

# NON-COMMERCIAL USE LICENSE AGREEMENT FOR NON-PROFIT ORGANIZATIONS

By opening the containers or using the products accompanying this agreement, you accept the terms and conditions below.

**IMPORTANT INSTRUCTIONS – PLEASE READ CAREFULLY:** This Non-Commercial Use License Agreement (“Agreement”) is the legal agreement between you, your Not For-Profit Organization (hereinafter collectively “Licensee”) and Clontech Laboratories (hereinafter “Clontech”) for the non-commercial use of Clontech’s fluorescent protein products purchased hereunder (hereinafter “Clontech FPs”).

AS A CONDITION OF SALE OF THE PRODUCTS AND PRIOR TO USING THE PRODUCTS OR OPENING THE PACKAGING ENCLOSING SAME, LICENSEE AGREES TO THE FOLLOWING TERMS AND CONDITIONS. IF LICENSEE DOES NOT AGREE TO BE BOUND BY ALL OF THE FOLLOWING TERMS AND CONDITIONS, LICENSEE SHALL RETURN ALL PRODUCTS TO CLONTECH FOR A FULL REFUND.

1. **Clontech FPs Are For Non-Commercial Use Only.** Licensee shall use the Clontech FPs solely for the purpose of conducting internal, non-commercial scientific research in Licensee’s laboratory within Licensee’s Not For-Profit Organization (hereinafter, such activities defined as “Research”), provided that Research does not include any right to make any deliberate or intentional modifications of any Clontech FP that results in a Modified FP (defined below). Clontech hereby grants Licensee a non-exclusive, non-transferable, non-sublicensable and limited license under the Patent Rights (defined below) to use the Clontech FPs purchased hereunder solely for Research in accordance with the terms of this Agreement. Licensee may allow its employees and/or students access to the Clontech FPs for purposes consistent with this agreement, provided however, that prior to providing such access, Licensee will advise such individuals of the proprietary nature of the Clontech FPs. Licensee shall remain liable for the actions of such individuals.
2. **Modified FP.** Licensee shall not make any deliberate or intentional modification to any Clontech FP that results in such Clontech FP having altered spectral or biological properties (“Modified FP”), including but not limited to alterations in: half-life of either mRNA or protein, absorbance or emission spectra, brightness, propensity to aggregate or oligomerize, or biocompatibility of the Clontech FP in a cell, tissue or organism; provided, however, that Modified FPs shall not include fusion proteins made solely by fusing of a peptide-expressing nucleic acid sequence to the coding region of a Clontech FP or the cloning of a promoter element in front of the coding region of a Clontech FP. Any Modified FP made in breach of this Agreement or incidentally through Licensee’s use of Clontech FP under the terms of this Agreement shall be owned by Clontech and Licensee hereby assigns to Clontech any and all rights in and to such Modified FP. At no additional cost to Clontech, Licensee shall reasonably assist Clontech in the perfection and enforcement of such rights.
3. **Disclosure.** Licensee shall promptly and fully disclose to Clontech in writing any Modified FP that results from Licensee’s use of any Clontech FP, whether made in breach of this Agreement or incidentally through Licensee’s use of Clontech FPs under the terms of this Agreement, including modifications to DNA, RNA, or protein.
4. **Prohibited Uses.** Licensee shall not:
  - i. Offer the Clontech FP or any component, derivative or modification of any Clontech FP for resale; or distribute, transfer, loan, or otherwise provide access to the Clontech FP or any component, derivative or modification of the Clontech FP to any third party for any purpose, including transfer of the Clontech FP as a component of a kit;
  - ii. Provide services to a third party using the Clontech FP (including screening and profiling services);
  - iii. Use the Clontech FPs in any process to manufacture a product intended for sale or commercial use;
  - iv. Authorize any third party to use or sell any Clontech FP or derivatives thereof; or
  - v. Use the Clontech FPs in quality control and quality assurance processes including food and environmental testing.
5. **Compliance with Laws.** Licensee understands that the Clontech FPs are to be used with caution and prudence in any experimental work. Accordingly, Licensee will adhere to all applicable state and federal laws, guidelines and regulations governing research with such materials. Licensee acknowledges that the Clontech FPs shall not be used for any experiment or activity where a for-profit organization funds, in whole or in part, such activity or possesses any present or future intellectual property or contract right in such activities. In no event are Clontech FPs to be used for testing in or treatment of humans, including use in *in vitro* or *in vivo* diagnostic testing; or as a drug. Licensee shall bear all risk to Licensee or any others resulting from Licensee’s use of the Clontech FPs.
6. **Property Rights.** Clontech and its licensors reserve all of their rights not expressly granted herein and no implied or other licenses are granted. Clontech FPs are provided under at least one of the patents or patent applications listed on Attachment A. The patents and applications listed on Attachment A, any and all patents and applications for patents issuing thereon or claiming priority thereto, any foreign counterparts thereof, and all divisions, continuations, continuations-in-part, substitutions, extensions, reissues, reexaminations, renewals for any such patents and patent applications, or any equivalents thereof, shall be herein collectively referred to as “Patent Rights”. Without limiting the foregoing, Licensee expressly recognizes the exclusive ownership and right of Clontech in and to all names and trademarks associated with any of the Clontech FPs, including but not limited to the Living Colors® trademark.
7. **Indemnification.** Licensee will defend, indemnify and hold Clontech and its licensors (collectively, the “Indemnified Parties”) harmless against any and all liability, damages, losses, claims, suits, proceedings, demands, recoveries or expenses, including reasonable attorneys’ fees and expenses, incurred or rendered against the Indemnified Parties (collectively, the “Indemnified Losses”) arising out of or in connection with this Agreement, including without limitation Indemnified Losses resulting from any and all uses by the Licensee, Licensee’s employees, students or other agents, of the Clontech FPs and any materials derived therefrom.
8. **Disclaimer of Warranty.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, CLONTECH MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF

## NON-COMMERCIAL USE LICENSE AGREEMENT FOR NON-PROFIT ORGANIZATIONS

MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CLONTECH MAKES NO REPRESENTATION OR WARRANTY AS TO THE VALIDITY OR SCOPE OF ANY PATENT RIGHTS OR THAT THE USE OF THE CLONTECH FPs OR PATENT RIGHTS WILL NOT INFRINGE ANY PATENT OR OTHER PROPRIETARY RIGHT OF ANY THIRD PARTY, AND CLONTECH EXPRESSLY DISCLAIMS ANY LIABILITY THEREFOR.

9. **Right To Publish.** Licensee shall have the right to publish scientific articles and give public presentations stemming from Licensee's use of the Clontech FPs within the scope of this Agreement, excluding any results that report on the development and/or use of a Modified FP. In all such publications, Licensee agrees to acknowledge Clontech as the source of the Clontech FPs.
10. **Term.** This Agreement shall commence upon opening of the product packaging or initial use of the Clontech FPs (the "Effective date") and continue in full force as long as Licensee uses the Clontech FPs during the term of the Patent Rights in compliance with the terms and conditions of this Agreement. Without limiting its other rights and remedies, Clontech shall have the right to terminate this Agreement for any breach or default by Licensee that is not cured within thirty (30) days after a written notice from Clontech describing such breach or default.
11. **Effects Of Termination.** Upon Termination of this Agreement, Licensee must return or destroy all Clontech FPs in Licensee's possession. Licensee may no longer use Clontech FPs. The rights and obligations under Sections 2, 3, 6, 7, 8, 9, 12, 13 and 15 shall survive any termination of this Agreement.
12. **No Assignment.** This Agreement is not transferable or assignable by Licensee.
13. **Governing Law.** All matters affecting the interpretation, validity, and performance of this Agreement shall be governed by the laws of the State of California without regard to its conflict of law principles. The parties hereby irrevocably consent to the personal jurisdiction of the United States Federal District Court for the Northern District of California or state courts located in Santa Clara County in California.
14. **Severability.** If any of the provisions contained in this Agreement are held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provisions hereof, and this Agreement shall be construed as if such invalid or illegal or unenforceable provisions had never been contained herein.
15. **Entire Agreement.** The parties hereto acknowledge that this Agreement sets forth the entire agreement and understanding of the parties hereto as to the subject matter hereof, and all prior agreements, understandings or representations whether expressed orally or in writing are void.

