the scheduled delivery date pursuant to the Importers order, with payment under such Irrevocable Letter of Credit to be made to the bank account of the Breeder XXX, or such other bank and bank account number of the Breeder as the Breeder shall notify the Importer in writing from time to time. Payment shall be made 50% at sight upon presentation of the Documents and 50% within one hundred and twenty (120) days from the delivery date of the Products. A discount of 10% per annum shall be applied in case of any pre-payment to be applied to the price of the relevant order.
- B. If the Importer fails to make payment hereunder when due, the Breeder shall be entitled (without prejudice to any other right or remedy it may have) to:
 - 1. cancel or suspend by written notice any further delivery of Products to the Importer until such payment is made in full; and
 - 2. charge interest on outstanding payments at the Agreed Interest Rate from the date payment became due until actual payment is made (irrespective of whether the date of payment is before or after any judgement or award in respect of the same).

SECTION VIII - REPRESENTATIONS OF BREEDER

Breeder represents and warrants:

1. that it has the right to pass title to the Products to the Importer in accordance with this Agreement; and
2. that it is the legal and beneficial owners of the Licensed Trademarks and all other intellectual property rights in the Products in the Territory and the use, breeding and sale of Products by the Importer for the purposes and in accordance with the terms of this Agreement, will not infringe the trade marks or intellectual property rights of any third party.

SECTION IX - TITLE AND RISK

Title to and risk in the Products shall pass to the Importer upon delivery C.P.T. XXX airport (as defined by INCOTERMS 2000 Edition) ("Delivery") passed custom lines and accompanied by the Documents.

SECTION X - QUALITY CONTROL PRESERVATION

The Importer shall comply with the quality control and management requirements set out in Schedule D.

SECTION XI - INSPECTION

The Breeder or its authorised representative shall, on reasonable notice, have the right at any time during normal business hours, to inspect the hatcheries and poultry farms of the Importer where breeding stock is kept to see in what manner the stock is kept, hatching eggs are handled, chicks are hatched and sexed, and the methods followed for safeguarding and preventing the reproduction of the Products. At any such inspection, the Breeder or its authorised representative shall have the right to take blood samples and/or a reasonable number of birds for post-mortem examination to determine whether individual birds or flocks are diseased. All such inspections shall be conducted by the Breeder in such a manner so as not to unreasonably interfere with the conduct of the Importer's business. The Importer shall follow all reasonable recommendations of the Breeder or its authorised representative that may be made from time to time with respect to safeguarding and preventing the unauthorised reproduction of the Breeder's lines. The Importer shall destroy the flock after a maximum of one (1) year of production. The Importer may not Molt a flock of Grandparent without the express written consent of the Breeder.

SECTION XII - PROMOTION

The Importer shall contact all prospects, the names of whom the Breeder may send to the Importer. The Importer shall endeavour to promote the sale and distribution of the Parent during the term of this Agreement in the Territory.

SECTION XIII - TRADEMARK

- A. During the term of this Agreement, the Breeder grants to the Importer at no extra cost a fully paid non-sublicensable, non-exclusive license to use the Licensed Trademark(s) in the Territory (but only in connection with the breeding and sale of the Parents).
- B. The use of the Licensed Trademark(s) by the Importer on the labels and packaging of the Parent or on other printed material shall always be accompanied by an appropriate legend as the Breeder shall direct in writing from time to time. The Licensed Trademark(s) shall always be fully capitalised or given other distinctive treatment when used by the Importer. Copies of all labels, packaging and other printed material on which the Licensed Trademark(s) are used shall be submitted to the Breeder for approval prior to use. The Breeder shall inform the Importer of its approval or disapproval of any such materials promptly and, in any event, within thirty (30) days of its receipt of such materials from the Importer. The Breeder shall not unreasonably withhold its approval of any such materials. Notwithstanding the foregoing, the Breeder shall have no liability for representations made or implied, directly or indirectly, in the Importer's materials. It shall be the Importer's sole responsibility to ensure that all advertising and promotional materials are in compliance with applicable laws and regulations in the Territory. Without prejudice to the foregoing, the Breeder agrees to the use of the Licensed Trademark(s) in the form set out in Schedule E.
- C. In order to protect the Breeder's equity in the Licensed Trademark(s), the Licensed Trademark(s) may only be used by the Importer on the Parent that meet and conform to the Breeder's standards for such stock as set out in this Agreement. The Importer shall not offer for sale any Parent bearing the Licensed Trademark(s) which do not comply with the requirements prescribed by this Agreement.
- D. To safeguard the Breeder's equity in the Licensed Trademark(s), the Licensed Trademark(s) may only be used by the Importer on the Parent that are produced by it in accordance with this Agreement. In the event that an inspection pursuant to Section XI reveals that the Importer does not comply with Schedule D, the Breeder shall have the right on written notice to terminate the trademark license granted by this Section and to terminate this Agreement immediately pursuant to Section XVII(C)(3).
- E. The foregoing authorisation of use of the Licensed Trademark(s) does not constitute a grant to the Importer of any other property right or interest in the Licensed Trademark(s). If the Importer contests the validity of the Licensed Trademark(s), registrations and applications for registration thereof, the ownership thereof by the Breeder or the exclusive right and jurisdiction of the Breeder to control the use of the Licensed Trademark(s), the Breeder shall be entitled to immediately terminate this Agreement on written notice pursuant to Section XVII(C)(4). The Importer shall take all appropriate measures for the protection of the Licensed Trademark(s) reasonably requested by the Breeder, at the Breeder's sole cost and expense. During the term of this Agreement, the Importer shall not obtain in its name additional trademark registrations for the Licensed Trademark(s) or any confusingly similar marks or terms.
- F. The Importer shall promptly notify the Breeder in writing of any infringement of the Breeder's rights to the Licensed Trademark(s) and any threat of action for infringement by any third party concerning the use of the Licensed Trademark(s) of which it gains actual knowledge. The Importer shall join with the Breeder, if required by the Breeder and at the Breeder's expense, in taking steps for the protection of the Breeder's rights

or resisting any such threat of action (as the case may be). The commencement, strategies, termination and settlement of any action relating to the validity of and/or infringement by the Licensed Trademark(s) shall be decided by the Breeder in its sole discretion. The Importer shall, at the Breeder's expense, reasonably assist the Breeder in any such actions.

