

Collaborative research agreement

Parties

UQ **The University of Queensland ABN 63 942 912 684**
a body corporate constituted under the *University of Queensland Act 1998* (Qld)
of Brisbane in the State of Queensland 4072

Collaborator **Universidade Federal de São Paulo CNPJ 60.453.032/0001-74**
a federal institution of higher education, created by law 8.957, of 1994 (UNIFESP)
of Sena Madureira street 1500, São Paulo - SP.
Brazil 04021-001

- Commencement Date;
- (b) created or developed by that party during the Term independently of the Project; or
 - (c) obtained by that party during the Term independently of the Project,
- and made available by that party for the purpose of carrying out the Project.

Business Day

means:

- (a) in the case of UQ, a day in Brisbane which is not on a weekend or a public holiday gazetted by the State of Queensland for Brisbane; and
- (b) in the case of the Collaborator, a day in Brazil which is not on a weekend or a public holiday gazetted by the State of São Paulo, Brazil,

where the determination of whether a Business Day is for the Collaborator or UQ, it will be the party taking the action (e.g. posting a notice).

Background

- A The parties have collaborated in the creation and development of the Proposal for the Project.
- B The parties have agreed to undertake the Project in accordance with the terms and conditions of this Agreement.

Operative terms

1 Definitions and interpretation

1.1 Definitions

In this Agreement:

- Agreement** means this agreement.
- Background Data** of a party means Data that is:
- (a) in existence at the Commencement Date;
 - (b) created or developed by that party during the Term independently of the Project; or
 - (c) assigned or licensed to that party during the Term independently of the Project,
- and made available by that party for the purpose of carrying out the Project.
- Background IP** of a party means Intellectual Property that is:
- (a) in existence at the Commencement Date;
 - (b) created or developed by that party during the Term independently of the Project; or
 - (c) assigned or licensed to that party during the Term independently of the Project,
- and made available by that party for the purpose of carrying out the Project.
- Background Material** of a party means Material that is:
- (a) in existence at the

Commercialise

means to:

- (a) develop, make, have made, use and market;
- (b) in relation to the Intellectual Property, to exercise the rights exclusively granted to the holder of such Intellectual Property by the laws of the jurisdiction in which the Intellectual Property subsists;
- (c) in relation to a product, kit, apparatus, substance, software, documentation or information resource (or any part of such materials), to develop, make, distribute, market, sell, hire out, lease, supply or otherwise dispose of it; and
- (d) in relation to a method or process, to use the method or process, to use the method or process to develop, make, distribute, market, sell, hire out, lease, supply or otherwise dispose of a product, kit or apparatus the use of which is proposed or intended to involve the exercise of the method and process, or to use the method or process to provide a service,

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| | and " Commercialisation " is to be construed similarly. | Encumbrance | means any encumbrance, licence, restriction of use, determination to not apply for or renew a registration of Intellectual Property, whether currently under negotiation or a finalised arrangement. |
| Commencement Date | means the date the last party signs this Agreement. | Equipment | includes any asset, equipment, third party computer software, computer hardware, or facilities contemplated to be provided or acquired by a party for the conduct of the Project (if any) but excludes Intellectual Property and Material. |
| Confidential Information | with respect to a party means the terms of this Agreement and any information: <ul style="list-style-type: none"> (a) relating to the dealings of that party; (b) relating to employees, contractors, students or other persons doing business with that party; (c) of that party which is by its nature confidential; (d) which is designated as confidential by that party; or (e) of that party which the other parties know or ought to know is confidential, irrespective of whether that information was disclosed before, on or after the date of this Agreement, and includes all information relating to the Project, but excludes information: (f) that a party can show by contemporaneous written records was already known to, in the rightful possession of or independently developed by that party in good faith and free of any obligation of confidence; or (g) that a party can show by contemporaneous written records is in the public domain otherwise than by a breach of this Agreement or other obligation of confidence. | Expiry Date | means two calendar years from the Commencement Date. |
| | | Force Majeure Event | with respect to a party means an unforeseeable event beyond the control of an affected party which occurs without fault or negligence of the affected party including: <ul style="list-style-type: none"> (a) fire, lightning, flood, subsidence, volcano activity, earthquake, natural disasters or acts of God; (b) war, riot, insurrection, vandalism or sabotage; (c) infectious disease outbreak, epidemic, pandemic or any analogous event or biosecurity issue, other than a COVID-19 Event; (d) strike, lockout, ban, limitation of work or other industrial disturbance; and (e) law, rule or regulation of any government or governmental agency and executive or administrative order or act of general or particular application, expropriation or a government declaration of a state of emergency. |
| Contribution | means the scientific contribution specified in the Proposal suggested in clause 3. | Head Agreement | means the subaward agreement between the Trustees of Boston University and UQ, dated on or about 8 September 2019, as amended on 5 January 2021 and 28 May 2021 . |
| COVID-19 Event | means an event or circumstance caused by the COVID-19 pandemic, including but not limited to: <ul style="list-style-type: none"> (a) travel restrictions imposed by a government authority or agency; (b) actions taken in response to warnings or advice issued by a government authority or agency; (c) the unavailability or shutdown of premises or facilities; (d) unavailability of personnel due to illness, isolation or quarantine measures; (e) failure or delay in supply of or access to necessary materials, consumables or equipment; (f) unavailability of sufficient or economic insurance cover; (g) actions taken by UQ in relation to paragraphs (a) to (f). | Intellectual Property | means all industrial and intellectual property rights anywhere in the world, whether registered or unregistered, including: <ul style="list-style-type: none"> (a) patent rights, trade mark rights, copyright, plant breeders' rights, rights in relation to inventions, trade names, business names, company names, indications of origin, designs, plant varieties, semiconductors, circuit layouts and related confidential information or knowhow; (b) any right of registration of, provisional applications for, claim of priority from, continuation of or division of such rights; and <p>all other intellectual property as defined in article 2 of the <i>Convention Establishing the World Intellectual Property Organisation 1967</i>.</p> |
| Data | means data, datasets, databases, results, and other information. | Internal Use | means internal non-commercial use by a party within its own organisation operationally or for research, |

