



Preamble

1. This AGREEMENT is for permanent or temporary transfer of MATERIAL containing GENETIC RESOURCES to RECIPIENT and grants RECIPIENT a limited non-exclusive license to use the MATERIAL under the terms and conditions specified in this AGREEMENT.
2. The activities of Netherlands Institute for Vectors, Invasive plants and Plant health (NIVIP) are guided by the Convention on Biological Diversity (CBD)¹ and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their UTILIZATION (ABS)². MATERIAL is transferred between parties on the condition that RECIPIENT agrees to use MATERIAL and DATA in compliance with international laws and conventions. This AGREEMENT is designed to promote scientific RESEARCH and transfer of GENETIC RESOURCES, whilst recognising the terms on which the SUPPLIER acquired the MATERIAL. The SUPPLIER reserves the right not to supply any MATERIAL if such supply would be contrary to any terms attached to the MATERIAL and/or is not consistent with provisions of the CBD.
3. Definitions of terms are provided in the ANNEX A to this AGREEMENT

Parties to the AGREEMENT

SUPPLIER

Netherlands Institute for Vectors, Invasive plants
and Plant health (NIVIP);
National Plant Protection Organization (NPPO-NL)

Netherlands Food and Consumer Product Safety
Authority (NVWA)

Ministry of Agriculture, Nature and Food Quality

Geertjesweg 15
6706 EA Wageningen
The Netherlands

RECIPIENT

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4. The SUPPLIER supplies the SPECIMENS or SAMPLES listed on the ANNEX C attached to this AGREEMENT ("MATERIAL") under the following terms and conditions:

Ownership of MATERIAL and relevant information

5. The SUPPLIER warrants that it is not aware of third party rights on the MATERIAL that would preclude it from supplying the MATERIAL to the RECIPIENT in accordance with this AGREEMENT.
6. The RECIPIENT acknowledges his responsibility to verify if the MATERIAL is or may be the subject of a patent or patent application.
7. The RECIPIENT shall maintain retrievable records linking the MATERIAL to these terms of acquisition and to any accompanying DATA provided by the SUPPLIER.
8. The RECIPIENT shall not sell, lease, license, lend, supply, distribute or otherwise transfer the MATERIAL to any others without approval of the SUPPLIER.

Benefit-sharing related to acquisition and utilisation of the MATERIAL

9. The RECIPIENT agrees to abide by the PRIOR INFORMED CONSENT (PIC) and MUTUALLY AGREED TERMS (MAT) and any other conditions under which the MATERIAL was originally acquired, providing this is made available by SUPPLIER, and will contact the PROVIDING COUNTRY and SUPPLIER prior to any activities that might conflict with the existing PIC and MAT or any other conditions. The RECIPIENT agrees to act accordingly to the demands of the PROVIDING COUNTRY or to stop the USE of the material.
10. The MATERIAL is transferred for USE only as specified in this AGREEMENT.

1 <http://www.cbd.int/convention/text/>

2 <http://www.cbd.int/abs/doc/protocol/nagoya-protocol-en.pdf>

11. The RECIPIENT is responsible for seeking MAT for USE of the material when the SUPPLIER transfers the MATERIAL without knowledge if MAT are required.
12. The RECIPIENT shall, if applicable, share fairly and equitably the benefits arising from their USE of the MATERIAL, its PROGENY or DERIVATIVES in accordance with the CBD. A non-exhaustive list of non-monetary and monetary benefits is given in the Annex to the Nagoya Protocol.
13. The SUPPLIER will forward information on the MATERIAL supplied on request to the relevant national authority in the PROVIDING COUNTRY.
14. In case the provided MATERIAL for reference or COLLECTION MATERIAL will be used for a scientific publication, the RECIPIENT will indicate the source (SUPPLIER), the origin and specific collection/culture code.