- G. The Parties agree to co-operate in making an application to the appropriate authorities in the Territory, where necessary, to register the Importer as a registered user of the Licensed Trademark. Upon the termination of this Agreement, the Importer shall be entitled to use the Licensed Trademark(s) for the purposes set out in Section XVII(F)(3). Thereafter, the Importer shall cease all use of the Licensed Trademark(s).

SECTION XIV - NO PARTNERSHIP OR JOINT VENTURE

Nothing in this Agreement shall be construed as creating a partnership, agency or joint venture of any kind between the parties or as constituting any party as the agent of any other party for any purpose whatsoever. No party shall have the authority to bind the other party or to contract in the name of or create a liability against the other party in any way or for any purpose.

SECTION XV - LIABILITY

- A. Subject to Section F below, each Party shall indemnify and hold the other harmless from and against any and all claims, damages, losses and expense (including attorney's fees and costs) incurred or suffered by the other Party arising from the indemnifying Party's conduct, or that of its employees, agents or third parties acting on its behalf, including, but not limited to, such Party's breach of this Agreement and any and all negligent acts and omissions of such indemnifying Party, its employees, agents and third parties acting on its behalf.
- B. The Importer recognises and acknowledges that the performance of the Products are beyond the control of the Breeder and that any representation made as to the potential performance of the Products may not necessarily be indicative of the results which will be achieved by the Importer. The Importer shall take full responsibility for any and all claims for adjustments or replacements or otherwise arising:
1. from the Importer's sales of the Parent; and
 2. in connection with any progeny of the Grandparent and/or the Parent
- C. If the Products delivered to the Importer are not of the quantity set out in the order placed by the Importer pursuant to the terms and conditions set out in this Agreement ("Delivery Shortage"), are not delivered on time, fail to live or grow to the Importer's reasonable satisfaction until they reach seven (7) days of age, are not in Good Condition at the time of Delivery or contain missexed birds (all hereinafter referred to as a "Shortage"); PROVIDED THAT:
1. the Importer shall have reported such fact in writing to the Breeder within: a) 48 hours of Delivery in respect of a Delivery Shortage; b) ten (10) weeks of Delivery

in respect of missexed birds; and c) thirty (30) days after Delivery in all other cases;

2. the Importer has supplied to the Breeder such written proof of the claim as the Breeder may reasonably require by written notice, if such written proof is available; and
3. the Importer shall have undertaken proper management of such Products (to the extent relevant to such claim),

subject to Section XV(E) and in accordance with Schedule G, the Breeder shall promptly, at the Breeder's option, either replace such Products with day old chicks or refund the original purchase price paid for such Products. Such replacement or refund shall constitute the Importer's sole remedy in respect of such Products. For the avoidance of doubt, Section III(C) shall apply to this Section. In the event Breeder does not replace or refund the Importer, the Breeder shall be entitled, at his own discretion, to instruct the bank issuing the Irrevocable letter of credit to deduct such amounts from the second payment due to Breeder under such Irrevocable letter of credit, or to replace or credit an equivalent amount from next shipment. In such case it shall be treated as prepayment pursuant to the terms and conditions of this Agreement. Notwithstanding the foregoing, if the percentage of the Products in an order delivered have a shortage greater than 25 %, the Importer shall be entitled to reject the whole order delivered, and upon such decision the importer shall destroy the whole order and proof the evidence of such destruction. The Breeder shall be entitled to replace or refund the value of the whole order. This shall be the Breeder's sole liability upon such event. .

- D. In order to compensate the Importer in the event of any loss resulting from a Shortage, the Breeder shall include in each shipment, at no charge, an additional:
 1. four percent (4%) for lines C, D, A and B Grandparents ordered in that shipment;
 2. four percent (4%) for Parents ordered in that shipment.
- E. The Breeder shall only be obliged to replace or refund Products pursuant to Section XV(D) in excess of the respective percentages. Notwithstanding the foregoing, the Breeder shall not be obliged to replace missexed birds in a shipment of Products unless the number of missexed birds in that shipment exceeds three percent (2%) D line and B line Grandparents.
- F. Neither party shall be liable to the other by reason of any representation or implied warranty, condition or other term, or any duty at common law or under the express terms of this Agreement for any consequential loss or damage (whether for loss of profit or otherwise) or incidental or punitive damages and whether occasioned by the negligent (or otherwise) act or omission of a party or a party's employees or agents.
- G. UNLESS OTHERWISE EXPRESSLY STATED IN THIS AGREEMENT, ALL CONDITIONS, WARRANTIES, STIPULATIONS OR OTHER STATEMENTS CONCERNING THE PRODUCTS, WHETHER EXPRESS OR IMPLIED, BY STATUTE, AT COMMON LAW OR OTHERWISE ARE EXCLUDED. IN PARTICULAR

(BUT WITHOUT LIMITATION OF THE FOREGOING), THE BREEDER GRANTS NO WARRANTIES REGARDING THE FITNESS FOR PURPOSE, PERFORMANCE, USE, NATURE OR QUALITY OF THE PRODUCTS.

H. Each party acknowledges that:

2. It has not been induced to enter into this Agreement by any representation or warranty other than those contained in this Agreement and that it shall have no remedy in respect of any such representation or warranty except in the case of fraud -.
3. The exclusion and limitation of liability provisions contained within this Agreement are fair and reasonable and that its legal advisors have explained to it effects of such provisions.
4. The Breeder may provide management and technical recommendations regarding the Products from time to time at no cost to Importer. However, the Breeder shall not be responsible for the Importer's reliance upon such and such recommendations are not a guarantee of performance of the Products
5. The Breeder is a professional breeder with experience in establishing breeds and rearing them, and the Importer is a professional operating in the same field of business as the Breeder in the rearing of poultry.