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| | education and teaching purposes. | | Schedule 1. |
| Material | means physical samples of a thing or substance, such as biological material, and includes any unmodified derivatives and progeny of that material. | Thesis | means any work, or subject matter other than a work, submitted by a Student for examination for the award of a research degree. |
| Moral Rights | means moral rights as described in Part IX of the <i>Copyright Act 1968</i> (Cth) and any analogous rights arising under statute that exist, or may come to exist, anywhere in the world. | 1.2 Interpretation | |
| Personal Information | means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion. | In this Agreement: | |
| Privacy Laws | means the <i>Information Privacy Act 2009</i> (Qld) and any other Regulatory Requirements relating to the handling of Personal Information. | (a) | labels used for definitions are for convenience only and do not affect interpretation; |
| Project | means the program of researching the Proposal. | (b) | the singular includes the plural and vice versa; |
| Project Data | means all Data created in the course of or arising from the conduct of the Project. | (c) | a reference to a gender includes the other genders; |
| Project IP | means all Intellectual Property created in the course of or arising from the conduct of the Project other than the Student IP. | (d) | headings are for reference only and do not affect the meaning of any provision; |
| Project Material | means all Material created in the course of or arising from the conduct of the Project. | (e) | other grammatical forms of each defined word or expression will have a corresponding meaning; |
| Proposal | means the proposal attached as Schedule 2. | (f) | a reference to this Agreement includes any schedules or annexures to this Agreement; |
| Publication | means any conference paper, article for a journal, portion of a book, poster, presentation, broadcast or other means of disclosure related to the Project or which contains Confidential Information, Project Data or Background Data, Project IP or Background IP, but excludes any Thesis. | (g) | a reference to a clause, paragraph, schedule or annexure is a reference to a clause or paragraph of or schedule or annexure to this Agreement; |
| Regulatory Requirements | means in relation to any undertaking and any circumstance, all laws, statutes and statutory instruments, regulations, or judgments of a competent court of law or applicable rules of stock exchange, which apply to that undertaking or to that circumstance from time to time. | (h) | a reference to a document or agreement, including a reference to this Agreement, includes a reference to that document or agreement as novated, varied or replaced from time to time; |
| Resolution Institute | means the Resolution Institute (ACN 008 651 232) of Level 2, 13-15 Bridge Street, Sydney NSW 2000. | (i) | a reference to "\$", "\$A", "dollar" or "A\$" is a reference to Australian currency; |
| Specified Personnel | of a party means each key individual of that party specified in the Proposal and any replacement personnel contemplated by clause 3.3. | (j) | a reference to a month is a reference to a calendar month; |
| Student | means any research student (including undergraduate and postgraduate student) enrolled at one of the parties or a tertiary institution who is involved in the Project. | (k) | a reference to a person includes a reference to bodies corporate, partnerships, incorporated and unincorporated associations, firms, joint ventures, trusts, governments and governmental and semi-governmental bodies; |
| Student IP | means copyright in any Thesis. | (l) | a reference to any legislation, regulation or other statutory instrument includes a reference to any enactment, amendment, substitution or consolidation and any statutory instrument issued pursuant to such legislation, regulation or other statutory instrument; |
| Term | has the meaning set out in clause 9.1. | (m) | a reference to writing includes all physical and electronic methods of visibly representing or reproducing words, figures or symbols; |
| Territory | means the territory specified in | (n) | no references to a party mean UQ or a Collaborator and references to the parties mean all of UQ and the Collaborators; and |
| | | (o) | words such as "includes" and "including" do not impose any limitation on the construction of general language that is followed by specific examples. |
| | | 2 The Project | |
| | | 2.1 Participation | |
| | | Each party must: | |
| | | (a) | actively participate in the Project including by meeting that party's responsibilities outlined in the Proposal; |
| | | (b) | exercise due care and skill in carrying out the Project and take all reasonable steps to minimise delay in completing the Project; |
| | | (c) | conduct the Project in accordance with all Regulatory Requirements and the following: |
| | | (i) | the <i>National Statement on Ethical Conduct in Human Research 2007</i> (updated 2018); |
| | | (ii) | the <i>Australian Code for Responsible Conduct of Research 2018</i> ; and |
| | | (iii) | the <i>Australian Code for the Care and Use of Animals for Scientific Purposes 2013</i> ; |
| | | (d) | obtain and maintain all regulatory authorisations and approvals, and ethics approvals, necessary for it to perform the Project; |

- (e) cooperate fully with each other in its dealings with any relevant government or regulatory authority in relation to the Project, as reasonably required; and
- (f) keep complete, accurate and up-to-date records regarding its conduct of the Project.

