

U. S. Department of Agriculture
Agricultural Research Service

Fax to:
Jeff W. Wilson

MATERIAL TRANSFER AGREEMENT

PARTIES:

ARS: USDA, ARS, South Atlantic Area

Crop Genetics and Breeding Research Unit
P.O. Box 748, 2316 Kaitwater Road
Tifton, GA 31792-0748

Tel: 229-586-3189

FAX: 229-397-3701

E-Mail: jef@wilson.ars.usda.gov

Recipient: Thomas Jefferson Agricultural Institute

607 W. Nifong Blvd., Suite 110

Columbia, MO 65203

Recipient's Scientist: Robert Myers

Tel: 573-449-3518

FAX: 573-449-2398

E-mail: myers@jefersoninstitute.org

PURPOSE:

To provide Recipient with a 100 g sample of seed of each of nine (9) experimental pearl millet (*Pennisetum glaucum*) germplasm lines (506A1 x 2304, 606A1 x 2304, 5106A1 x 54307, 606A1x54307, 307A1x42808, 707A1x42808), and associated know how, hereinafter collectively referred to as the Material.

The Material is released to Recipient under the following conditions:

1. The Material shall only be used for: Evaluation of hybrid performance in local environments in Missouri; Traits to assess include maturity, disease and pest resistance, agronomic traits associated with yield potential, and restoration of cytoplasmic male sterility. The Material shall not be used by Recipient for breeding purposes.
2. Recipient shall not transfer the Material, in whole or in part, to a third party without the express written consent of ARS. Any third party requesting a sample shall be referred to ARS.
3. The Material shall remain the property of ARS and shall not be used for commercial or profit-making purposes without an appropriate license or other permission from ARS.

4. Recipient shall keep ARS informed of the results obtained through use of the Material, provide ARS with a copy of any manuscript that describes work with the Material, prior to submission for publication, and acknowledge ARS' contribution to the work reported.

5. Recipient shall not in any way state or imply that ARS agrees with or endorses results of this Agreement or an endorsement by ARS of its organization, unless expressly provided for in the Material, or to the extent permitted by specifically provided for in the Material, representative of ARS.

6. The Parties acknowledge and agree to comply with all applicable laws and regulations of the Animal and Plant Health and Inspection Service, the Centers for Disease Control and Prevention, and the Department of Health and Human Services, including but not limited to, the use of biological materials, pathogens, toxins, genetic materials, and other controlled microorganisms, vaccines, and the like.

7. Recipient shall assume sole responsibility for any claims or liabilities that may arise as a result of the Recipient's use of the Material.
8. ARS GIVES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

9. Material shall be returned, destroyed, or otherwise disposed of as instructed by ARS no later than the expiration of this Agreement.
10. Recipient shall meet with U.S. Department of Agriculture representatives to determine membership of an invention should arise from Recipient's work with the Material.

11. Confidentiality:
a. Recipient shall not disclose Material marked "Confidential" or "Proprietary" to any third party nor use such Confidential Information for any purpose other than that given above without written permission from ARS.

b. Recipient shall use the same degree of care to protect its own and confidential information received under this Agreement as it uses to protect its own confidential information of similar nature, but in any event not less than reasonable care under the circumstances.

- c. The Confidential Information shall be excluded from confidentiality if Recipient can demonstrate that (a) it had possession of the information prior to disclosure or that the information generally is available to the public at the time of disclosure or becomes generally available after disclosure, through no fault of Recipient; or (b) Recipient receives the information from a third party having the right to the information and who does not impose confidentiality.
- d. It shall not be a breach of this Agreement if Recipient is required to disclose Confidential Information by a valid order of a court or other government body, or as otherwise required by law, or as necessary to establish the rights of a third party under this Agreement (the "MPPD"). (11A) Recipient shall provide prompt notice to the Affiliates and shall make a good faith effort to provide prompt notice to the Affiliates and the MPPD. (11B) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11C) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11D) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11E) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11F) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11G) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11H) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11I) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11J) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11K) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11L) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11M) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11N) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11O) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11P) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11Q) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11R) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11S) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11T) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11U) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11V) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11W) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11X) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11Y) Recipient shall provide prompt notice to the Affiliates and the MPPD. (11Z) Recipient shall provide prompt notice to the Affiliates and the MPPD.
- 12. If the Parties hereto decide, at some future date, to engage in a cooperative research program using the Material, a formal Cooperative Research and Development Agreement and other research Agreement, must be negotiated and entered into between the Parties.
- 13. This Material Transfer Agreement shall be governed in accordance with the laws of the State of Oregon Federal Law as interpreted by the Federal Courts in the absence of a conflict.

This Material Transfer Agreement shall become effective upon filing of this document and shall continue in effect for a period of three (3) years, provided, however, that the term shall be extended by Recipient, regarding the maintenance of confidentiality, under this Agreement shall be extended for two (2) years from the expiration of this Agreement.

ACCEPTED FOR THE AGRICULTURAL RESEARCH SERVICE

C. Conley Holbrook

Research Leader

Date

Jeffrey P. Wilson

Research Plant Pathology

Date

ACCEPTED FOR THE RECIPIENT:

Robert Myers

Director

7/13/09

APPROVED:

Donald A. Nordlund

Technology Transfer Coordinator

5/13/2009

MS 573-449-2398