SECTION XVI - FORCE MAJEURE EVENTS

Neither party shall be deemed to be in breach of this Agreement or otherwise be liable to the other for failure to perform or delay in performing any of its obligations under or pursuant to this Agreement if and in so far as such failure or delay is because of any act of God, war, hostilities, riot or other armed conflict, explosion, accident, flood, disease, sabotage, lack of general fuel, power, raw materials, transportation, damage or loss during transportation, general strike, any limitation upon exportation, compliance with Governmental laws, regulations or orders or any other cause or event beyond the control of that party (except to the extent foreseeable and a Party has failed to take reasonable steps to protect against the effects thereof) ("Force Majeure Event"). The time for performance of a party's obligation(s) affected by the Force Majeure Event shall be extended by the period of the Force Majeure Event (provided that any Minimum Purchase Quantity for such period shall expire and not be extended). However, if a Force Majeure Event continues for a continuous period of more than one hundred (100) days during the term hereof, either party shall be entitled to terminate this Agreement pursuant to Section XVII(B)(3).

SECTION XVII - TERM AND TERMINATION

- A. The parties acknowledge this Agreement shall be deemed to have commenced on the Effective Date and shall continue in force for the Initial Term, unless and until terminated earlier in accordance with its terms. This Agreement shall continue indefinitely after the Initial Term unless either party has served on the other party one hundred and twenty (120) days prior written notice of termination to expire at the end of the Initial Term or any time thereafter.

- B. Unless expressly stated otherwise in this Agreement, either party shall have the right to terminate this Agreement upon written notice:
1. upon thirty (30) days written notice of such termination, if the other party breaches any of its obligations under the provisions of this Agreement, unless within such thirty (30) day period such breach shall have been cured; or
 2. immediately if the other party is adjudged bankrupt, or is put or decides to go into liquidation, or otherwise discontinues business, makes an assignment for the benefit of its creditors, becomes insolvent or unable to meet its current payments, or has a receiver or other custodian of any kind appointed for any substantial amount of its property; or
 3. immediately if the other party cannot fulfil its obligations under this Agreement for a continuous period of more than one hundred (100) days during the term of this Agreement because of a Force Majeure Event.
- C. Without prejudice to the Breeder's rights at law or otherwise, the Breeder shall have the right to terminate this Agreement immediately upon written notice if:
1. there is any change in the Control of the Importer; or
 2. the Importer fails to order the Minimum Purchase Quantity during any Contract Year; or
 3. the Importer fails to comply with Schedule D in a material respect, and such breach is not cured within [30] days of receipt of notice thereof; or
 4. the Importer contests the validity of the Licensed Trademark(s), registrations and applications for registration thereof, the ownership thereof by the Breeder or the exclusive right and jurisdiction of the Breeder to control the use of the Licensed Trademark(s).
- D. Sections XI, XIV, XVII, XVIII, XX, XXI, XXII and XXIII shall survive any termination or expiration of this Agreement for whatever reason.
- E. In addition to the Breeder's other rights hereunder and at law, if the Importer shall violate the conditions set forth in Schedule D in a material respect, the Breeder shall have the right to require that the Importer shall destroy all Grandparent sold to the Importer pursuant to this Agreement under the supervision of the Breeder.
- F. Upon the termination or expiration of this Agreement for whatever reason:
- (1) Importer hereby waives any right to claim indemnity or damages which may be allowed by statute or otherwise arising under the legal theory that the Importer was an agent or a distributor;
 - (2) each party shall immediately return to the other party any Confidential Information belonging to the other party in each party's possession, custody or control; and

- (3) Grandparent sold to the Importer pursuant to this Agreement may complete their normal cycle provided that the conditions set forth in this Agreement are complied with.
- G. If a party has served notice of termination under this Agreement, the Breeder may at any time during the notice period, appoint a new distributor and supply the new distributor with its requirement of Grandparent and the Importer may source (but not sell) products from a competitor. Notwithstanding the foregoing, the new distributor shall not sell the Parent until this Agreement has terminated or (except for termination by the Breeder pursuant to Section XVIIIB or XVIIC) thirty (30) days after the Full Production Cycle of any Grandparent delivered to the Importer shall have ended (whichever is the last to occur).

SECTION XVIII - MISCELLANEOUS

- A. This Agreement:
- (1) constitutes the entire agreement between the parties relating to the supply and purchase of Products and supersedes and extinguishes any prior drafts, agreements, undertakings, representation, warranties and arrangements of any nature whether in writing or oral, relating to such supply and purchase;
 - (2) may be assigned by either Party to a third party with the written consent of the other (such consent not to be unreasonably withheld or delayed); and
 - (3) may be amended only by a written instrument executed by both parties stating that it is an amendment of this Agreement. For the avoidance of doubt, this Agreement shall apply to all contracts for the sale of Products by the Breeder to the Importer during the term hereof to the exclusion of all other terms and conditions including any terms or conditions which the Importer may purport to apply under any purchase order or similar document or that the Breeder may purport to apply under any order acceptance or similar document.
- B. Each Party warrants that it will not make any payment of funds or other assets, directly or indirectly, to government officials or persons acting on their behalf for the purpose of influencing government decisions or actions with respect to this Agreement.

SECTION XIX - CONFIDENTIALITY

- A. Subject to Section B below, each party shall:
- (1) treat as strictly confidential and use solely for the purposes contemplated by this Agreement all confidential documents, materials and all technical, commercial, financial and other information (written or oral) which is obtained or received by it from the other party in connection with or as a result of entering into or performing its obligations under this Agreement or in connection with the negotiations relating to, or the provisions or subject matter of, this Agreement ("Confidential Information"); and
 - (2) not, except with the prior written consent of the other party, publish or otherwise

disclose to any third party any Confidential Information of the other party.