2.2 Responsible coordinators

2.3 The parties appoint as responsible coordinators to manage the Project, being the Professor **Ana Cristina Gales** e-mail ana.gales@unifesp.br from UNIFESP, and Professor **Mark Blaskovich**, e-mail m.blaskovich@imb.uq.edu.au from UQ (as may be updated from time to time).

- (a) The responsible coordinators for each party will meet at the times determined by the responsible coordinators for each party and using any technology that gives a party a reasonable opportunity to participate (including teleconferences).
- (b) The parties authorise the responsible coordinators for each party to manage the conduct of the Project subject to the requirement that the responsible coordinators for each party:
 - (i) ensures that the Project is conducted in accordance with the parties' policies that are directly relevant to the Project at all times; and
 - (ii) does not materially amend the scope or direction of the Project without the consent of the parties.
- (c) For clarity, neither the Specified Personnel nor the responsible coordinators for each party has authority to:
 - (i) bind any party;
 - (ii) make representations regarding Commercialisation of Project IP, Project Material, Project Data, Background Data or Background IP;
 - (iii) vary the terms of this Agreement; or
 - (iv) initiate protection of any Intellectual Property.

2.4 Scholarship Students

If a Student is involved in the Project, the selection, enrolment, management, supervision and examination of that Student will be in accordance with the regulations, policies and procedures of the institution at which the Student is enrolled.

2.5 Head Agreement

- (a) The Collaborator acknowledges and agrees to be bound by and comply with the terms of the Head Agreement, as it applies to the Collaborator.
- (b) In the event of conflict between the terms of the Head Agreement and this Agreement, the terms of the Head Agreement prevail to the extent of the conflict, unless specified otherwise.

3 Contributions

3.1 Provision of Contributions

- (a) The parties will each use their reasonable endeavours to collaborate on the Project, including any modifications, deletions or expansions approved in writing by both parties from time to time in accordance with clause 14.8.
- (b) The parties each make the following Contributions to the Project:
 - (i) from the Collaborator, the dispatch of bacterial isolates from the collection of microorganisms at the LEMC/ALERTA Laboratory; and
 - (ii) from UQ, the genome sequencing of bacterial isolates, the equipment (MinION) and the reagents.

3.2 Equipment

With respect to the Equipment a party provides or makes available for the purposes of the Project (if any), during the Term, that party must:

- (a) not encumber or dispose of any Equipment without the prior approval of the other parties (not to be unreasonably withheld);

- (b) ensure the Equipment is available at such times and for such periods as to ensure the Project is not interrupted or delayed;
- (c) secure and safeguard the Equipment against theft, loss, damage or unauthorised use;
- (d) be responsible for maintenance of the Equipment in good working order;
- (e) be fully responsible for, and bear all risks arising in relation to, the use and disposal of the Equipment; and
- (f) maintain a register of the Equipment and, if requested, provide a copy of the register to the other parties.

3.3 Material Transfer Agreement

As a condition of this Agreement, the parties will enter into the Material Transfer Agreement in the form annexed to this Agreement as **Schedule 3** regarding any Material (including Project Material) that will be transferred.

4 Access to premises, Data and systems

4.1 Premises

Each party will utilise its premises to conduct the Project except as specified otherwise in the Proposal or as agreed otherwise by the parties.

4.2 Access

- (a) Subject to clauses 4.3 and 4.4, a party may allow certain pre-approved and nominated personnel of another party access (during business hours and on reasonable notice) to the first party's premises, Data and systems to the extent reasonably required to enable the other party to conduct the Project in accordance with the terms of this Agreement.
- (b) A party may at any time (acting reasonably) deny access to another party, or remove any personnel from the list of approved personnel of that other party (whether temporarily or permanently) where that other party breaches any of the provisions of clauses 4.3 or 4.4.

4.3 Comply with policies

A party must comply, and will ensure that its personnel comply, with:

- (a) that party's obligations under this Agreement including clause 8;
- (b) all reasonable security, privacy, confidentiality, health and safety, and office conduct policies and procedures notified in advance to that party by another party; and
- (c) all reasonable directions given by another party, whilst on another party's premises or accessing that party's Data or systems.

4.4 Minimal disruption

A party must ensure that its personnel cause no more than minimal disruption to another party while accessing that other party's premises, Data or systems in accordance with this Agreement.