Risks and Warranties

15. The RECIPIENT is solely responsible for safe receipt, use, storage and disposal of MATERIAL and derivatives.
16. The RECIPIENT acknowledges that the risks represented by any MATERIAL received from the SUPPLIER should be assessed on the basis of intended use.
17. The RECIPIENT acknowledges that it uses the MATERIAL and its derivatives and exercises its rights under this AGREEMENT at its own risk.
18. The RECIPIENT indemnifies the SUPPLIER, its officers, employees and agents ('those indemnified') against all expenses, losses, damages and costs (including legal costs on a full indemnity basis) incurred by or awarded against those indemnified arising out of a claim by any person in relation to:
 - a. The RECIPIENT's use of the MATERIAL, and its derivatives, and any other exercise of rights under this AGREEMENT; and
 - b. Breach of this AGREEMENT by the RECIPIENT.

Transfer of MATERIAL

19. The RECIPIENT shall take all appropriate and necessary measures to import the MATERIAL in accordance with relevant laws and regulations.
20. The RECIPIENT is responsible for ensuring that it can provide all required permits to the SUPPLIER if requested.
21. When the MATERIAL concerns regulated organisms or plant material, the SUPPLIER and RECIPIENT are responsible for applying the international rules on transport and containment of the MATERIAL correctly (regulation (EU) 2019-829 for transport within the EU or equivalent legislation in the country of the RECIPIENT).

Agreement

22. Neither party may assign or otherwise transfer this AGREEMENT and the rights acquired hereunder without the written consent of the other party. Any permitted assignee must agree in writing to be bound by the terms of this AGREEMENT.
23. Each party will ensure that its officers, employees and agents comply with the obligations imposed on it by this AGREEMENT as if personally bound by those obligations.
24. This AGREEMENT will terminate
 - a. On the predetermined closure of this AGREEMENT (in case of temporary transfer)
 - b. Upon breach of this AGREEMENT
 - c. Upon request by the SUPPLIER or RECIPIENT, with a period of notice of one month
25. If termination occurs under article 24, the RECIPIENT will discontinue its use of the MATERIAL, and, upon direction of the SUPPLIER, destroy or return any unconsumed MATERIAL and related DERIVATIVES.
26. The termination of this AGREEMENT shall not affect the obligations contained in this AGREEMENT which by their nature work beyond this AGREEMENT.
27. This AGREEMENT is governed by and shall be interpreted in accordance with the law of the Netherlands. In the event of a dispute arising out of this AGREEMENT, the PARTIES shall seek to resolve such dispute amicably. In case the PARTIES fail to settle the dispute amicably within four (4) weeks after the dispute has been raised by one PARTY to the other PARTY in writing, the dispute may be brought in the competent courts of The Hague, who shall have exclusive jurisdiction.

Signatures of parties to the AGREEMENT

Authorized signature for the SUPPLIER:

Authorised signature for the RECIPIENT:

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Name (in block letters):

Name (in block letters):

Date:

Date:

Place:

Place:

ANNEX A: DEFINITION OF TERMS

ACCESS: The EU Regulation defines ACCESS as 'the acquisition of GENETIC RESOURCES or of traditional knowledge associated with GENETIC RESOURCES in a Party to the Nagoya Protocol'. Acquisition of GENETIC RESOURCES with permission as granted by the country that has sovereign right over those resources (PROVIDING COUNTRY), or other relevant entity. Note that this term has not been defined in the Convention on Biological Diversity or the Nagoya Protocol, and may be used differently by some countries or organizations. An agreed definition should be included in all legal documents.

AGREEMENT: this document.

COLLECTION: A group of SPECIMENS or SAMPLES that are managed for the purpose of preservation and study. They are generally associated through sharing some feature, e.g. being of the same taxon (e.g. mammals, insects, sharks), from the same general locality or ecosystem, or collected by the same collector or on the same expedition.

