MATERIAL TRANSFER AGREEMENT

BETWEEN

The University of Bordeaux,
N° SIRET 130 018 351 00010,
Having its registered office at 35 place Pey Berland, 33000 Bordeaux, France,
Represented by its President, Mr. Manuel TUNON DE LARA,
Hereafter referred to as "**University of Bordeaux**",

The Institut Polytechnique de Bordeaux,
Located at 1 rue du Docteur Albert Schweitzer, 33402 Talence Cedex, France,
Represented by its General Director, Mr. Marc PHALIPPOU,

Hereafter referred to as "**Bordeaux INP**",

University of Bordeaux, Bordeaux INP are referred to jointly below as the "**Establishments**",

The Establishments are acting jointly, both on their own behalf and on behalf of the Laboratory "Unité de Recherche Oenologie" (EA4577), 210 chemin de Leysotte - CS50008 33882 Villenave d'Ornon, France, directed by Mr. Philippe DARRIET,

Hereafter referred to as the "**Laboratory**",

on the first hand,

AND

University of FOGGIA,
Via Antonio Gramsci 89, 71122 Foggia
Represented by the Rector of the University, professor Pierpaolo Limone

Hereafter referred to as the "**Provider**",

on the second hand,

Establishments and Provider are referred to individually and jointly below as the "**Party/Parties**".

WHEREAS:

The Provider possess the Material identified by the references in annex 1.

The Establishments, and particularly the Laboratory, wish to use the Provider's Material for research purposes.

The Provider agrees to supply the Original Material to the Establishments, as well as the information necessary to conduct the research, on the terms and conditions defined in this agreement.

CONSEQUENTLY, THE PARTIES HAVE AGREED AS FOLLOWS:

ARTICLE 1 DEFINITIONS

In this contract, the following terms written in capital letters have the following meanings, in both singular and plural forms:

Provider Scientist: professor Giuseppe Spano

Recipient Scientist: Warren ALBERTIN.

Agreement: This Material Transfer Agreement and its annexe 1.

Original Material: The material transferred by the Provider, identified by the references in annex 1 to the Agreement, accompanied by the relevant information.

Material: Original Material, Progeny, and Unmodified Derivatives. The Material shall not include: a) Modifications, or b) other substances created by the Recipient through the use of the Material which are not Modifications, Progeny, or Unmodified Derivatives.

Progeny: Unmodified descendant of the Material, such as virus from virus, cell from cell, or organism from organism.

Unmodified Derivatives: Substances created by the Recipient which constitute an unmodified functional subunit or product expressed by the Original Material. For example: sub-clones of unmodified cell lines, purified or fractionated subsets of the Original Material, proteins expressed by DNA/RNA supplied by the Provider, or monoclonal antibodies secreted by a hybridoma cell line.

Modifications: Substances created by the Recipient which contain/incorporate the Material or part of the Material.

Commercial Purposes: The sale, lease, license of the Material or Modifications to a for-profit organization. Commercial Purposes shall also include uses of the Material or Modifications by any organization, including Recipient, to perform to produce or manufacture products for general sale. However, industrially sponsored academic research shall not be considered a use of the Material or Modifications for Commercial Purposes per se, unless any of the above conditions of this definition are met.

Non-profit Organization(s): A university or other institution of higher education or a not-for-profit organization officially recognized or qualified under the laws of the country in which it is organized or located, or any non-profit scientific or educational organization qualified under a federal, state, or local jurisdiction's non-profit organization statute. As used herein, the term also includes national, state, or local government agencies.

Disclosure: The publication of theses, articles, scholarly writings or oral or written presentations at lectures or seminars.

Effective Date: The date upon which the Agreement becomes effective which is on 1st January 2017.

Inventions: Any discoveries, improvements, processes, knowledge (patented or not, patentable, or not) or inventions made by Recipient through the use of the Material or Modifications.

ARTICLE 2 TERMS AND CONDITIONS OF THIS AGREEMENT

2.1 Subject to the terms and conditions of this Agreement, Provider hereby grants to Recipient a non-exclusive licence to use the Material for research purposes and grants to Recipient right to transfer the Material for research purpose to any third party provided that such organization has first executed a written material transfer agreement with Establishments, for a period commencing on the Effective Date in accordance with this Agreement.