5 Background IP, Background Material and Background Data

5.1 Licence

- (a) Subject to clause 5.3, each party grants the other parties a non-exclusive, non-transferable, royalty free licence in the Territory to use that party's Background IP, Background Material and Background Data:
 - (i) during the Term for the purpose of conducting the Project in accordance with this Agreement; and
 - (ii) if use of the Project IP, Project Material or Project Data is reliant upon the Background IP, Background Material or Background Data:
 - (A) to the extent required for each party to use the Project IP, Project Material or Project Data for Internal Use; and

- (B) to the extent required for each party to use the Project IP, Project Material or Project Data as contemplated by clause 6.5,

during and after the Term.

- (b) For clarity, the licences contemplated by clause 5.1 do not include the right to sublicense to third parties.

5.2 Security

Each party must ensure that:

- (a) it keeps the Background Data and Background Material of the other parties that is in that party's possession secure to the same standard as that party keeps its own Data and Material of a similar nature (and, in any event, to at least a reasonable standard taking into account the nature of the Data and Material); and
- (b) it does not provide the Background Data or Background Material to any third party (other than that party's personnel or the personnel of that party's Affiliates involved in the Project).

5.3 Encumbrances

If a party notifies the other parties that any Encumbrance applies to particular Background IP, Background Material or Background Data at the time that Background IP, Background Material or Background Data is made available for the purpose of performing the Project, then the licence contemplated by clause 5.1 is limited with respect to that Background IP, Background Material and Background Data to the extent of that Encumbrance.

5.4 Notice of allegations of infringement

Each party must give the other parties prompt notice of any allegation that the grant of a licence contemplated by clause 5.1 or use of Background IP, Background Material or Background Data as contemplated by clause 5.1 infringes the Intellectual Property of any third party.

5.5 Acknowledgement

For clarity, other than as expressly set out in clauses 5.1, 6.1 and 6.5 nothing in this Agreement grants any licence or assignment of any Intellectual Property of a party to the other parties.

5.6 Background IP, Background Material and Background Data protection and infringement

Each party must:

- (a) take all steps reasonably necessary to protect, maintain and enforce Background IP made available by it for the purpose of carrying out the Project;
- (b) give to the other part prompt notice of any infringement of Background IP or unauthorised access to the Background Material or Background Data that comes to that party's attention; and
- (c) give to the other party all assistance which is reasonably required by the other party to protect Background IP, Background Material or Background Data of the other party at the other party's cost.

6 Project IP, Project Material and Project Data

6.1 Ownership

- (a) The parties agree that the Project IP, Project Material and Project Data will be owned by UQ.
- (b) To the extent necessary to give effect to clause 6.1(a) each Collaborator assigns all right, title and interest in the Project IP, Project Material and Project Data to UQ effective immediately on the date such Project IP, Project Material or Project Data is created or developed.
- (c) Without limiting clause **Erro! Fonte de referência não encontrada.**, the Collaborator must sign all documents and perform all acts as required by UQ to give effect to the assignment contemplated by clause 6.1(b).
- (d) Each party acknowledges and agrees that the Project IP does not include the Student IP.

6.2 Disclosure

- (a) Each party must notify the responsible coordinators for each party in accordance with the Proposal as to the development of any Project IP, Project Material or Project Data by that party.

- (b) The responsible coordinators for each party will distribute copies of the register of Project IP, Project Material and Project Data to the parties immediately after the register is updated.

6.3 Warranty

The Collaborator represents and warrants to UQ that:

- (a) to the best of that party's knowledge as at the date of this Agreement and as at the date of assignment, the assignment contemplated by clause 6.1(b) by that party and use of the Project IP, Project Material and Project Data created by that party will not infringe the Intellectual Property of any third party; and
- (b) that party is not aware of any allegation that the assignment contemplated by clause 6.1(b) by that party and use of the Project IP, Project Material or Project Data created by that party infringes the Intellectual Property of any third party.

6.4 Notice of allegations of infringement

The Collaborator must give UQ prompt notice of any allegation that the assignment contemplated by clause 6.1(b) or use of Project IP, Project Material or Project Data infringes the Intellectual Property of any third party.

6.5 Licence

- (a) UQ hereby grants to each Collaborator a non-exclusive, non-transferable, royalty free licence in the Territory to use:
 - (i) the Project IP, Project Material and Project Data for the Project during the Term.; and
 - (ii) subject to clause 6.5(b), the Project IP as the Project IP existed at the earlier of:
 - (A) the date on which this Agreement expires or is terminated for any reason; or
 - (B) the date on which that Collaborator ceased to be a party to this Agreement,
 - (C) for that Collaborator's perpetual Internal Use.
- (b) The licence granted by clause 6.5(a)(ii) to the party is revoked if:
 - (i) this Agreement is terminated; or
 - (ii) that party ceases to be a party to this Agreement, as a result of a breach of this Agreement by that party.
- (c) The licence granted by clause 6.5(a) does not include the right to Commercialise the Project IP, or the right to sublicense to any third parties.

6.6 Protection

- (a) The responsible coordinators for each party will review the Project IP from time to time and will promptly notify the parties of the stage of development of the Project IP.
- (b) Subject to clause 6.6(c), the parties acknowledge that UQ may determine the scope and content of any application for or prosecution of protection of the Project IP and that all applications will be filed in the name of UQ.
- (c) If UQ notifies the Collaborators that UQ elects not to seek protection of the Project IP then the Collaborator may pursue protection of the Project IP in UQ's name at that Collaborator's own expense after obtaining UQ's prior consent.