COMMERCIALISATION, COMMERCIALISE, COMMERCIAL PURPOSES: Applying for, obtaining or transferring intellectual property rights or other tangible or intangible rights by sale or license or in any other manner, commencement of product development, conducting market assessments, and seeking pre-market approval and/or the sale of any resulting product based on UTILIZATION of the original GENETIC RESOURCE or screening of compound libraries. Also the sale, lease, or license of MATERIAL, PROGENY, or DERIVATIVES; or USEs of MATERIAL, PROGENY, or DERIVATIVES by any organization, including the RECIPIENT, to screen compound libraries in order to produce or manufacture products for general sale. Handling fees (e.g. for providing DNA samples), analytical cost recovery, entrance charges etc., fall under the scope of management and/or administration of public facilities, do not involve the UTILIZATION of GENETIC RESOURCES, and are not considered as a commercialization of RESEARCH activity on GENETIC RESOURCES.

DATA: Any information associated with a specimen and/or COLLECTION which are provided to the RECIPIENT by the SUPPLIER, including but not limited to: provenance information, biological information, taxonomic information, chain of custody information, and images.

DERIVATIVE: Means a naturally occurring biochemical compound resulting from the genetic expression or metabolism of biological or GENETIC RESOURCES, even if it does not contain functional units of heredity (definition from Nagoya Protocol Art 2).

GENETIC MATERIAL: Any material of plant, animal, microbial or other origin containing functional units of heredity (definition from Nagoya Protocol, repeated from Article 2 of the Convention on Biological Diversity).

GENETIC RESOURCES: GENETIC MATERIAL of actual or potential value (definition from Nagoya Protocol, repeated from Article 2 of the Convention on Biological Diversity).

MATERIAL: Refers to the items listed in ANNEX C of this AGREEMENT.

MATERIAL TRANSFER AGREEMENT (MTA): An agreement between two institutions stipulating the terms and conditions for transferring SPECIMENS or SAMPLES, including GENETIC MATERIAL.

MUTUALLY AGREED TERMS (MAT): An agreement reached between the Providing Country of GENETIC RESOURCES and users on the conditions of ACCESS and USE and the benefits to be shared between both parties.

PRIOR INFORMED CONSENT (PIC): The permission given by the Competent National Authority of a PROVIDING COUNTRY to a user prior to accessing GENETIC RESOURCES, in line with an appropriate national legal and institutional framework, i.e. what a user can and cannot do with the material.

PROGENY: Unmodified descendant (e.g. subculture or replicate) from the MATERIAL.

PROVIDING COUNTRY / PROVIDER OF MATERIAL: Means the country supplying GENETIC RESOURCES collected from in-situ sources, including populations of both wild and domesticated species, or taken from ex-situ sources, which may or may not have originated in that country (Definition from CBD Art 2).

RECIPIENT: The organization to whom the SUPPLIER sends the MATERIAL.

RESEARCH: The systematic investigation into and study of materials and sources in order to establish facts and reach new conclusions. This does not include any development of commercial or non-commercial applications.

SAMPLE/ SPECIMEN: This includes any type of biological material. The term "SPECIMEN" is usually synonymous with "material" or "samples" or "subsamples" in this context. The concept can include associated SPECIMENS or materials such as but not limited to parasites and gut content.

SUPPLIER: The party supplying the MATERIAL.

TRANSFER: To convey MATERIAL temporarily or permanently from one person or institution to another.

USE: The purposes to which samples and SPECIMENS (biological and genetic material) are put, including but not limited to 'UTILIZATION' in the sense of the Nagoya Protocol.

USER: Person or institution that uses samples and specimens including but not limited to UTILIZATION (OF GENETIC RESOURCES).

UTILIZATION (of genetic resources): To conduct RESEARCH and development on the genetic and/or biochemical composition of GENETIC RESOURCES, including through the application of biotechnology as defined in Article 2 of the Convention).