2.2 The Provider retains ownership of the Material, including any Material contained or incorporated in Modifications.

2.3 The Recipient retains ownership of: (a) Modifications (except that, the Provider retains ownership rights to the Material included therein), and (b) those substances created through the use of the Material or Modifications, but which are not Progeny, Unmodified Derivatives or Modifications (i.e., do not contain the Original Material, Progeny, Unmodified Derivatives). If either 2 (a) or 2 (b) results from the collaborative efforts of the Provider and the Recipient, joint ownership may be negotiated.

2.4 The Recipient and the Recipient Scientist agree that the Material:

- Is to be used solely for teaching and research purposes only;
- Will not be used in human subjects, in clinical trials, or for diagnostic purposes involving human subjects without the written consent of the Provider;
- Is to be used at the Recipient organization and in the Recipient Scientist laboratory under the direction of the Recipient Scientist or others working under his/her direct supervision.

2.5 The Recipient and the Recipient Scientist agree to refer to the Provider any request for the Material for Commercial Purposes from anyone other than those persons working under the Recipient Scientist's direct supervision.

2.6 (a) The Recipient and/or the Recipient Scientist shall have the right, without restriction, to distribute substances created by the Recipient through the use of the Original Material.

(b) Under an agreement at least as protective of the Provider's rights as this Agreement, the Recipient may distribute Material and Modifications to organization(s) for research and teaching purposes only.

(c) Without written consent from the Provider, the Recipient and/or the Recipient Scientist may not provide Modifications for Commercial Purposes. It is recognized by the Recipient that such Commercial Purposes may require a commercial license from the Provider and the Provider has no obligation to grant a commercial license to its ownership interest in the Material incorporated in the modifications.

2.7 The Recipient acknowledges that the Material is or may be subject of a patent application. Except as provided in this Agreement, no express or implied licenses or other rights are provided to the Recipient under any patents, patent applications, trade secrets or other proprietary rights of the Provider, including any altered forms of the Material made by the Provider. In Particular, no express or implied licenses or other rights are provided to use the Material, Modifications, or any related patents of the Provider for Commercial Purposes.

2.8 If the recipient desires to use or license the Material or Modifications for Commercial Purposes, the Recipient agrees, in advance of such use, to negotiate in good faith with the Provider to establish the terms of a commercial license. It is understood by the Recipient that the Provider shall have no obligation to grant such a license to the Recipient and may grant exclusive or non-exclusive commercial licenses to others or sell or assign all or part of the rights in the Material to any third party(ies), subject to any pre-existing rights held by others.

2.9 Recipient will promptly notify Provider in writing within thirty (30) days of any Inventions. Ownership of inventions will be determined by inventorship by mutual agreement by the Recipient and Provider. Where Recipient is the sole owner of Inventions Recipient hereby grants to Provider a royalty-free, non- exclusive license to use the Inventions for academic research and scholarly purposes only. The Recipient and Provider agree to negotiate in good faith an agreement governing the administration and commercialization of jointly owned Inventions.

2.10 The Material are being provided by Provider to Recipient on an "as is" basis and the Material is understood to be experimental in nature and may have hazardous properties. PROVIDER MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, WITH RESPECT TO THE MATERIAL, INCLUDING ANY REPRESENTATION OR WARRANTY AS TO THE DURABILITY, STORAGE, DISPOSAL, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR TO THE NON-INFRINGEMENT OF THE MATERIAL ON THE PROPRIETARY RIGHTS OF A THIRD PARTY. ALSO, EACH PARTY WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGE OR LOSS ARISING OUT OF OR RELATED TO THE FOREGOING EVEN IF PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.

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

2.12 The Recipient agrees to use the Material in compliance with all applicable statutes and governmental regulations and guidelines such as, for example, those relating to research involving the use of human biological samples and associated data and will carry out all regulatory formalities needed for the use of biospecimens.

