**CDCB Genomic Nominators and Genotyping Laboratories**

**Material License Agreement (MLA)**

1. Council on Dairy Cattle Breeding, an Ohio non-profit organization, located at One Town Center, 4201 Northview Drive, Suite 302, Bowie, MD 20716, hereinafter termed the “Recipient.”
2. The company:

***Company legal name***

, located at

***Company’s full address***

, hereinafter termed the “Provider.”

1. Provider has collected, edited, and/or compiled certain data, information, facts about certain dairy animals or herds (collectively referred to as “Confidential Materials and Records”) from the owners of dairy animals or herds (the “Owners”). Provider will provide parts thereof to Recipient. Recipient wishes to obtain these Confidential Materials and Records for research, management benchmarks and the calculation and distribution of genetic and genomic evaluations of dairy animals.
2. Provider shall deliver the Confidential Materials and Records free of charge to Recipient electronically, on tangible media, or by other means, as mutually agreed upon by the Parties. Provider represents that it has legal control (by license, authority, or otherwise) in and to the Confidential Materials and Records, and has the full right, interest, power and authority to submit and deliver the Confidential Materials and Records to Recipient and to grant the rights hereunder, which rights do not conflict with any applicable law or agreement by which Provider is bound or require payment or other consideration to any third party. Provider represents and warrants that it has obtained and shall maintain any and all governmental and regulatory licenses, permits, registrations, certifications, and approval required for the Confidential Materials and Records, and further has obtained and shall maintain at all times during the Term of this Agreement all third-party permissions, rights, and consents required to license the Confidential Materials and Records to Recipient as contemplated by this Agreement.
3. Provider grants the Recipient a non-exclusive, revocable right to use the Confidential Materials and Records as follows:
4. The Confidential Materials and Records will be used in accordance with the CDCB-USDA/ARS Data Transfer and Research Exchange Agreement 58-8042-3-048 or any successor agreement by and between the CDCB and USDA, ARS, Northeast Area Animal Genomics and Improvement Laboratory (“Cooperative Agreement”) for research in dairy genetics and management for developing techniques, algorithms and software, herein referred to as “Results”, and for calculating genetic and genomic evaluations and summary statistics, herein referred to as “Product”, to be distributed to Provider and others by Recipient without cost (except fees for accessing genetic and genomic evaluations as described in Recipient’s then current **CDCB Breeding Service Fee Schedule** on Exhibit A) to be used by the industry to make breeding and management decisions. In addition, Provider acknowledges the rights and obligations set forth in the CDCB Breeding Service Fee Schedule and shall pass on such rights and obligations, in particular those related to fees and consequences on nonpayment, to its customers in writing.
5. The Confidential Materials and Records may be used by Recipient only as permitted by this Agreement.
6. Records will continue to be identified only by anonymously coded information and postal ZIP codes. Upon the execution of this Agreement, Recipient will not release previous records of names and addresses associated with herd identification without the permission of the Provider or as required by law, and will not maintain any such information in the future. The dairy herd and ownership identification will not be disclosed to the U.S. Department of Agriculture, Agricultural Research Service, and its Animal Genomics and Improvement Laboratory.
7. The Product developed by Recipient will be made available as soon as practicable. The parties agree that they will work together in good faith to coordinate publication of the Recipient’s Product, as has been the industry practice for many years, in accordance with Recipient’s publication and distribution schedule as determined by mutual agreement of Recipient and all providers (“Publication Schedule”). Provider and Recipient agree that availability of Product for both males and females will be on identical schedules.
8. Except for early exchanges and releases of data and Product by Recipient pursuant to written agreement to enable Recipient to meet the Publication Schedule, none of Recipient’s Product derived from the Confidential Materials and Records will be made available by Recipient to any other parties before being made available to the Provider, and all Product will be released pursuant to Recipient’s Publication Schedule.
9. Recipient may not release Confidential Materials and Records to any third party except pursuant to the Cooperative Agreement or with the specific written approval of Provider consistent with a separate agreement between the third party and Provider. The restrictions of this clause will not apply to any material that:
10. Recipient can prove was rightfully known by it or rightfully in its possession prior to execution of this Agreement;
11. is generally available to the public or becomes generally available to the public through no fault of Recipient; or
12. after execution of this Agreement is obtained by Recipient validly from a third party free of any obligation of confidentiality.

The terms and conditions of this paragraph shall expressly survive any termination of this Agreement, whether pursuant to Paragraph 11 below or otherwise.