- B. A party may disclose Confidential Information which would otherwise be subject to Section A above if, but only to the extent, it can demonstrate that:
- (1) such disclosure is required by law or is required to be disclosed to any regulatory or governmental body having jurisdiction over it (provided that the party shall use all reasonable endeavours to notify the other party of such requirement in advance of disclosure) or to any stock exchange on which its securities or that of any Affiliate trades; or
 - (2) the Confidential Information was lawfully in its possession prior to the disclosure of such Confidential Information by the other party (as evidenced by written records); or
 - (3) the Confidential Information has come into the public domain other than through a fault of such party; or
 - (4) the Confidential Information was obtained by a third party who is lawfully in possession of such information and is not subject to an obligation of confidentiality owed to the other party.

SECTION XX - ANNOUNCEMENTS

Neither party shall make any announcement (including, without limitation, any communication to the public, its customers or to any of its employees) concerning the provisions or subject matter of this Agreement without the prior written approval of the other party, such approval not to be unreasonably withheld or delayed; provided that either party may communicate the provisions of this Agreement to those of its employees who need to know such information for the purposes of permitting such party to fulfil its obligations set out in this Agreement.

SECTION XXI - COSTS

Each of the parties shall pay its own legal and accountancy costs, charges and other expenses connected with the negotiation, preparation and implementation of this Agreement.

SECTION XXII - WAIVER

No failure or delay by a party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any further exercise thereof or the exercise of any other right, power or privilege hereunder or otherwise.

SECTION XXIII - SEVERABILITY

Should any provision of this Agreement be held to be invalid or unenforceable, then such

provision shall, so far as it is invalid or unenforceable, be given no effect and shall be deemed not to be included in this Agreement but without invalidating any of the remaining provisions of this Agreement. The parties shall then use all reasonable endeavours to replace the invalid or unenforceable provision by a valid provision the effect of which is the closest permissible to the intended effect of the invalid or unenforceable provision.

SECTION XXIV - NOTICES

All communications, notices, orders and facsimile transmissions ("Notices") sent pursuant to this Agreement shall be addressed to the Importer at its address set out at the beginning of this Agreement and to the Breeder at its address set out at the beginning of this Agreement and shall be addressed for the attention of the Vice President of XXX. Any Notice shall be deemed served if sent by either party by prepaid first class recorded delivery or registered post to the aforementioned address of the other party or by facsimile transmission followed immediately by a written copy of the facsimile transmission by prepaid first class recorded delivery or registered post to the aforementioned address of the other party. Notices shall be deemed received by or sent upon the addressee within twenty four (24) hours after posting or twenty four (24) hours after the sending of the facsimile transmission to the correct number (without error message) of the addressee.

SECTION XXV - GOVERNING LAW

- A. This Agreement shall be governed by English law. All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The place of arbitration shall be Geneva and the language of arbitration shall be the English language.
- B. This Agreement may be executed in one or more counterparts in the English language, each of which shall be an original. Any version hereof executed in any other language shall be merely a translation and not an original.

IN WITNESS HEREOF, each of the parties hereto has caused this Agreement to be executed by one of its officers or other authorised person.

Duly Authorized Person

XXX.

By:
Delegate Member and General Director of Operations

Duly Authorised Person

SCHEDULE A**The Products****Grandparent means:**

"XXX"

A Unit means:**In respect of Grandparents, the following number of Day old chicks:**

1000 D line + 4% free of charge
200 C line + 4% free of charge) To be reared and bred by the Importer to produce
250 B line + 4% free of charge) the day old chicks Parent in the Territory
50 A line + 4% free of charge)

plus 50 chicks free of charge per line for testing purpose as per Schedule G

Parent means:

"XXX": Mated Female Parent Stock with 15% Male Parent Stock +_4_% Free of Charge

SCHEDULE B**The Territory****XXX**

SCHEDULE C

Minimum Purchase Quantity of Grandparents

XX Units per Contract Year (+/- 10%)

SCHEDULE D

Quality Control and Management Requirements

- A. The Importer acknowledges that the various lines offered to the Importer for production of progeny represent in their development large investments in money, business reputation, skill and know-how by the Breeder. These lines have been developed and produced by the Breeder only after a considerable research effort entailing quite intricate and involved developmental and quality control procedures.
- The Importer acknowledges further that the controls and handling restrictions on these lines imposed by this Agreement are absolutely necessary to preserve this high level of quality control and breeding calibre. If these controls and handling restrictions are not observed, the quality level and breeding calibre of these lines is likely to deteriorate or be lost entirely, both to the detriment of the purchasers, who will receive a product not of the quality and calibre they have come to expect, and to the detriment of the Importer, whose business reputation and investment in supplying a highly bred calibre, top quality product will be seriously jeopardised.
- C. The Importer fully understands the need for these controls and agrees that it will at all times exercise all reasonable and necessary care and precaution with respect to the handling of these Breeder lines and, specifically, the Importer agrees to observe the controls against unauthorised use, reproduction and multiplication of these lines by others as set out in this Agreement, in order to maintain and preserve the high quality and calibre of these lines.
- D. The Importer shall in its handling of Grandparent Lines perform in accordance with the following provisions as to the safeguarding of Grandparent Lines:
1. All male and female Grandparent Lines supplied by the Breeder to the Importer shall during the full production cycle be brooded, reared and kept under the Importer's ownership and control on farms owned or contracted by it.
 2. The Importer shall:
 - (a) not, nor shall it allow others to, reproduce the male or female Grandparent Lines supplied to it,
 - (b) not, nor shall it allow others to, mate the male and female Grandparent Lines supplied to it by the Breeder to other lines unless expressly authorised by the Breeder in writing;
 - (c) not sell, give or transfer to others either males or females of Grandparent Lines except for slaughter;
 - (d) dispose of for slaughter before twelve (12) weeks of age all missexed birds of the male and female Grandparent Lines; and
 - (e) slaughter the A, B, C and D lines at the end of Production Cycle and the missexed birds referred to above under the supervision of a representative of the Importer in such a way that they cannot be used by others.
 3. Male line chicks hatched from the authorised mating of the Grandparent D Line and C Line, female chicks from the authorised mating of the Grandparent B Line and A Line,

and hatched but unsexed chicks of either line may not leave the control of the Importer except for immediate slaughter for meat production. The Importer shall slaughter such chicks by nine (9) weeks of age. The Importer shall not allow others to grow for any purpose whatsoever such male and female chicks and all unsexed chicks that may be hatched. If they cannot be grown under the direct supervision of the Importer they shall be destroyed in the hatchery at the time of hatching.

