**Notice for the COVID – 19 Tools MTA**

Please note that the MTA Template is locked in most sections including the Terms and Conditions as these are not negotiable. Please ensure that you complete the Location Details and Recipient Contact Details in the Schedule.

The MTA is subject to the agreement of a commercial party to Griffith therefore the Covid - 19 Tools will be supplied only in accordance with these Terms and Conditions.

To ensure the best turnaround time by Griffith please

direct your signed MTA to Brian.Smith@griffith.edu.au with cc to S.Mahalingam@griffith.edu.au for supply.

This is an Agreement between Griffith and the Recipient for Griffith to transfer to the Recipient the Material in accordance with the Terms and Schedule.

**THIS AGREEMENT** is made on 2020

BETWEEN: **GRIFFITH UNIVERSITY** (ABN 78 106 094 461), a body corporate established pursuant to the *Griffith University Act 1998 (Qld)* of 170 Kessels Road, Nathan, QLD 4111 (“**Griffith**”)

AND: **RECIPENT NAME** (ABN ) of [insert physical registered office address] (“**Recipient**”)

**RECITALS**:

A. GRIFFITH and its collaborator the University of Tartu, through research funded by Indian Immunological Ltd, has developed the Original Material for use in experimental research.

1. In consideration for the undertakings of the Recipient set out below GRIFFITH agrees to provide the Original Material to the Recipient.

##### Definitions

In this agreement:

“**Confidential Information**” means any and all information, know-how, data and experience relating to the Material, whether existing prior to the date of this agreement or created during the term of this Agreement whether scientific, technical, commercial, financial or other nature but shall not include information that: (a) is already in the public domain; (b) is received by the Recipient from an independent third party who is lawfully in possession and who is entitled to divulge it and is not under any obligation of confidentiality; (c) becomes available to the public by any means other than breach of this Agreement by the Recipient.

“**Intellectual Property Rights**” means all intellectual property rights, including without limitation: (a) all rights in relation to inventions (including patent rights), copyright, trade marks and the right to have confidential information kept confidential; and (b) any application or right to apply for registration of any of those rights.

"**Material**" means Original Material, Progeny, Unmodified Derivatives and any Original Material contained in Modifications.

"**Modifications**" means substances created by the Recipient which contain or incorporate any Original Material, and include but are not limited to crosses, breeding varieties, cell fusions, and subclones.

"**Original Material**" means any of the original material to be transferred as described in the section ‘Details’.

"**Progeny**" means unmodified descendant from any Original Material, such as virus from virus, cell from cell, or organism from organism.

"**Unmodified Derivatives**" means substances created by the Recipient which constitute an unmodified functional subunit or product expressed by any Original Material, and include but are not limited to subclones of unmodified cell lines, purified or fractionated subsets of any Original Material, proteins expressed by DNA/RNA, or monoclonal antibodies secreted by a hybridoma cell line.