6.7 Acknowledgement

The Collaborator acknowledges that UQ manages the Commercialisation of Intellectual Property via a number Affiliates, and intends to license or assign the Project IP or

transfer the Project Material and Project Data to any of those Affiliates for the purpose of Commercialising the Project IP, Project Material or Project Data.

7 Confidentiality and Publication

7.1 Confidentiality

Each party must:

- (a) keep the Confidential Information of the other parties confidential;
- (b) keep the Confidential Information of the other parties secure;
- (c) not use or copy the Confidential Information of the other parties for any purpose other than to perform that party's obligations or exercise that party's rights under this Agreement;
- (d) only allow access to the Confidential Information of the other parties to the officers, employees and agents of that party who have a need to know the Confidential Information and who are bound by obligations of confidence to that party to at least the standard contemplated by this clause 7.1;
- (e) not disclose the Confidential Information of the other parties to any third party except in accordance with clause 7.1(d); and
- (f) not use the Confidential Information of another party to the disadvantage of that other party.

7.2 Confidentiality agreements

If agreed by the parties, each party must ensure that all of that party's employees, agents and Students involved on the Project enter into a confidentiality agreement with that party on the terms agreed by the parties (acting reasonably).

7.3 Publication

- (a) If a party (Publishing Party) wishes to make a disclosure of Confidential Information (including a disclosure of Project IP or Project Data, or description of Project Material) by means of a Publication, the Publishing Party must first obtain the unanimous consent of the responsible coordinators for each party, which consent may not be unreasonably withheld or delayed.
- (b) The Publishing Party must submit a draft version of the proposed Publication to the responsible coordinators for each party at least 30 days prior to the date upon which it is intended the draft be submitted for Publication.
- (c) The parties must ensure that the responsible coordinators for each party responds within 14 days of receiving a request contemplated by clause 7.3(b) by:
 - (i) providing unanimous consent to the Publication;
 - (ii) providing unanimous consent to the Publication subject to data being anonymised or the Confidential Information being removed from the draft; or
 - (iii) requesting a delay of no greater than 3 months in disclosure of the Publication so as not to prejudice protection of Intellectual Property or Commercialisation of Project IP, Project Material or Project Data.
- (d) If the Publishing Party has not received a response from the responsible coordinators within 14 days it will be entitled to assume consent has been granted the responsible coordinators to publish the draft in the form in which it was submitted for review.
- (e) If the responsible coordinators respond as contemplated by clauses 7.3(c)(ii) or 7.3(c)(iii), the responsible coordinators must provide notice of reasons to justify not providing unconditional consent.
- (f) Where the other parties are asked by the Publishing Party to review reasons given as contemplated by clause 7.3(e), those parties must do so in good faith and in a timely manner and provide notice of their feedback to each other party.
- (g) The obligations in this clause 7.3 survive the Term of this Agreement for a period of five years.
- (h) Subject to clause 7.3(i), the parties acknowledge and agree that any Student may include the results of the Project, in

whole or in part, as part of their Thesis.

- (i) Upon reasonable request from any party to any other parties, those parties must ensure that the Thesis is submitted to the examiners in confidence and following examination the Thesis must be held by the relevant tertiary institution in confidential restricted storage for a period to be agreed in accordance with the relevant tertiary institution's policies and procedures but not to exceed a period of 18 months.
- (j) When any party publishes any material in relation to the Project, that party must acknowledge, at a prominent place in the Publication, the support of the other party in the Project.

7.4 Publicity

The Collaborator must not in any way, either expressly or impliedly:

- (a) represent that UQ or any associated entity endorses that Collaborator's business or the Project IP, Project Material or Project Data; or
- (b) use the names, trademarks or logos of UQ or any associated entity of the Collaborator in any public document without prior consent.

8 Liability

8.1 Consequential loss

Subject to clauses 8.2 and 8.4, each party is not liable to the other parties in connection with this Agreement for any loss or damage however caused (including due to the negligence of that party) that is consequential loss, indirect loss, loss of profits, loss of revenue, loss of reputation, loss of bargain or loss of opportunity.

8.2 Speculative nature of research

Subject to clause 8.4, each party acknowledges and agrees that due to the speculative nature of the Project as research, the outcome of the Project is uncertain and UQ will not be liable for any loss or damage however caused (including due to the negligence of UQ) suffered or incurred by any of the parties in connection with use of any results of the Project, the Project IP, the Project Data or the Project Material.

8.3 Exclusions

Subject to clause 8.4, each party excludes all implied terms, representations and warranties, whether statutory or otherwise relating to the Project or the subject matter of this Agreement other than as expressly set out in this Agreement.

8.4 Requirements of law

If any applicable legislation prohibits the exclusion of liability by a party in the manner contemplated by this clause 8 with respect to particular loss or damage, then:

- (a) the exclusion does not apply to that loss or damage; and
- (b) that party's liability is only limited or excluded with respect to that loss or damage in the manner permitted under that legislation (if any).