ANNEX B: EXPLANATION OF DOCUMENTS

Export permit: Document that allows the export of a quantity of specified MATERIAL to the RECIPIENT as set out in the permit.

Internationally-Recognized Certificate of Compliance: 'internationally recognized certificate of compliance' means a permit or its equivalent issued at the time of access as evidence that the genetic resource it covers has been accessed in accordance with the decision to grant prior informed consent, and that mutually agreed terms have been established for the user and the utilization specified therein by a competent authority in accordance with Article 6(3)(e) and Article 13(2) of the Nagoya Protocol, that is made available to the Access and Benefit-sharing Clearing House established under Article 14(1) of that Protocol.

Letter informing Providing Country of third-Party Transfer: When the notification of the Providing Country upon third-Party transfer is required according to MAT, the SUPPLIER is required to attach a copy of this notification to the AGREEMENT.

Letter of Authority Import (LoA Import): Transport document for transport of MATERIAL between a country in the European Union to a country outside of the European Union.

Letter of Authority Verkeer (LoA Verkeer): Transport document for transfer of MATERIAL in the European Union.

Mutually Agreed Terms (MAT): Document containing the contractual arrangements concluded between a provider of genetic resources, or of traditional knowledge associated with genetic resources, and a user. It contains specific conditions for the fair and equitable sharing of benefits arising from the utilization of genetic resources or of traditional knowledge associated with genetic resources, and may also include further conditions and terms for such utilization as well as subsequent applications and commercialization;

Prior Informed Consent (PIC): Document containing the contractual arrangements concluded between provider of genetic resources, or of traditional knowledge associated with genetic resources, and a user on collecting material in the providing country.

ANNEX C: MATERIAL

List of MATERIALS supplied by the SUPPLIER that fall under this AGREEMENT. This List will form part of the AGREEMENT.

MATERIAL(scientific name)	
Collection number(s)	NPPO-NL:
Information about material	Number of specimens: _____ Type of material: _____ Other relevant information: _____
Reference material?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Identified/characterized by (person(s)/technique(s))	1. 2.
Permanent or temporary transfer (loan)	<input type="checkbox"/> Permanent transfer <input type="checkbox"/> Temporary transfer (loan) until: _____ <input type="checkbox"/> Destroy material after use
Additional information about MATERIAL (when known)	Country of origin: _____ Date of collection/deposit: _____ Host: _____ Other relevant information: _____
(Intended) use by RECIPIENT	
Compliance with Nagoya protocol	<input type="checkbox"/> MATERIAL does not require PIC/MAT <input type="checkbox"/> MATERIAL is accompanied by PIC/MAT <input type="checkbox"/> It is unknown if MATERIAL requires PIC/MAT (see article 11)
Copies of relevant documentation if relevant to the MATERIAL: (Attach to AGREEMENT in ANNEX D; forms part of the AGREEMENT. Explanation of documents can be found in ANNEX B)	<input type="checkbox"/> Certificate of reference material <input type="checkbox"/> Export permit <input type="checkbox"/> Internationally-Recognized Certificate of Compliance <input type="checkbox"/> Letter informing Providing Country of third-Party Transfer <input type="checkbox"/> Letter of Authority Import (LoA Import) <input type="checkbox"/> Letter of Authority Verkeer (LoA Verkeer) <input type="checkbox"/> Mutually Agreed Terms (MAT) <input type="checkbox"/> Prior Informed Consent (PIC) <input type="checkbox"/> Other (please specify) _____
Financial arrangements:	<input type="checkbox"/> The material is transferred at the standard rate of € _____ per item <input type="checkbox"/> The material is granted freely <input type="checkbox"/> Other (please specify:) _____

Additional arrangements:	
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ANNEX D: RELEVANT DOCUMENTATION

List of attached copies of documentation if relevant to the MATERIAL, When there is more than one document of a single type, it shall be clear to which specimens each refers. All those referred documents will form part of the AGREEMENT