

May 2009

ANNEX B

Terms and Conditions of Use of the BecA Hub and Shared Research Platform for all platform users

1) Definitions

- a) **“Shared Research Platform”** means the Premises and services to which the User gains access to and uses on ILRI Nairobi campus under these Terms and Conditions.
- b) **“Services”** means the services defined under paragraph 5
- c) **“Confidential Information”** includes any proprietary, confidential information which is owned or controlled by ILRI or User including inventions, technical information, data, databases, designs, protocols, software (whether in object or source code), algorithms, customer lists, business and financial information, whether or not any of the foregoing is patentable or copyrightable and whether in written, visual, oral, electronic or any other form. To be treated as Confidential Information, information communicated in a tangible form must be clearly marked with the word “Confidential” or ‘Proprietary’ or with some other legend to indicate its confidential nature. If information has been communicated orally, a party desiring that such information be treated as Confidential Information must so notify the party to whom disclosure has been made, by email or other writing, promptly after the disclosure.
- d) **“Activities”** include research activities, research-related services and capacity building and training opportunities conducted within the scope of the Project Agreement signed between either (i) the User, BecA Network Director, and ILRI for BecANet–financed projects or fellowships; or (ii) the Project Agreement signed between ILRI on behalf of the BecA ILRI Hub and the User, as applicable.
- e) **“Project Agreement”** means
 - i) a written agreement entered into between a Participant as defined under the BecA Establishment Agreement, the BecA Network Director and ILRI; or
 - ii) a written agreement entered into between ILRI and its partner(s) to conduct specifically defined Activities on the shared research platform.
- f) **“Intellectual Property”** or **“IP”** means all intellectual property, including but not limited to patents, copyright, rights in circuit layouts, plant breeders rights, registered designs, trade marks, and any right to have confidential information kept confidential.
- g) **“User”** means either (i) a BecA Member as defined in the BecA Establishment Agreement or a BecANet Participant who has entered into a written agreement with the BecA Network Director and ILRI as defined in the BecA establishment agreement; or (ii) an individual or institution that has signed a Project Agreement with ILRI to conduct Activities on the Shared Research Platform.

2) Scope

These Terms and Conditions apply and are binding to all Users of the BecA Hub and Shared Research Platform. Alterations to the Terms and Conditions may be made by ILRI from time to time as necessary, and taking into consideration its obligations to BecA Steering Committee, as set out in the BecA/ILRI Hub and secretariat hosting agreement (January 2007). ILRI shall notify User of any impending additions to the Terms and Conditions that can materially impact on the User such as changes in cost structure. ILRI, in consultation with the other implementing parties, may review the Terms and Conditions on annual basis to see if any modifications are desirable. The Terms and Conditions will not normally be revised more than once a year, and then only if required.

3) Applicable Policies

By signing these Terms and Conditions, User represents that it is aware of and will abide with the following ILRI policies and Procedures, which are also applicable to the BecA Hub users:

- a) Waste Management Standard Operating Procedures
- b) Personal Protective Equipment
- c) Emergency Responsive procedures (First Aid, fire and spill response)
- d) Incident and Accident Report procedures
- e) Personnel Monitoring Procedures
- f) Animal experiment and use
- g) Administrative policies and procedures (HR, finance, operations, general security etc, as applicable to the specific project)

All policies and procedures, including any updates will be availed to the User electronically. ILRI may make changes to existing policies and procedures if required or develop additional policies as necessary. User shall be informed of all such changes and/or additional policies and procedures.

4) Biosafety

User will be responsible for ensuring that all research is conducted under all relevant biosafety and animal welfare codes and guidelines adopted by regulatory agencies operating at the place in which research is being conducted, including requirements to obtain prior approvals in writing that the research to be undertaken is so compliant. All Activities conducted at ILRI Nairobi site will comply with biosafety requirements set out in ILRI's biosafety policy, which will be made available to the User electronically. As a precondition of conducting the Activities at the Shared Research Platform, the User has to undergo a mandatory Biosafety Training Course which is conducted by the ILRI Occupation Health and Environmental Safety Unit. Research projects proposed by the User will be subject to a risk assessment conducted by the ILRI OHSE unit prior to their being implemented at the shared research platform. For any BecANet supported projects, these will also be reviewed and approved in advance by the BecANet Scientific Advisory Committee, in respect to meeting BecANet biosafety requirements .