9 Term and Termination

9.1 Term

This Agreement commences on the Commencement Date and continues until the Expiry Date, unless:

- (a) UQ notifies the Collaborator that the Project has been completed to UQ's satisfaction earlier than the Expiry Date; or
- (b) terminated earlier in accordance with clauses 9.2, **Erro! Fonte de referência não encontrada.** or **Erro! Fonte de referência não encontrada.**

9.2 Termination of involvement for another party's breach or failure

A party may terminate that party's involvement in this Agreement for any reason by notice at least three months' prior notice, or, by giving the same notice to the other parties if:

- (a) another party commits a material breach of this Agreement that adversely affects the terminating party's ability to perform this Agreement and does not remedy that breach within thirty days of that breach being notified to all of the other parties;
- (b) another party commits a material breach of this Agreement that adversely affects the terminating party's ability to perform this Agreement and that breach is not capable of remedy; or
- (c) any party is unable to obtain ethical clearance from the relevant ethical committee to conduct the Project, in which case, this Agreement will continue to bind the remaining parties to this Agreement.
- (d) For clarity, if a party commits a material breach of this Agreement, UQ may elect to remedy that breach (although UQ is not obliged to do so) in which case the other parties may not terminate their involvement in this Agreement in accordance with clause 9.2(a) in relation to that breach.

9.3 Suspension due to COVID-19 Event

- (a) In addition to any other rights under this Agreement, if a COVID-19 Event occurs that adversely affects a party's ability to perform the Project, UQ may, by notice in writing to the Collaborators, suspend the performance of all or part of the Project (Suspension Notice).
- (b) The Suspension Notice must specify:
 - (i) the details of the COVID-19 Event, and the obligations in relation to the Project which are adversely affected and suspended;
 - (ii) the period of suspension, which will be 90 days unless otherwise agreed by the parties (Suspension Period).
- (c) Upon receipt of the Suspension Notice, the Collaborator must cease performing those obligations in relation to the performance of the Project as specified in the Suspension Notice.
- (d) During the Suspension Period, the parties must seek to agree on a course of action to address the COVID-19 Event.
- (e) If the parties cannot agree on this course of action by the expiry of the Suspension Period, UQ may terminate the Agreement.
- (f) For clarity, the parties must continue to perform any obligations in relation to the Project that are not suspended in accordance with the Suspension Notice.
- (g) No party will be liable to another party for any costs, losses or damages arising as a result of the suspension under this clause.
- (h) For clarity, despite any Suspension Period, the following fees must be paid in full:
 - (i) any fees due for the performance of obligations up to the date of the Suspension Notice; and
 - (ii) any fees due for performance of obligations which are not suspended in accordance with the Suspension Notice.
- (i) A party may issue more than one Suspension Notice under this clause.
- (j) A party must notify UQ if a COVID-19 Event occurs that adversely affects that party's ability to perform the Project.

9.4 Waiver of other rights to terminate

Each party expressly waives any rights that party may have had to terminate this Agreement other than in accordance with this clause 9.

9.5 After termination or expiration

Following termination or expiration of this Agreement, the parties agree that:

- (a) all work on the Project must cease;
- (b) accrued rights and remedies of a party will not be affected;
- (c) each party must return the Confidential Information of the other parties in that party's possession or control except to the extent a party is required to retain a copy in order to comply with any Regulatory Requirements;

- (d) each party must return or destroy the remaining Background Material, Background Data, Project Material and Project Data of the other parties that is in that party's possession or control;
- (e) if UQ has disbursed any amounts paid or payable to UQ under the Head Agreement (Funding) to a Collaborator for the purposes of conducting the Project, that Collaborator must return to UQ all unused and uncommitted Funding;
- (f) clauses **Erro! Fonte de referência não encontrada.**, 5.1(a)(ii), **Erro! Fonte de referência não encontrada.**, 5.4, 6.1, 6.3, 6.4, 6.5(a)(ii), **Erro! Fonte de referência não encontrada.**, 7, 8, 9.5, 10, 11.12, 13 and 14, and any other provisions intended by the parties to survive termination or expiration, will survive termination or expiration of this Agreement and will not be affected by such termination or expiration.
- (g) If any Collaborator's involvement in the Project is terminated for any reason including in accordance with 0 or **Erro! Fonte de referência não encontrada.**, that Collaborator must:
 - (i) provide all assistance UQ reasonably requires to enable UQ to continue the performance of the Project, including in collaboration with a replacement participant; and
 - (ii) use all reasonable endeavours to negotiate licences of that Collaborator's Background IP, Background Data and Background Materials and any interest in the Project IP, Project Data and Project Materials to UQ and the other Collaborators (and any replacement participant) as reasonably required to enable UQ to continue the performance of the Project.

10 Dispute Resolution

- (a) The parties must attempt to resolve any dispute or difference which may arise between them in relation to this Agreement without delay.
- (b) Any dispute arising between the parties may be referred in writing in the first instance to senior representatives of the parties who must endeavour to identify a solution.
- (c) If the dispute has not been resolved within 60 days of first being referred in writing to the senior representatives of the parties then any dispute is to be referred and finally resolved by arbitration in accordance with the Rule of Arbitration of the International Chamber of Commerce International Court of Arbitration (**Resolution Institute**). The seat arbitration will be London, the United Kingdom. The tribunal will consist of a sole arbitrator appointed in accordance with the Resolution Institute. The language of the arbitration is English.
- (d) A party or its representatives may appear virtually in respect of any meetings, conferences or proceedings relating to any disputes arising out of or in connection with this Agreement, including any non-contractual matters.
- (e) Nothing in this clause will prevent a party from seeking urgent interlocutory relief through courts of appropriate jurisdiction.