4. The Importer shall not sell hatching eggs produced from the above-mentioned Grandparent Lines or permit such hatching eggs to be hatched by any other party unless prior express written authorisation is given by the Breeder. The Importer shall place any such eggs which it does not use for hatching into channels for commercial table egg distribution in such manner as will insure that they can under no circumstances be used for hatching purposes.
- E. The Importer shall at all times:
1. use good poultry management in rearing, housing, feeding and managing the Products supplied by the Breeder;
 2. take such measures as may be reasonably necessary to maintain all such Products free from disease contamination; and
 3. use skill and judgement in the care of hatching eggs, in the hatching of the eggs and in the sale and delivery of the chicks hatched from the hatching eggs.

Breeder acknowledges that on or before the effective date it has fully inspected the farms of the importer and found same in suitable condition to the satisfaction of the breeder and capable of implementing breeder quality control and management requirements outlined in this Schedule as at the date of inspection.

SCHEDULE E**Licensed Trademark(s)**

"XXX"

SCHEDULE F**Price**

The price for Grandparent Unit is:

SCHEDULE G

Testing Protocol for the Grandparent

Disease Status

All Grandparent supplied by the Breeder should originate from GG PS, which conform to the following conditions with respect to vertically transmitted diseases at the time of hatching egg setting:

Category 1

The day old chicks should originate from flocks which are free from the following diseases:

- Salmonella pullorum
- Salmonella gallinarum
- Salmonella typhimurium
- Salmonella enteritidis
- Avian mycoplasmosis (M. gallisepticum and M. synoviae)

However, if any of the above diseases is identified within one week from arrival, following the testing programme described below, provided the Importer complies with the requirements set out in Section XVC and subject to Section XVE, the Breeder will as soon as reasonably practical, replace within a maximum of 8 weeks at the Breeder's expenses (or at the Importer's option give credit for) the breeding flock. This shall be the Importer's sole remedy in respect of such breeding flock.

Category 2

The Breeder undertakes to supply Grandparent from flocks which are tested negative for - Avian Leukosis virus (J) by the following method : virus isolation on peripheral blood monocytes (PBM). Furthermore the donor flocks will have never shown any clinical sign of leukosis since they are hatched.

Category 3

The Breeder shall provide upon request vaccination programs of down flocks.

Testing Regime

Phase 1

On arrival at airport, before loading onto the Importer's truck, in the presence of a representative of the Breeder, the following samples will be taken:

Liners from 20 boxes: 2 boxes from line A, 4 from line B, 3 from line C and 11 from line D. From each box, 3 pieces of liner are taken to constitute 3 sub-samples*: 1 sub-sample for immediate analysis – the 2 others shall be kept in a fridge (between 2 and 8°C). The sub-samples from each line are gathered into 3 envelopes per line (4 lines x 3 envelopes = 12 envelopes in total).

- 6 day old chicks from line A)
- 12 day old chicks from line B) equally divided into
- 12 day old chicks from line C) three sub-samples*
- 24 day old chicks from line D)

One sub-sample will be used for immediate analysis and the two others will be kept in a

freezer.

48 blood samples of each line (that means 192) equally divided into three sub-samples*. One sub-sample (16 samples of each line) will be used for immediate analysis. The other sub-samples will be kept in a freezer.

12 choanal cleft swabs of each line* (that means 48). Swabbing material can be supplied by the Breeder free of charge. These swabs shall be carefully packed in a cool box and put into a deep freezer (about minus 20°C) no later than 4 hours after collection.

* for each sample or sub-sample, samples from different lines must be clearly identified by line, and packed separately so as to avoid contact between samples from different lines.

The analysis will be as follows:

On box liners: *Salmonella enteritidis* and *Salmonella typhimurium* conducted by bacteriology.

On day old chicks: *Salmonella pullorum* and *Salmonella gallinarum* conducted by bacteriology.

On blood samples, serological test for:

- *M. gallisepticum* / *M. synoviae* / *S. pullorum gallinarum* by plate sero agglutination.
- ALV by GP 85/J Virus Elisa test (kit IDEXX).

It is acknowledged by both parties that a serological test for ALV cannot be considered a direct and specific one. Therefore suspicion for ALV contamination can only be made according to the conditions described hereafter.

The first samples will be sent for testing at the Importer's expense to an independent laboratory which will be YYY.

The two other samples (sub samples 2 and sub sample 3) will be sealed and signed by representatives of both parties and held as described above.

For sera agglutination on plate, a serum will be considered positive only if still positive after dilution (1/4 for *salmonella pullorum gallinarum* and 1/5 for *mycoplasma*). The flock will be considered *M. gallisepticum*, *M. synoviae* or *S. pullorum gallinarum* positive only after bacteriological isolation.

For GP85 ELISA test, the analysis will be conducted and the results will be interpreted separately line per line; (p1) is the number of positives found on the first GP 85/J Virus Elisa test made at arrival on 16 serum samples at the AAA laboratory.

If (p1) is equal to 0 or 1 or 2 (on 16 – sixteen) with GP 85/J Virus Elisa test, the line is considered negative and no further claim for ALV can be accepted for this line.

If (p1) is equal to 3 or more than 3 (on 16 - sixteen) with GP 85/J Virus Elisa test, the provisions of phase 2 apply.

Phase 2

In the event of a positive report from the Animal Health Research Institute for *M. gallisepticum*, *M. synoviae*, *S. pullorum gallinarum*, *S. enteritidis*, *S. typhimurium*, GP85/J Virus Elisa Test sub sample 2, in whole or in part at the Breeder's discretion, will be sent for testing at the Breeder's expense to the Laboratory of BBB.

