

**BIOLOGICAL MATERIAL TRANSFER AGREEMENT  
BETWEEN THE UNIVERSITY OF ARIZONA**

**And**

---

**(Name of Requesting Institution)**

**UNDER THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES  
FOR FOOD AND AGRICULTURE, EFFECTIVE 29 JUNE 2004.**

THIS MATERIAL TRANSFER AGREEMENT (“Agreement”), effective on the date of last authorized signature affixed hereto (the “Effective Date”), is by and between The Arizona Board of Regents on behalf of The University of Arizona and the Arizona Genomics Institute (“AGI”) having an address at Tucson, Arizona 85721 (“SUPPLIER”), and \_\_\_\_\_, having its principal business address at \_\_\_\_\_ (“RECIPIENT”). RECIPIENT will hold the MATERIAL in trust solely for the purposes set forth in this Agreement.

**General Provisions**

1. RECIPIENT acknowledges that the MATERIAL, as defined below, is subject to the objectives and provisions of the International Treaty on Plant Genetic Resources for Food and Agriculture (“Treaty”) and the related Standard MATERIAL Transfer Agreement between the University of Arizona and the International Rice Research Institute (IRRI SMTA ID: SMTA2007-0182), which is found at this URL:  
([http://www.genome.arizona.edu/orders/Completed\\_UA\\_IRRI\\_MTA.pdf](http://www.genome.arizona.edu/orders/Completed_UA_IRRI_MTA.pdf)) at this file name: “Completed UA\_IRRI MTA” .
2. The objectives of the Treaty are the conservation and sustainable use of Plant Genetic Resources for Food and Agriculture and the fair and equitable sharing of the benefits arising out of their use, in harmony with the Convention on Biological Diversity for sustainable agriculture and food security. A copy of the Treaty is found at this URL:  
([http://www.genome.arizona.edu/orders/international\\_treaty.pdf](http://www.genome.arizona.edu/orders/international_treaty.pdf)) at this file name: “INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE” .
3. The parties to this Agreement agree that the Food and Agricultural Organization of the United Nations, acting on behalf of the Governing Body of the Treaty and its Multilateral System, is the third party beneficiary under this Agreement.
4. By signing this Agreement, RECIPIENT acknowledges that RECIPIENT has read the SMTA and agrees to abide by all of its objectives and provisions.

**Definitions**

1. ORIGINAL MATERIAL: The description of the MATERIAL(s) being transferred, as specified in the requesting letter, email or the electronic order form, and clearly provide the genus, species, sub species, and the International Rice Germplasm Center (IRGC) Accession Number or the AGI identifier line number.

2. MATERIAL: ORIGINAL MATERIAL and PROGENY AND UNMODIFIED DERIVATIVES but shall not include MODIFICATIONS, as defined below:
3. PROGENY: Unmodified descendant from MATERIAL, such as seed to next generation selfed seed, virus from virus, cell from cell, or organism from organism.
4. MODIFICATIONS: Substances created by the RECIPIENT which contain/incorporate the MATERIAL, such as genetic crosses, reproductive or vegetative plant propagative MATERIAL, or anything containing functional units of heredity.
5. COMMERCIAL USE: The sale, lease, license or other transfer of the MATERIAL or MODIFICATIONS to a for-profit organization.
6. SUBSEQUENT RECIPIENT: A third party to whom RECIPIENT provides MATERIAL.

### Terms

RECIPIENT and SUPPLIER agree to the following terms and conditions:

1. **No Warranties. Any MATERIAL delivered pursuant to this Agreement is understood to be experimental in nature, and SUPPLIER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE MATERIAL WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS.**
2. Rights and Obligations of Parties to this Agreement.
  - 2.1. Ownership. Intellectual and other property rights shall be consistent with relevant international agreements and with relevant national laws (SMTA, Art.5.d.)
  - 2.2. Shipment of MATERIAL. SUPPLIER Scientist shall make MATERIAL available for shipment to RECIPIENT in a timely manner after effective date of this Agreement, at the fee agreed to in either written letter, email or the electronic order form, which fee will not exceed minimal costs involved in preparation, shipping and handling (SMTA, Art.5.a.) The RECIPIENT of the MATERIAL assumes the risk of loss due to shipping.
  - 2.3. Custody of MATERIAL. MATERIAL being made available pursuant to this Agreement is to be held by RECIPIENT in trust solely for purposes of research, breeding and training for food and agriculture. Such purposes shall not include chemical, pharmaceutical and/or other non-food/feed industrial uses (SMTA, Art.6.1). MATERIAL shall not be used in human subjects, human cloning, and clinical trials or for diagnostic purposes involving human subjects.
  - 2.4. Transfer to Third Parties. RECIPIENT may transfer Material to a SUBSEQUENT RECIPIENT under a separate Material Transfer Agreement, which incorporates the objectives and provisions of the SMTA, including notification to Governing Body of the Treaty, (SMTA, Art. 6.4). Prior to re-distribution, the new separate MTA must be approved by AGI.
  - 2.5. Limitations of Rights. This Agreement shall not grant RECIPIENT rights under any patent owned by or assigned to the SUPPLIER; or in any know-how of the SUPPLIER.