# NON-COMMERCIAL USE LICENSE AGREEMENT FOR NON-PROFIT ORGANIZATIONS

## ATTACHMENT A - Patent Rights

Application Serial No./ Patent No.	Title of Application
WO 2000/034526	<i>Fluorescent Proteins from Non-Bioluminescent Species of Class Anthozoa, Genes Encoding Such Proteins and Uses Thereof</i>
US 10/844,064 WO 2003/054158	<i>Rapidly Maturing Fluorescent Proteins and Methods for Using the Same Rapidly Maturing Fluorescent Proteins and Methods for Using the Same</i>
US 11/607,828 WO 2001/27150	<i>Chromophores/Fluorophores and Methods for Using the Same Anthozoa Derived Chromo/Fluoroproteins and Methods for Using the Same</i>
US 12/124,888 WO 2006/053021	<i>Methods for Engineering Polypeptide Variants via Somatic Hypermutation and Polypeptide Made Thereby Methods for Engineering Polypeptide Variants via Somatic Hypermutation and Polypeptide Made Thereby</i>
US 12/740,019 WO 2009/059305	<i>Red Fluorescent Proteins with Enhanced Bacterial Expression, Increased Brightness and Reduced Aggregation Red Fluorescent Proteins with Enhanced Bacterial Expression, Increased Brightness and Reduced Aggregation</i>
US 6852849 WO 2002/068605	<i>Non-Oligomerizing Tandem Fluorescent Proteins Non-Oligomerizing Tandem Fluorescent Proteins</i>
US 6969597	<i>Nucleic Acids Encoding Non Aggregating Fluorescent Proteins and Methods for Using the Same</i>
US 7005511	<i>Fluorescent Protein Variants and Methods for Making Same</i>
US 7022826	<i>Non-Oligomerizing Fluorescent Proteins</i>
US 7150979	<i>Nucleic Acids Encoding Non-Aggregating Fluorescent Proteins and Methods for Using the Same</i>
US 7157565 WO 2002/30965	<i>Far Red Shifted Fluorescent Proteins Far Red Shifted Fluorescent Protein</i>
US 7157566 WO 2003/086446	<i>Monomeric and Dimeric Fluorescent Protein Variants and Methods for Making Same Monomeric and Dimeric Fluorescent Protein Variants and Methods for Making Same</i>
US 7166444	<i>Nucleic Acids Encoding Chromophores/Fluorophores and Methods for Using the Same</i>
US 7183399 WO 2003/031590	<i>Nucleic Acids Encoding Linked Chromo/Fluorescent Domains and Methods for Using the Same Nucleic Acids Encoding Linked Chromo/Fluorescent Domains and Methods for Using the Same</i>
US 7217789	<i>Fluorescent Timer Proteins and Methods for Their Use</i>
US 7250298	<i>Monomeric Red Fluorescent Proteins</i>
US 7258981	<i>Sensitive Proteasome Sensor Constructs and Methods for Their Design and Use</i>
US 7329735	<i>Fluorescent Protein Variants and Methods for Making Same</i>
US 7332598	<i>Non-Oligomerizing Tandem Fluorescent Proteins</i>
US 7338782	<i>Nucleic Acids Encoding Chromophores/Fluorophores and Methods for Using the Same</i>
US 7338783	<i>Nucleic Acids Encoding Chromophores/Fluorophores and Methods for Using the Same</i>
US 7338784	<i>Nucleic Acids Encoding Chromophores/Fluorophores and Methods for Using the Same</i>
US 7338785	<i>Nucleic Acids Encoding Chromophores/Fluorophores and Methods for Using the Same</i>
US 7344862	<i>Nucleic Acids Encoding Chromophores/Fluorophores and Methods for Using the Same</i>
US 7393923	<i>Red-Shifted Fluorescent Proteins mPlum and mRaspberry and Polynucleotides Encoding the Same</i>
US 7432053 WO 2003/062270	<i>Fluorescent Protein from Aequorea Coerulescens and Methods for Using the Same Fluorescent Protein from Aequorea Coerulescens and Uses Thereof</i>
US 7442521	<i>Nucleic Acids Encoding Chromophores/Fluorophores and Methods for Using the Same</i>
US 7442522	<i>Nucleic Acids Encoding Chromo or Fluorescent Proteins and Methods for Using the Same</i>
US 7537915	<i>Nucleic Acids Encoding Chromophores/Fluorophores and Methods for Using the Same</i>

# NON-COMMERCIAL USE LICENSE AGREEMENT FOR NON-PROFIT ORGANIZATIONS

## ATTACHMENT A - Patent Rights, continued

US 7667016	<i>Fluorescent Proteins from Aequorea Coerulscens and Methods for Using the Same</i>
US 7671185	<i>Monomeric Red Fluorescent Proteins</i>
US 7687614	<i>Monomeric and Dimeric Fluorescent Protein Variants and Methods for Making Same</i>
US 7858844 WO 2002/068459	<i>Non Aggregating Fluorescent Proteins and Methods for Using the Same</i> <i>Non Aggregating Fluorescent Proteins and Methods for Using the Same</i>
US 7879988	<i>Fluorescent Proteins from Aequorea Coerulscens and Methods for Using the Same</i>
US 7897726	<i>Fluorescent Proteins from Aequorea Coerulscens and Methods for Using the Same</i>
US 7906636	<i>Monomeric and Dimeric Fluorescent Protein Variants and Methods for Making Same</i>
US 7910714	<i>Monomeric Red Fluorescent Proteins</i>
US 8012682	<i>Nucleic Acids Encoding Chromophores/Fluorophores and Methods for Using the Same</i>
US 8093450	<i>Non-Aggregating Fluorescent Proteins and Methods for Using the Same</i>
US 8431769	<i>Non Aggregating Fluorescent Proteins and Methods for Using the Same</i>