Phase 3

In the event that there is a difference of results, the third sample will be sent to CCC for serological or bacteriological testing at the joint expense of the Breeder and the Importer.

The results of the third laboratory will be final and binding to both parties, and as and if appropriate, the provisions of Schedule G category.1 will apply. A positive serological status regarding *M. gallisepticum*, *M. synoviae* or *S. pullorum gallinarum* must be confirmed by bacteriological isolation.

In the case of GP 85/J Virus Elisa test, if (p1) is equal to 3 or more than 3 (on 16-sixteen) in 2 tests, a second test shall be carried out at 10 weeks as per the provisions of Phase 1 – Phase 2 – Phase 3 above described.

(p2) is the number of positives found on the first GP 85/J Virus Elisa test made at 10 weeks on 16 serum samples at the DDD laboratory.

If (p2) is equal to 0 or 1 or 2 or 3 (on 16 – sixteen) with GP 85/J Virus Elisa Test, the line is considered negative and no further claim for ALV can be accepted for this line.

If (p2) is equal to 4 or more than 4 (on 16 – sixteen) with GP 85/ Virus Elisa test, the provisions of phase 2 apply.

Disease Status

A Chick Arrival Condition Report will be mutually agreed and signed by representatives of both parties, or in the absence of a Breeder representative, by an authorized veterinary authority appointed by the Breeder and shall determine any mortality subsequent to the arrival above the 4 % and up to 7 days caused directly by chick quality problems. Provided the Importer complies with the requirements set out in Section XVC, such mortality will either be replaced within a maximum period of 6 weeks at the Breeder's expense (or at the Importer's option credited). This shall be the Importer's sole remedy in respect of such mortality.

France
Material Transfer Agreement

MATERIAL TRANSFER AGREEMENT

BETWEEN: SENDER **XXX**

AND: ¹ _____, hereinafter called “**the Recipient**” whose registered offices are located at _____, represented herein by _____, Individually called “the party” or collectively “the parties”.

BEING UNDERSTOOD THAT

" **XXX** has in its possession **material biological / vegetable** ², the “**MATERIAL**”, consisting of:

This **MATERIAL** **has been/ has not been** ³ protected by a deed of industrial property:
⁴

" **The beneficiary is interested in the MATERIAL held by XXX to lead researches on** ⁵
_____ .

" “**INFORMATION**” in this agreement shall mean any information, oral or written of a confidential nature relating to the **MATERIAL**.

IN CONSEQUENCE WHEREOF THE PARTIES AGREE AS FOLLOWS

1 XXX undertakes to supply the **MATERIAL** to the Recipient after the signature of this agreement by both parties. The **MATERIAL** is supplied to the Recipient on a non-exclusive basis and for the sole purpose of research and experiment described above. Consequently, the Recipient undertakes to use the **MATERIAL** only to this end.

2 The Recipient acknowledges SENDER as the exclusive owner of the **MATERIAL** (as well as all lines, strains, derivatives, replicated forms, subsets, relative thereto), the **INFORMATION** and rights of industrial and intellectual property relative to them. Consequently, the Recipient will not include the **MATERIAL** and/or the **INFORMATION** in patent application or other deed of industrial property without the preliminary written agreement by SENDER.

3 The Recipient will not proceed to manipulations or alterations, which could affect the rights of SENDER on the **MATERIAL**, without the written and preliminary agreement of SENDER. The Recipient is not authorised to combine, to mix or to incorporate the **MATERIAL** with another material (biologic or not) except for the needs of the research defined above. The Recipient undertakes to use the **MATERIAL** according to the national and international laws and regulations and will make his business of obtaining all authorisations needed to the conduct of its research and experiment.

¹ A remplir par le partenaire. ² Rayer la mention inutile et COMPLETER par une description du matériel (renvoyer éventuellement à une liste annexée) ³ Rayer la mention inutile. ⁴ Préciser si le matériel a fait l'objet d'un titre de propriété industrielle (brevet, COV) ou d'un dépôt. ⁵ Mention OBLIGATOIRE.

4 SENDER, by this agreement, does not grant any right, title deed, right of license or exploitation right, implied or express, to the Recipient by the transfer of the MATERIAL, save express and written agreement of SENDER.

5 The Recipient acknowledges the confidential nature of the MATERIAL and the INFORMATION and agrees: - to supply this MATERIAL and the INFORMATION only in the members of his permanent staff which agree to submit themselves to the provisions of this agreement; -to take all the reasonable measures to avoid that this staff reveals to third parties, even for free, without written and preliminary agreement of SENDER, all or any of the MATERIAL and/or the INFORMATION. The Recipient assumes the responsibility for implementing the obligations of this agreement towards every person having access to the MATERIAL and/or to the INFORMATION.

6 The obligations of confidentiality of the parties in this agreement do not apply to the INFORMATION and to the MATERIAL: -which are in the public domain at the time of their disclosure by one of the parties; -which fall in the public domain without any breach of this agreement; **-which were legally supplied by a third party not being submitted to obligations of confidentiality; - which are already known by SENDER and/or the Recipient before the coming into force of this agreement without having been communicated, directly or indirectly, by one of the parties.**

7 The results stemming from this agreement, obtained by the Recipient, can not be revealed to third parties without the preliminary and written agreement by SENDER. SENDER and the Recipient will determine together if results can be the subject of an oral or written communication and which authors of every party, will be joint authors. In all the publications concerning the use of the MATERIAL and/or the INFORMATION, the Recipient should make reference to the source SENDER of the MATERIAL.

8 The MATERIAL supplied here is of experimental nature. SENDER gives no warrantee or representation as for its utility, efficiency, merchantability, non-toxicity, safety, fitness for a particular use. SENDER declines any liability or responsibility concerning any and all damages caused by the MATERIAL and the INFORMATION, and by the use which could be made of it. SENDER makes no representation or warranty that the use of the MATERIAL and/or INFORMATION will not infringe any patent or other proprietary right.