11 GST

- (a) Words or expressions including the term "Tax Invoice" used in this clause 11 which are defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (**GST Law**) or, if not so defined, then which are defined in the *Competition and Consumer Act 2010* (Cth), have the same meaning in this clause 11.
- (b) The parties acknowledge that all amounts payable under or in connection with this Agreement are expressed on a GST exclusive basis.
- (c) If any supply made under this Agreement is a taxable supply, the recipient must pay to the supplier, in respect of that taxable supply, an additional amount equal to the GST payable by the supplier in respect of that taxable supply.
- (d) The recipient must pay the amount payable under clause 11(c) at the same time as payment must be made for the taxable supply, provided the supplier has given the recipient a Tax Invoice for that payment stating the amount of GST paid or payable by the supplier in respect of the supply to which the Tax Invoice relates.
- (e) Where GST is payable upon an In-Kind Contribution made by

a Collaborator to UQ pursuant to this Agreement, the parties acknowledge that such supply will be the subject of a Recipient Created Tax Invoice (**RCTI**) issued by UQ for the GST inclusive value of the supply as set out in the Proposal, in accordance with the invoicing schedule set out in the Proposal.

- (f) UQ must:
- (i) Issue the original or a copy of the RCTI to the Collaborator within 28 days of the Collaborator having made the supply in accordance with the Proposal; and
 - (ii) keep a copy of the original of the RCTI.
- (g) Each party warrants to the other parties that at the Commencement Date, they are registered for GST and hold an Australian Business Number.
- (h) If at any time during the term of this Agreement a party ceases to be registered for GST then that party must promptly notify the other parties.
- (i) The Collaborators agree not to issue an invoice in respect of any supply of an In-Kind Contribution.
- (j) If, at any time, an adjustment event arises in respect of any supply made by a party under this Agreement, a corresponding adjustment must be made between the parties in respect of any amount paid pursuant to clause 11(c).
- (k) Payments to give effect to the adjustment must be made between the parties and the supplier must issue a valid adjustment note in relation to the adjustment event.
- (l) If an amount that would otherwise be payable under this Agreement is calculated by reference to or otherwise relates to a cost, expense or other amount incurred by a party (**Payee**), then that amount will be reduced by the amount of any input tax credit to which the Payee is entitled in respect of that amount.
- (m) The Payee will be assumed to be entitled to a full input tax credit unless it demonstrates that its entitlement is otherwise prior to the date on which the payment must be made.
- (n) If a person is a member of a GST group, references to GST for which the person is liable and to input tax credits to which the person is entitled include GST which the representative member of the GST group is liable and input tax credits to which the representative member is entitled.
- (o) Each party is solely responsible for all taxes or other withholdings or contributions which may be payable as a result of the receipt of any monies paid or payable to it in relation to the Project. Each party must make all payments required under this Agreement without withholding. If any withholding or deduction is required, when a party makes the payment to which the withholding or deduction relates, that party must pay to the other party any additional amount as will ensure that the other party receives the same total amount that it would have received if no withholding or deduction had been required.

12 Insurance

Each party must, for as long as any obligations remain arising from this Agreement, effect and maintain valid, enforceable and adequate insurances as required by their country's business regulations and requirements.

13 Privacy

To the extent that any Confidential Information, Data or Intellectual Property received, obtained, created or held by a party for the purposes of this Agreement includes Personal Information, a party must:

- (a) comply with the Privacy Laws;
- (b) use the Personal Information only for the purpose of conducting the Project in accordance with this Agreement;
- (c) not disclose that Personal Information outside of Australia without written consent from the party that owns that Personal Information;
- (d) promptly notify the party that owns that Personal Information of any request, complaint or investigation under any of the

Privacy Laws in relation to that Personal Information and co-operate with that party in the resolution of the request, complaint or investigation; and

- (e) immediately notify the party that owns that Personal Information in writing and give full details if it becomes aware or has reason to suspect that an unauthorised disclosure, use, modification or loss of, interference with, or other unauthorised access to the Personal Information.

14 General

14.1 Subcontractors

Each party must not subcontract the performance of all or any part of that party's obligations under this Agreement without the prior consent of the other parties. Each party is responsible for all acts and omissions of its subcontractors as if they were those of the party itself.

14.2 Entire agreement

This Agreement:

- (a) contains the entire agreement of the parties; and
- (b) supersedes all prior representations, conduct and agreements,

with respect to its subject matter, except to the extent that any express guarantees have been given by a party as contemplated by section 59 of the *Australian Consumer Law* (Cth).

14.3 Costs

Each party is responsible for its own costs of entering into and performing this Agreement.

