

# GENETIC MATERIAL



# TRANSFER AGREEMENT FORM

## REPUBLIC OF BOTSWANA

The material described in the attached list is being furnished by the \_\_\_\_\_ in Botswana under the following conditions:  
(Local Institute/Agency/Department hereafter referred to as the Local Institute)

\_\_\_\_\_ is making the material described in the attached list available as part of its policy of maximizing the utilization of genetic (Local Institute) material for research. The material is being acquired after the entering into force of the Convention on Biological Diversity; it is being obtained with the understanding that it would be made freely available for scientific research or genetic resource conservation purposes.

The material is held in trust under the terms of this agreement between \_\_\_\_\_ and \_\_\_\_\_, and  
(Local Institute) (Collaborating Institute)

the recipient has no rights to obtain Intellectual Property Rights(IPR) on the germplasm or related information<sup>1</sup>.

The recipient may reproduce and use the material for research purposes only and may distribute it to other parties for the same purposes upon the consent of the Local Institute provided the other recipient is also willing to accept the conditions of this agreement<sup>2</sup>.

The recipient, therefore hereby agrees not to claim ownership over the germplasm to be received, nor to seek IPR over that germplasm or related information. He/She further agrees that any subsequent person or institution to whom he/she may make samples of the germplasm available, is bound by the same provision and undertakes to pass on the same obligations to future recipients of the germplasm.

The Local Institute makes no warranties as to the safety or title of the material, nor as to the accuracy or correctness of any passport or other data provided with the material. Neither does it make any warranties as to quality, availability, or purity (genetic or mechanical) of the material being furnished. The phytosanitary condition of the material is warranted only as described in the attached phytosanitary certificate. The recipient assumes full responsibility for complying with the recipient nation's quarantine/biosafety regulations and rules concerning the import or release of genetic material.

The Recipients shall furnish the Local Institute with performance data and any other information collected during evaluation/studies that may be available in addition to whatever is furnished with the material, automatically and upon request.

The material is supplied expressly conditional or acceptance of the terms of this agreement. The recipient's acceptance of the material constitutes acceptance of the terms of this Agreement.

1. This does not prevent the researchers involved in the collaboration from publishing their research findings on the genetic material provided the local Institute consents.

2. This does not prevent the recipient from releasing or reproducing the material for purposes of making it directly available to farmers or consumers for breeding, provided that the other conditions set out in the MTA are complied with. The material is not to be used for commercial purposes and if this happens, a new benefit sharing agreement has to be entered into.

3. Complete in triplicate: Each original copy with original signatures to: 1. Local Institute 2. Collaborating Institute 3. Department of Agricultural Research

JOINT STATEMENT OF \_\_\_\_\_ AND \_\_\_\_\_

**(Local Institute)**

**(Collaborating Institute)**

The parties to the Agreement recognize that the conclusion of this Agreement represents but one stage of a continuing, dynamic process and agree to continue the dialogue in the context of the implementation of the Convention on Biological Diversity and the Institutional Collaborative Institute on Genetic Resources. They will consult from time to time to review these matters and to consider such modification as may be appropriate in the circumstances.

The parties understand and agree that:

While the Local Institute distributes germplasm designated under the Collaborative Agreements through Material Transfer Agreements which prohibit the recipient, or any subsequent recipient from taking out intellectual out property rights, the Collaborating Parties (The Local Institute and The Collaborating Institute) cannot guarantee that recipients will abide by the terms of the MTA. Violations may take place. However, in such cases the Parties commit themselves to taking appropriate remedial action, in accordance with the following agreed procedures:

When any of the two parties becomes aware of a possible violation of their MTAs by a recipient of germplasm, the Institute will henceforth voluntarily undertake the following actions in response to the perceived violation.

1. The Institute will request an explanation. Upon failure to receive a satisfactory and timely explanation from the germplasm recipient, the Local Institute and the Collaborating Institute will notify the recipient that a violation is thought to have occurred and request that the recipient cease and desist in its efforts to obtain intellectual property rights over the material, or renounce such right or ownership if they have already been granted or claimed.
2. The Local Institute and the Collaborating Institute will notify proper regulatory body in the relevant country of the possibility that the MTA has been violated, and bring to their attention the fact that the grant of intellectual property right may, therefore, have been inappropriate in the case of the material obtained from the Local Institute.
3. The Local Institute and the Collaborating Institute will notify any competent International Legal Authority, through its relevant organs, of the possible violation of the MTA under the Agreement with the Collaborating Institute.

The Local Institute and the Collaborating Institute reserve the right to take other action, including legal action, as they might deem feasible and appropriate to enforce the MTA(s) and preserve the integrity of the Agreement with the Collaborating Institute.

Signed \_\_\_\_\_ (Representing Local Institute)      Date: \_\_\_\_\_

\_\_\_\_\_ (Print Name of Officer/Representative) \_\_\_\_\_ (Designation/Job Title)

Signed \_\_\_\_\_ (Representing the Collaborating Institute)      Date: \_\_\_\_\_

\_\_\_\_\_ (Print Name of Officer/Representative) \_\_\_\_\_ (Designation/Job Title)

1. This does not prevent the researchers involved in the collaboration from publishing their research findings on the genetic material provided the local Institute consents.  
 2. This does not prevent the recipient from releasing or reproducing the material for purposes of making it directly available to farmers or consumers for breeding, provided that the other conditions set out in the MTA are complied with. The material is not to be used for commercial purposes and if this happens, a new benefit sharing agreement has to be entered into.  
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