9 This agreement will come into effect in the date of its signature, for a duration of **two (2) / five (5) years⁶**. At expiry of this Agreement, SENDER can ask to the Recipient to restore the MATERIAL or to destroy it, as well as any derived material. In any case, the obligations of confidentiality and secret contained in this agreement will be maintained as long as the INFORMATION and the results will not have fallen in the public domain.

10 This agreement is submitted to the French law. The parties will do their best to resolve amicably any dispute as for the interpretation or the performance of this agreement. In case of persistent disagreement, the parties will submit this one to the French courts

In witness whereof, this agreement has been drawn up in two original copies.

Done in PARIS, on

THE RECIPIENT SENDER

⁶ Rayer la mention inutile.

Norway**Terms of delivery for semen from three Norwegian breeding organizations**

Dairy cattle, Geno

Terms of delivery for semen and embryo to members of Geno, 3/10-2010

(Geno is the breeding organization for Norwegian Red (NRF), the main dairy breed in Norway.)

Terms of delivery

(Unauthorized translation)

To assure that Geno's work on further developing the NRF-breed and to assure that this work benefits all members, the following terms of delivery apply for semen and embryo of NRF:

1. Semen and embryo delivered by Geno must not be disposed further.
2. Animals that are inseminated with NRF-semen must not be sold to parties that are conducting, or have the intention to conduct, activities that compete with Geno.
3. Offspring after insemination with semen or embryo from NRF, must only be used in own production or sold as part of domestic live cattle sale or by agreement with Geno.
4. If NRF-semen/embryo/animals are disposed in conflict with this clause, the person concerned loses its' right to buy semen or embryo of NRF.

Liability for compensation for use of wrong breed

If it is discovered that it is used semen of wrong breed, an abortion may be performed as soon as possible. Geno covers the costs for the abortion and new insemination. In addition the costs for delayed pregnancy is compensated with Kr 500,-.

If the mistake is not discovered before after the calf is born, Geno will pay kr 500,- as an ex gratia payment of compensation for the mistake. In other respects, Geno disclaim any responsibility for the use of wrong bull within the same breed.

Original Norwegian text is found here:

<http://www.geno.no/Forsiden/Semintjeneste/Leveringsbetingelser/>

Pig breeding, Norsvin

(Norsvin is the Norwegian pig breeding organization.)

Terms of delivery for boar semen (Unauthorized translation)

The terms of delivery contains wording that secure Norsvin formal control with the breeding material originating from the semen business.

Terms of delivery for boar semen from Norsvin:

1. The terms of delivery cover semen delivered from Norsvin, either ordered at the Norsvin centre of or at one of Norsvin's semen depots.
 ...
 ...
 ...
8. In consideration to conserve Norsvin's development work within pig breeding and to assure that this development work benefits the community, the following delivery clause applies:
 - a. Delivered semen must not be disposed further.
 - b. Sows inseminated with semen where the boars breeding number is applied the semen dose (identified semen) must not be disposed further if such is not in agreement with Norsvin.
 - c. Offspring after insemination with identified semen can only be disposed as slaughtering pigs directly to the slaughter house or as piglets for producing slaughtering pigs. This is not applicable for Norsvin's breeding herds (elite herds and multiplier herds) where these conditions are regulated in other agreements.
9. If semen, animals or offspring are disposed further in contradiction to this clause, the receiver loses its' rights to request identified semen from Norsvin's semen station. Additionally the person concerned will not have the opportunity to buy pure bred animals from Norsvin's breeding herds.

Original text from <http://norsvin.no/norsvin.no/Semin/Leveringsbetingelser/Leveringbetingelser-for-raanesaed> in Norwegian. Only text found relevant for ABS relevant issues is translated.

NSG – Sheep and goats

(NSG is the organization for Norwegian sheep and goat farmers and NSG is also the breeding and semen organization for sheep and goat in Norway.)

Terms of delivery for semen

(Unauthorized translation)

Purchase and usage of semen

All sheep farmers that run their production in Norway can buy semen from NSG.

The breeding work on the breeds Norwegian White Sheep (NKS), Short Tailed Sheep (spælsau) and Sjeviot is financed by community funding. NSG must thus assure that sale of semen (genes) from these breeds must benefit all members.

Thus are the following terms of delivery applicable:

1. Delivered semen must not be disposed further without prior consent with NSG.
2. Pregnant ewes and offspring after insemination must only be used in own production, or disposed as a part of natural domestic sale or by agreement with NSG.
3. Pregnant ewes and offspring after insemination must not be sold to parties that are conducting, or have the intention to conduct, activities that compete with NSG.
4. If semen, inseminated ewes or offspring are disposed in conflict with para 1-3, the person concerned loses its' right to buy semen from NSG.

NSG may also lay corresponding restrictions on the usage of semen from other breeds. This will then appear in the presentation of the breed in the semen catalogue.

Original Norwegian text is found here:

http://www.semin.nsg.no/files/katalog_ver/NSG_seminkatalog_sau_2012.pdf (Page 36)

Copies of the original Norwegian texts

Geno:

<http://www.geno.no/Forsiden/Semintjeneste/Leveringsbetingelser/>

Leveringsbetingelser

For å sikre Geno sitt arbeid med å videreutvikle NRF-rasen og sikre at dette arbeidet kommer alle medlemmer til gode, gjelder følgende leveringsbetingelser for sæd og embryo av NRF:

1. Sæd- og embryo levert av Geno må ikke avhendes videre.
2. Dyr som er inseminert med NRF-sæd må ikke selges til aktører som driver eller har til hensikt å etablere konkurrerende virksomhet til Geno.
3. Avkom etter inseminasjon med NRF-sæd/innlegg av NRF-embryo, må kun anvendes i egen produksjon eller omsettes som en del av innenlandsk livdyromsetning eller etter avtale med Geno.
4. Dersom NRF-sæd/-embryo/-dyr avhendes videre i strid med denne klausul, mister vedkommende sin rett til å kjøpe sæd og embryo av NRF.