1. Except as otherwise provided in this Agreement, Provider disclaims any and all other representations and warranties with respect to the accuracy of the Confidential Materials and Records, and Provider shall have no liability in any way related to Recipient’s or any third party’s use of the Confidential Materials and Records or the Results or Product developed by Recipient or any third party.
2. Provider agrees to comply with quality certification standards administered uniformly by the Recipient or any successor organization authorized by Recipient for the purpose of independent, third party certification. Attached as Exhibit B and incorporated into this MLA by this reference are the [**“CDCB Quality Certification Requirements for Genomic Nominators”** and the **“CDCB Quality Certification Requirements for Genotyping Laboratories”**, as applicable for Genomic Nominators or Genotyping Laboratories], as of the date of this MLA. In addition, Provider acknowledges the rights and obligations set forth in the **CDCB End User License Agreement**, attached hereto as Exhibit C and shall pass on such rights and obligations, in particular those related to fees and consequences on nonpayment, to its customers in writing.
3. Recipient solely owns the Results, Product and any other information it obtains from the use of or derives from the Confidential Materials and Records. Recipient grants Provider the non-exclusive right to use for any purpose the Product distributed by Recipient to Provider. Provider retains all its right, title, and interest in and to the Confidential Materials and Records.
4. Recipient will:
	1. pay all costs for producing the Results and Product from the collected Confidential Materials and Records;
	2. make the Product obtained from the Confidential Materials and Records available to Provider as specified in Section 5.d; however, all such Product deliverable to Provider shall only contain genetic predictions and summary statistics derived from materials received by Recipient that comply with the same level of quality certification standards imposed upon Provider in Section 6. Furthermore, Recipient shall only be permitted to produce any Product derived from or that utilizes the Confidential Material and Records provided by Provider if in producing such Product Recipient also utilizes only materials that comply with the same level of quality certification standards imposed upon Provider in Section 6; and
	3. keep Provider informed of its progress developing Results and Product.
5. Provider acknowledges that the Results and Product may be preliminary and/or tentative. Therefore, Provider acknowledges and agrees that Recipient accepts no liability for any use by Provider or any third party of those Results or Product and further waives any rights to seek any remedies against Recipient as a result of any Results or Product.
6. This Agreement and the Cooperative Agreement, together with its respective exhibits and any amendments, constitutes the entire understanding and agreement between the parties with respect to the subject matter hereof and may be amended or modified only by a written instrument signed by both parties.
7. This Agreement will continue in force (unless terminated earlier by either party as a result of a breach), except that this Agreement may be terminated at the discretion of either party at any time upon 180 days’ advance written notice to the other party. In the event of breach, the non-breaching party shall give ninety (90) days’ advance written notice of termination to the other party specifying the breach and giving that party an opportunity to cure the breach during such time. This Agreement shall be governed by the laws of the State of Ohio, without giving effect to any choice or conflict of law provision or rule.. Any rights, obligations, or required performance of the parties in this Agreement which, by their express terms or nature and context are intended to survive termination or expiration of this Agreement, will survive any such termination or expiration, including the rights and obligations set forth in this Section 11 and Section 7, 9, 10.
8. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

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| **Provider** | **Council on Dairy Cattle Breeding** |
| By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ SignatureName:       | By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature Name: João Walter Dürr |
| Date:        | Date:       |

EXHIBIT A

CDCB BREEDING SERVICE FEE SCHEDULE

Attached is the “[**CDCB Breeding Service Fee Schedule**](https://redmine.uscdcb.com/projects/cdcb-customer-service/wiki/CDCB_Fee_Schedule_for_Genomic_Evaluation_Fees#CDCB-Fee-Schedule-for-Genomic-Evaluation-Fees)**”** as of the date of this Material License Agreement.

CDCB reserves the right to update the [CDCB Breeding Service Fee Schedule](https://redmine.uscdcb.com/projects/cdcb-customer-service/wiki/CDCB_Fee_Schedule_for_Genomic_Evaluation_Fees#CDCB-Fee-Schedule-for-Genomic-Evaluation-Fees) in its sole discretion. Please refer to the following website for the most current version of the CDCB Breeding Service Fee Schedule.

<https://redmine.uscdcb.com/attachments/download/13496/CDCB-Fee-Schedule-Update-06-22-2021.pdf>

EXHIBIT B

CDCB QUALITY CERTIFICATION REQUIREMENTS

FOR GENOMIC NOMINATORS AND GENOMIC LABORATORIES

Attached is the **“**[**CDCB Quality**](https://redmine.uscdcb.com/projects/cdcb-customer-service/wiki/CDCB_Fee_Schedule_for_Genomic_Evaluation_Fees#CDCB-Fee-Schedule-for-Genomic-Evaluation-Fees) **Certification Requirements for Genomic Nominators”** and the **“CDCB Quality Certification Requirements for Genotyping Laboratories”**, as applicable for Genomic Nominators or Genomic Laboratories, as of the date of this MLA.

CDCB reserves the right to update the [Quality](https://redmine.uscdcb.com/projects/cdcb-customer-service/wiki/CDCB_Fee_Schedule_for_Genomic_Evaluation_Fees#CDCB-Fee-Schedule-for-Genomic-Evaluation-Fees) Certification Requirements in its sole discretion. Please refer to the following website for the most current version of such documents.

**Genomic Nominators:**

<https://redmine.uscdcb.com/attachments/download/12561/CDCB%20Genomic%20Nominators%20-%20Quality%20Certification_20210308.pdf>

**Genotyping Laboratories:**

https://redmine.uscdcb.com/attachments/download/7157/CDCB%20Genotyping%20Laboratory%20-%20Quality%20Certification\_2019.pdf

EXHIBIT C

CDCB END USER LICENSE AGREEMENT

Attached is the “**CDCB End User License Agreement”** as of the date of this Agreement.

CDCB reserves the right to update the CDCB End User License Agreement, sometimes also referred to as the “Agreement for Software and Services”, in its sole discretion. Please refer to the following link for the most up to date CDCB End User License Agreement and note that if such link changes in the future due to regular maintenance of the website or other similar changes, CDCB will provide notice to all Providers of such changed link: <https://webconnect.uscdcb.com/#/account/register>