**IT IS AGREED:**

1. The Material shall be used solely for the Purpose by the Recipient only in the Location identified in the Schedule. The Material will not be used for testing in or treatment of humans or for development of a vaccine.
2. The Material shall not be distributed or disclosed to third parties for any purpose without the prior written consent of GRIFFITH. Such limitation shall extend to but not be limited to inclusion in applications for patents.
3. The Recipient may use Confidential Information of GRIFFITH only for the purposes of this Agreement and must keep confidential for a period of 10 years from the date of commencement of this agreement all Confidential Information of GRIFFITH except for disclosures permitted under this Agreement and disclosures required by law. The Recipient may disclose the Confidential Information to such of its officers or employees who have a need to know for the purpose of this Agreement
4. The Recipient agrees Original Material, Progeny and Unmodified Derivatives whether produced by the Recipient or others shall always remain the property of GRIFFITH and Recipient shall not challenge these ownership rights.
5. The Recipient agrees that ownership of any Modifications and Intellectual Property Rights relating to Modifications will vest in GRIFFITH.
6. The Recipient shall not obtain, and shall not attempt to obtain patent coverage on the Material without the prior written consent of GRIFFITH.
7. The Recipient will promptly notify GRIFFITH in writing of all inventions and discoveries arising out of the Recipient’s use of the Material or Modifications. GRIFFITH and the Recipient shall jointly decide on protection and commercialisation of such inventions and discoveries and take into account GRIFFITH’S contribution including its provision of the Material.
8. In the event that the Recipient intends to use any Material or Modification for any commercial purpose, including but not limited to licensing, sale or production related to any Material or Modification, the Recipient shall inform GRIFFITH in writing of any such intent and the granting of a licence to use such Material or Modification for such purposes will be at the sole discretion of GRIFFITH and may be refused.
9. The Material may have inherent defects or deficiencies and is provided for research purposes only. Such Material is provided without warranty of merchantability or fitness for a particular purpose or any other warranty, express or implied. To the full extent permitted by law, any conditions or warranties imposed by such legislation are hereby excluded. It is understood that GRIFFITH and its employees have no liability in connection with such Material or its use.
10. GRIFFITH makes no representation that the Recipient’s use of the Material for the Purpose will not infringe any Intellectual Property Rights or other rights of any third person.
11. The Recipient hereby releases and indemnifies and shall continue to release and indemnify GRIFFITH, its officers, employees and agents from and against all actions, claims, proceedings or demands (including those brought by third parties) which may be brought against it or them, whether on their own or jointly with the Recipient and whether at common law, in equity or pursuant to statute or otherwise, in respect of any loss, death, injury, illness or damage, and any infringement of copyright, patents, trademarks, designs or other intellectual property rights howsoever arising out of the Recipient’s exercise of its rights under this Agreement and from and against all damages, costs and expenses incurred in defending or settling any such action, claim, proceeding or demand. Despite any other provision of this Agreement, the liability of a Party arising under or in connection with this Agreement shall exclude each and all of the following:
12. liability for loss of profit, revenue, goodwill, data, business opportunities, anticipated savings and damage to reputation;
13. any liability which was not reasonably foreseeable given the facts and circumstances known to the Parties as at the date of this Agreement; and
14. liability for any indirect or consequential loss.
15. The Recipient shall ensure that its employees, officers and agents comply with the obligations imposed upon the Recipient by this Agreement as if personally bound by such obligations.
16. This Agreement shall be governed by the Governing Law and the Parties agree to submit to the non-exclusive jurisdiction of the courts of that State.
17. This Agreement shall be effective upon execution by the last person signing the Agreement and shall expire after the Term. The parties may by mutual Agreement in writing extend the Term. Either party may terminate this agreement by giving not less than three (3) months prior written notice to the other party. Expiration or termination shall not prejudice the rights of either party arising under the Agreement prior to expiration or termination. Clauses 2, 3, 5, 6, 7, 8 and 11 shall survive expiration or termination of this agreement.
18. The Recipient will destroy all the Material upon completion of the Purpose, expiration or termination of this agreement whichever sooner unless otherwise agreed by GRIFFITH. The Recipient will notify GRIFFITH in writing once all the Material has been destroyed.
19. This Agreement may be signed in any number of counterparts (whether in original, scanned, electronic or facsimile form) and all those counterparts together make one instrument.
20. The Parties agree to be bound by any Special Conditions identified in the Schedule and those Special Conditions override the other terms and conditions of this Agreement to the extent of any inconsistency.

**SCHEDULE**

| **Description** | **Details** |
| --- | --- |
| Material to be Transferred |

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| Reverse genetics plasmid of Wuhan SARS-CoV-2Reverse genetics plasmid of Wuhan SARS-CoV-2-mcherry Reverse genetics plasmid of Wuhan SARS-CoV-2-nanoluc |

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| Purpose | Academic research related to COVID-19/ SARS-CoV-2 |
| Location | [Insert Details] |
| Term | 7 years |
| Special Conditions | Any publication in relation to the Material must include an appropriately worded acknowledgement of the contributions of Griffith University, University of Tartu and India Immunological Ltd to development of the Material. |
| Governing Law | State of Queensland, Australia |
| Griffith Contact | Name: Mr Brian Smith Associate Director, Engagement Griffith Enterprise (G39) 1.45Address: Griffith University Gold Coast campus Parklands Drive , QLD 4222 AustraliaTelephone: +61 7 552 7294      Email: Brian.Smith@griffith.edu.au |
| Recipient Contact | Name:      Address:      Telephone:      Fax:      Email:       |

**SIGNED AS AN AGREEMENT**

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| Signed for and on behalf of **GRIFFITH UNIVERSITY**by an authorised officer |  |   | ← |
| *Nicholas Mathiou* *Director, Griffith Enterprise* |  |
|  |   | *[Date]* |   |
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| --- | --- | --- | --- |
| Signed for and on behalf of **Recipient**by an authorised officer |  |   |   |
|   | ← |
|  |   | Signature of Authorised Officerwho warrants by signing they have authority to sign this Agreement on behalf of the Recipient |   |
|  |   |  |  |
|  |   |  |  |
| *[Date]* |