Erstatningsansvar ved bruk av feil rase

Dersom det oppdages at det er brukt sæd av feil rase, kan det foretas abort så snart som mulig. Geno dekker kostnadene med aborten og ny inseminasjon. I tillegg dekkes kostnader ved forsinket drektighet med kr 500,-.

Dersom feilen ikke oppdages før kalven er født, utbetaler Geno kr 500,- som en billighetserstatning for feilen. For øvrig fraskriver Geno seg alt erstatningsansvar ved bruk av feil okse innen samme rase.

Norsvin:

<http://norsvin.no/norsvin.no/Semin/Leveringsbetingelser/Leveringbetingelser-for-raanesaed>

Leveringbetingelser for rånesæd

fredag 12. april 2013, gjeldende pr 01.01.2013

Leveringsbetingelsene inneholder formuleringer som sikrer Norsvin formell kontroll med avlsmaterialet som stammer fra seminvirksomheten.

Leveringsbetingelser for sæd fra Norsvin:

1. Leveringsbetingelsene omfatter sæd levert fra Norsvin, enten ved bestilling ved Norsvinsenteret eller ved et av Norsvins sæddepoter.
2. Sædavgiftene fastsettes av Norsvins styre. Betaling skjer ved tilsendt faktura, enten som e-Faktura eller på papir. Utskrift på papir blir belastet med et fakturagebyr på kr 35. Ved for sen betaling påløper renter i henhold Forsinkelsesrenteloven.
3. Norsvins ansvar for en sædleveranse opphører når sædpakken avleveres til distributør (f.eks budbil, post). Norsvin har ikke ansvar for forhold som oppstår hos noen av de nevnte distributører.
4. Ved force majeure (streik, naturkatastrofer, krig og lignende) må Norsvin kunne forbeholde seg retten til å annullere en bestilling. Bestilling av sæd fra bestemte råner må skje i henhold til de retningslinjer som er bestemt av Norsvins styre (bla mht bestillingsfrister og tilgjengelighet). Dersom det er bestilt sæd fra en bestemt rane, skal Norsvin, så langt det lar seg gjøre, varsle dersom levering av sæd fra denne ranen ikke kan skje (og ellers levere sæd fra annen passende rane).
5. Norsvins ansvar er begrenset til mangler som beviselig skyldes feil eller forsømmelse fra Norsvin sin side. Norsvins ansvar omfatter kun mottakers dokumenterte tap ved umiddelbar skade, forårsaket av ovenfor nevnte mangler, så som utgifter til ny sæddose, frakt, ekspedisjonsgebyr og egenandel, samt skade på mottakers dyr og/eller besetning. Erstatningsbeløpet begrenses oppad til maksimum kr 5.000,- pr skadevoldende sæddose og maksimalt kr 50.000,- pr besetning. Norsvins ansvar omfatter ikke følgeskader (f.eks misdannelser), indirekte tap i form av tapt dekningsbidrag eller utgifter til eventuell reetablering av besetning. Ved mistanke om at en seminråne er bærer av arvelige defekter, skal mottaker melde fra om dette til Norsvin.
6. For å unngå mulige bevisproblemer er Norsvins ansvar, som følge av pkt 5, betinget av at Norsvin underrettes og skriftlig erstatningskrav fremsettes senest innen 8 dager etter det tidspunkt hvor mottaker burde ha oppdaget forholdet.
7. Alle tvister mellom partene skal avgjøres ved voldgift i henhold til § 11 i Norsvins vedtekter. Dette gjelder dog ikke ved inkassosaker, eller andre saker som følge av manglende betalingsevne. Da kan kravet forfølges via ordinære domstoler.
8. Av hensyn til å bevare Norsvins utviklingsarbeid innen svineavlen og sikre at dette utviklingsarbeidet kommer fellesskapet til gode, gjelder følgende leveringsklausul for rånesæd fra Norsvin:

- a. Levert sæd må ikke avhendes videre.
- b. Purker inseminert med sæd hvor rånens avlsnummer er påført sæddosen (identifisert sæd) må ikke avhendes videre uten at dette er etter avtale med Norsvin.
- c. Avkom etter inseminasjon med identifisert sæd kan kun avhendes som slaktegris direkte til slakting eller som smågris til slaktegrisproduksjon. Dette gjelder ikke Norsvins avlsbesetninger (foredlings- og formeringsbesetninger), hvor disse forhold er regulert i andre avtaler.

Dersom sæd, dyr eller avkom avhendes videre i strid med denne klausul, mister mottaker sin rett til å rekvirere identifisert sæd fra Norsvins seminastasjon. I tillegg vil vedkommende ikke få anledning til å kjøpe renrasede dyr fra Norsvins avlsbesetninger.

NSG, sheep and goats

http://www.semin.nsg.no/files/katalog_ver/NSG_seminkatalog_sau_2012.pdf (Page 36)

Leveringsbetingelser

Kjøp og bruk av sæd

Alle saueholdere som driver sin produksjon i Norge kan kjøpe sæd av NSG.

Avlsarbeidet på rasene Norsk kvit sau (NKS), spælsau og sjeviot er finansiert av fellesskapsmidler. NSG må derfor sikre at salg av sæd(gener) fra disse rasene kommer alle medlemmene til gode.

Derfor gjelder følgende leveringsbetingelser:

1. Levert sæd må ikke avhendes videre uten at dette på forhånd er avtalt med NSG.
2. Drektige søyer og avkom etter inseminasjon må kun anvendes i egen produksjon, eller omsettes som en del av naturlig innenlandsk livdyromsetning, eller etter avtale med NSG.
3. Drektige søyer og avkom etter inseminasjon må ikke selges til aktører som driver eller har til hensikt å etablere konkurrerende virksomhet til NSG.
4. Dersom sæd, inseminerte søyer eller avkom avhendes videre i strid med punktene 1-3, mister vedkommende sin rett til å kjøpe sæd fra NSG.

NSG kan også legge tilsvarende begrensninger på bruken av sæd fra andre raser. Dette vil da gå fram av presentasjonen av værene i seminkatalogen.

July 3rd,
Nina Sæther
Director, PhD