2.13 This Agreement will terminate on the earliest of the following dates: (a) on completion of the Recipient's current research with the Material, or (b) on thirty (30) days written notice by either party to the other, provided that:

(i) If termination should occur under 2.13(a) above, Recipient will discontinue its use of the Material and will, upon direction of the Provider, return to Provider Institution or destroy any remaining Material. The recipient, at its discretion, will also either destroy the Modifications or remain bound by the terms of this Agreement as they apply to Modifications; and

(ii) In the event the Provider terminates this agreement under 2.13(b) other than for breach of this Agreement or for cause such as an imminent health risk or patent infringement, the Provider will defer the effective date of termination for a period of up to one year, upon request from the Recipient, to permit completion of research in progress. Upon the effective date of termination, or if requested, the deferred effective date of termination, Recipient will discontinue its use of the Material and will, upon direction of the Provider, return to Provider Institution or destroy any remaining Material. The Recipient, at its

discretion, will also either destroy the Modifications or remain bound by the terms of this Agreement as they apply to Modifications.

2.14 Neither Party shall have the right to use the name of the other Party without the specific written permission of the authorized representative of the other Party

2.15 As the Agreement is *intuitu personae*, it cannot be wholly or partially assigned or transferred by one of the Parties to a third part, by any means whatsoever, without the prior, written consent of the other Parties.

2.16 If one or more of the provisions in the Agreement are considered invalid or declared invalid in application of a treaty, law, or regulation, or by a judicial ruling, the other provisions will retain their full force and scope. In that case, the Parties will make the necessary modifications immediately, in order to implement the agreement that existed when the Agreement was signed to the fullest possible extent.

2.17 No addition or modification to the terms of the Agreement will be binding on the Parties unless it is expressed in a written additional clause, signed beforehand by their duly authorised representatives.

2.18 The provisions of the Agreement alone express the full Agreement between the Parties for conducting the research and replace any prior verbal or written commitments concerning the Agreement.

2.19 No tolerance granted by one of the Parties with regard to the performance of the Agreement, irrespective of its duration, shall be considered to constitute a waiver of that Party's rights. This tolerance does not dispense the other Parties from fulfilling any future obligation(s) resulting from the Agreement.

2.20 Sections 2.4, 2.7, 2.9, 2.12 and 2.13 will survive the expiration or earlier termination of this Agreement.

2.21 The Agreement is governed by French law.
In case of dispute between the Parties concerning the existence, validity, interpretation, performance, or breach of this Agreement, the Parties agree to meet and use every means to settle the dispute.

If they fail to reach an agreement within 60 (sixty) calendar days from the start of negotiations, they will consider having failed. Proof that negotiations have started can only be provided by the minutes of a meeting, drafted in duplicate (2 copies), duly signed by representatives of the Parties.

In case of failure of the negotiations, the dispute will be settled by the French Courts with the relevant jurisdiction.

Référence AST : [CT_2021-254]__MTA_OENOLOGIE_ALBERTIN Warren
Parties signataires : Université de Bordeaux / Bordeaux INP / University of FOGGIA
Objet: Transfert entrant d'une souche de *Lachancea thermotolerans*.

Nombre d'exemplaires originaux: trois (3)

Representing **University of FOGGIA**
Professor Pierpaolo Limone
Title : Rector of University of Foggia

Date

Provider Scientist
Professor Giuseppe Spano

Date

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Representing **Université de Bordeaux**
Mr Manuel TUNON DE LARA
President,

On

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Nombre d'exemplaires originaux: trois (3)

Representing **Bordeaux INP**
Mr Marc PHALIPPOU
General Director

On

ANNEX 1: MATERIAL REQUEST FORM

Part concerning the Provider of the Original Material

Name of lead scientist: Name of unit: Unit address: Email of the lead scientist:	Professor Giuseppe Spano University of Foggia, DAFNE Department via Napoli 25, 71122 Foggia, Italy giuseppe.spano@unifg.it

Description of the Original Material:	Souche de *Lachancea thermotolerans* UNIFG18

Part concerning the Recipient

Name of requesting lead scientist: Address where the Material is to be shipped: Email address of requesting lead scientist:	Warren ALBERTIN Institut des Sciences de la Vigne et du Vin Unité d'œnologie; EA 4577-USC1366 INRAE, 210 Chemin de Leysotte, CS 50008 33882 Villenave d'Ornon, France warren.albertin@u-bordeaux.fr