14.4 Notices

- (a) Any notice, consent, approval, undertaking, acknowledgement, verification or report contemplated by this Agreement must be given in writing delivered by hand, mail or email.
- (b) If a notice is:
 - (i) delivered by hand, the notice will be deemed to have been received when delivered;
 - (ii) sent by mail from within Australia to an address within Australia, the notice will be deemed to have been received three Business Days after the date of posting;
 - (iii) sent by mail from outside Australia or to an address outside Australia, the notice will be deemed to have been received 10 Business Days after the date of posting; or
 - (iv) sent by email, the notice will be deemed to have been received when the sender receives an automated message confirming delivery, or four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed, whichever happens first,

except that if a notice is deemed to have been received at a time after 5:00pm on a Business Day or on a day that is not a Business Day, then the notice will be deemed to have been received on the following Business Day.

- (c) Notices given to a party under this Agreement must be given to the addresses and email addresses specified in Schedule 1.

14.5 Force majeure events

- (a) If a Force Majeure Event occurs that adversely affects a party's ability to perform any obligations under this Agreement (other than an obligation to pay any amount), then that party will not be liable for, or in breach of this Agreement as a result of, any failure by that party to perform those obligations as a direct result of that Force Majeure Event.
- (b) If a party relies on clause 14.5(a) and the relevant Force Majeure Event continues for a period of more than 90 consecutive days, then UQ may terminate this Agreement by

giving 14 days' notice to all of the other parties.

14.6 Jurisdiction

- (a) The laws in force in the Defendant's Country govern this Agreement and, to the extent the law permits, all matters in connection with this Agreement including any non-contractual matters.
- (b) Each party submits to the non-exclusive jurisdiction of the courts of the Defendant's Country.
- (c) In this clause, the Defendant's Country means the country of domicile of the party against whom proceedings are instituted by the other party relating to any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter.
- (d) A party or its representatives may appear virtually in respect of any meetings, conferences or proceedings relating to any claims arising out of or in connection with this Agreement, including any non-contractual matters.

14.7 Counterparts

- (a) This Agreement will be validly executed if signed in any number of counterparts and the counterparts taken together will constitute one agreement.
- (b) Each party may communicate its execution of this Agreement by successfully transmitting an executed copy of this Agreement by email to the other party.

14.8 Variation

This Agreement may be altered only in writing signed by the duly authorised representative of each party.

14.9 Assignment

The parties must not assign or purport to novate its interest under this Agreement without the prior consent of the other party (which consent must not be unreasonably withheld or delayed).

14.10 Discretion

Unless otherwise expressly contemplated, where a provision of this Agreement contemplates that a party may exercise its discretion then that party is entitled to exercise that discretion absolutely, with or without conditions and without being required to act reasonably or give reasons.

14.11 Waiver

A right under this Agreement may only be waived by a party in writing to the extent expressly set out in that waiver.

14.12 Relationship

This Agreement does not create a relationship between the parties of trust, agency, partnership or employment.

14.13 English language

Attached as **Schedule 4** to this Agreement is the Agreement translated into Portuguese. In the event of any inconsistency between the English and Portuguese versions of the Agreement, the English language version will prevail.

Schedule 1

General

| | |
|---|---|
| Project Title | <i>“Collection of multi-drug resistant bacteria from low/medium income countries”</i> |
| Term | Two years from the date of its last signature |
| Territory | Australia and Brazil |
| Address for service of UQ | Principal Contact (CI or equivalent) Attention: A/Prof Mark Blaskovich Postal address: Institute for Molecular Bioscience, The University of Queensland, St Lucia, QLD 4072 Australia Telephone number: +61 7 334 62039 Email: m.blaskovich@imb.uq.edu.au |
| Address for service of Collaborators | Universidade Federal de São Paulo (UNIFESP) of Sena Madureira Street 1500, São Paulo - SP. Brazil 04021-001 Collaborator Principal Contact (CI or equivalent): Name: Prof. Ana Cristina Wales Phone: +5511998985561 E-mail: ana.gales@unifesp.br Employee service address: Address for service of Collaborator: Attention: Alert Laboratory and Special Laboratory Microbiology - Federal University of São Paulo (UNIFESP) Address: Rua Pedro de Toledo, 781 - 6th floor - São Paulo, SP - Brazil 04039032 Phone: (011) 55764748 Email: contato@lemc.com.br |

Schedule 2

Proposal

Attached hereto is the Proposal.

Schedule 3

Material Transfer Agreement

Attached hereto is the MTA.

Schedule 4
Agreement

Attached hereto is the Agreement, translated into Portuguese.

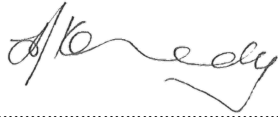
Execution

Signed as an agreement

SIGNED for and on behalf of

THE UNIVERSITY OF QUEENSLAND

by its duly authorised officer:



.....
(Print Name) Lisa Kennedy
(Print Title) Director Research Commercial Management
(City and Date) , 4 March 2022

SIGNED for and on behalf of

Universidade Federal de São Paulo (UNIFESP)

by its duly authorised officer:



Nelson
Sass

.....
Rector
Prof. Nelson Sass
São Paulo,