5) The Services

The User would like to access the following services to be provided by ILRI (as designated by User)

Platform Services available (check only if required)
<ul style="list-style-type: none"> € Office space (includes security, grounds maintenance, building insurance and building maintenance)
<ul style="list-style-type: none"> € Office space cleaning
<ul style="list-style-type: none"> € Laboratory space
<ul style="list-style-type: none"> € Hostel rooms for visitors
<ul style="list-style-type: none"> € Catering services
<ul style="list-style-type: none"> € Conferencing services
<ul style="list-style-type: none"> € Access to library/Infocenter
<ul style="list-style-type: none"> € Access to network, email, the ILRI intranet and Internet
<ul style="list-style-type: none"> € Access to the ILRI general telephone services (PABX), including reception
<p>Human Resource administration services for nationally-recruited staff :</p> <ul style="list-style-type: none"> € Assistance in recruitment € Contract management (if staff member receives an ILRI contract) € Administration of benefits, especially health insurance € Leave management € General support and advice to User on employment issues, including legal advice
<p>Human Resource/Liaison administration services for internationally-recruited staff :</p> <ul style="list-style-type: none"> € Obtention of legal status in country for staff member and dependents € On-campus housing € Assistance to find housing off-campus
<p>Accounting services :</p> <ul style="list-style-type: none"> € Assistance to opening a bank account for User € Payments on behalf of User € Payroll processing, including payment and reporting on tax obligations € Processing of adjusting entries including Travel Expense Reports € Maintenance of staff personal accounts € Petty cash replenishments € Monthly report with detail of entries to headquarters € Archiving of accounting documents € Assistance with monitoring sub-grants can also be discussed.
<p>Procurement :</p> <ul style="list-style-type: none"> € Procurement of goods, including importation and clearing € Importation and clearing of goods imported by User (if legal status of User permits) € Procurement of services (e.g. local consultants) including importation and clearing of goods € Receipt of items stores by ILRI

€ Provision of fuel to vehicles
€ Maintenance of vehicles
€ Insuring vehicles through ILRI's insurance contract
€ Renting ILRI vehicles
€ Access and use of ILRI's designated Travel Agency
€ Insurance of contents and buildings including processing and monitoring of claims
Scientific services as listed in Annex A 2. These include but are not limited to the following: € Reagents, buffers, media and diagnostic services on limited animal pathogens € Sequencing and genotyping € Small and large animals for research activities
In addition to the Services above, indicate whether User will operate under the Host Country Agreement between ILRI and the Government of Kenya. User is notified that this is subject to approval by the Government of Kenya.
€ Legal umbrella provided by the ILRI Host Country Agreement with the Government of Kenya

6) Costs , invoicing and payment

Depending on the defined Category of the User as defined in the Schedule of Charges (Section 1.3), and in consideration of access to and use of the Shared Research Platform, and the conduct of research activities, User shall pay to ILRI the applicable charges for: Fees for services (Annex A1); variable research costs (Annex A2); and platform fees, if applicable, and according to the schedule outlined in Annex A3.

7) Intellectual Property

Intellectual Property shall be addressed as provided for in the Project Agreement.

8) Confidential Information

It is foreseeable that in the course of performance of the Project Agreement, Confidential Information may be exchanged between User and ILRI. All Confidential Information communicated to one party (Recipient) from the other party (Discloser) will be received and maintained in confidence by Recipient. No such information or materials may be disclosed by Recipient to any third party, or used for any purpose other than to perform work under the Project Agreement. These confidentiality provisions will not apply to information or material that

- a) is generally available as part of the public domain prior to disclosure or becomes so available through no fault of Recipient or
- b) is developed by Recipient or is received by Recipient from a third party (with no breach of any duty owed by the third party to the Discloser) independently or
- c) is required to be released by Recipient in compliance with any court order, provided however, that in such event, Recipient provides the Discloser with as much advance notice as is feasible.

9) Legal Status of User’s staff member

Unless the User has an agreement with the Government of Kenya, User and its personnel will be subject to the Host Country Agreement between ILRI and the Government of the Republic of Kenya (“Host Country Agreement”). Except as may otherwise be agreed upon between the User and ILRI, the staff members will be subject to ILRI’s Personnel policy.

User shall be responsible for

- a) Determining the administrative status of the staff member
- b) Scientific supervision of Activities, including work plans and assessment
- c) Staff remuneration

10) Official Dealings with Government of Kenya

If User is subject to the Host Country Agreement as provided for in 8 above, User will channel all dealings with the government departments through the ILRI Liaison Office. Such departments include the Immigration Department, Customs Department, Ministry of Foreign Affairs, Ministry of Finance etc. The ILRI Liaison Office will also assist to the extent possible on all matters involving government offices and User such as visas and work permits, importation of goods and disposals of items as well as tax matters.

11) Assets Acquisition and disposal

Assets acquisition and disposal, if any, will be agreed between the User and ILRI, on a case by case basis and in a manner consistent with the BecA Assets Disposal Plan.

12) Indemnity

User shall indemnify and hold harmless ILRI, its employees, representatives, and executive officers, from and against any liability, damages, costs or expenses, or any claim, action, suit or other proceeding arising out of the execution or implementation of the Activities, except to the extent that:

- a) such liability, damage, claim, action, suit or other proceeding is caused wilfully by ILRI; or
 - b) such liability, damages, costs or expenses, claim, action, suit or other proceeding is caused by or results from negligence on the part of ILRI.
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User Acceptance of the Terms and Conditions

Signed: Date

ILRI Director General

Signed..... Date

BecANet Director (for Users financially supported through BecANet)

SignedDate