- 2.6 COMMERCIAL USE. If RECIPIENT, or SUBSEQUENT RECIPIENT, desires to make COMMERCIAL USE of MATERIAL or MODIFICATION and related patents, if any, it agrees to abide by the objectives and provisions of Art. 6 of the SMTA.
3. Term. This Agreement shall remain in force so long as the Treaty remains in force (SMTA Art. 9.2).
4. Government Rights. The provision of MATERIAL to RECIPIENT is understood to alter in no way any rights of the U.S. Government or other research sponsor of SUPPLIER, if applicable.
5. Publication. This Agreement shall not be interpreted to prevent or delay publication of research findings resulting from the use of the MATERIAL or MODIFICATIONS. The RECIPIENT SCIENTIST agrees to provide appropriate acknowledgement of the source of the MATERIAL in all publications.
6. Access to Information. RECIPIENT shall make available to the Multilateral System, through the information system provided for in Art. 17 of the Treaty, all non-confidential information that results from research and development carried out on the Material.
7. Use of Name. Except as set forth in Sec. 5 above, RECIPIENT shall not use the name of the SUPPLIER in any public announcements, publicity, or advertising with respect to the subject of the Agreement without the prior written approval of SUPPLIER.
8. Liability. In no event shall the SUPPLIER be liable for any use of MATERIAL, and RECIPIENT hereby agrees, where not precluded by federal or state law, to defend, indemnify, and hold SUPPLIER harmless from any loss, claim, damage or liability, of whatsoever kind or nature, which may arise from or in connection with this Agreement or the use of such MATERIAL hereunder.
9. Compliance. RECIPIENT's use of MATERIAL shall be in compliance with all applicable local, state, federal and international laws, including the UNIDROIT Principles of International Commercial Contracts 2004, the objectives and the relevant provisions of the Treaty, and, when necessary for interpretation, the decisions of the Governing Body (SMTA, Art. 7), U.S. export control laws, procedures, rules, and regulations. RECIPIENT further agrees as follows:
- 9.1 RECIPIENT will use the MATERIAL in compliance with all applicable statutes and regulations, including USDA-APHIS, Plant Protection Quarantine, Public Health Service and National Institutes of Health regulations and guidelines, including but not limited to, those relating to research involving the use of rice plants, noxious weeds, animals or recombinant DNA.
- 9.2 SUPPLIER is not responsible for securing or verifying any permits or licenses for the RECIPIENT that may be required by any regulatory agency to allow by law, or otherwise, the transfer, receipt or use of any materials.
10. Survival of Terms. Paragraphs for No Warranties, Limitations on Rights, Publication, Access to Information, Use of Name, and Liability shall survive termination of this Agreement.

State of Arizona Required Clauses:

11. Parties acknowledge receipt of notice that ARS § 38-511 regarding SUPPLIER conflict of interest applies to this Agreement.

12. The Parties shall comply with all applicable state and federal statutes and regulations governing equal employment opportunity, non-discrimination and immigration.

**SUPPLIER INSTITUTION:**

**RECIPIENT INSTITUTION:**

**Arizona Board of Regents  
On behalf of the  
University of Arizona**

**Authorized Representative:**

**Authorized Representative**

By: 

By: \_\_\_\_\_

Date: 4-4-08

Date: \_\_\_\_\_

Name: Patrick L Jones, Ph.D.  
Title: Director, Office of Technology  
Transfer

Name:  
Title:

**SUPPLIER Scientist**

**RECIPIENT Scientist**

By: 

By: \_\_\_\_\_

Date: 4/4/08

Date: \_\_\_\_\_

Name: Rod A. Wing or Dave A. Kudrna  
Title: Director, Arizona Genomics Institute

Name:  
Title:

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