

**U. S. Department of Agriculture  
Agricultural Research Service**

**MATERIAL TRANSFER AGREEMENT**

**PARTIES:**

ARS:           USDA, ARS, South Atlantic Area  
                Coastal Plain Experiment Station  
                Crop Genetics and Breeding Research Unit  
                P.O. Box 748, 2747 Davis Road  
                Tifton, GA 31793-0748  
                Tel: 229.386.3189  
                Fax: 229.391.3701  
                E-mail: jeff.wilson@ars.usda.gov

Recipient:     Arizona Board of Regents on behalf of the University of Arizona  
                University Services Building  
                888 N. Euclid Ave., #515  
                Tucson, AZ 85719  
                With its employee,

                Recipient's Scientist: Guangyao (Sam) Wang  
  Tel: 520.381.2259  
  Fax: 520.568.2556  
  E-mail: samwang@ag.arizona.edu

**PURPOSE:**

To provide Recipient with twenty-five (25) g of seed of experimental pearl millet (*Pennisetum glaucum*) germplasm known as LHB08, 2304, 506Ax2304, 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 to evaluate pearl millet for yield and food quality in Arizona. The Material shall not be used for breeding.
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.

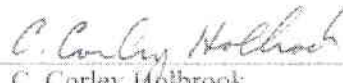

4. Recipient shall keep ARS informed of the results obtained through use of the Material, provide ARS with a copy of any manuscript that describes work with the Material prior to submission for publication, and acknowledge ARS' contribution to the work reported.
5. Recipient shall not in any way state or imply that this Agreement or the results of this Agreement is an endorsement by ARS of its organizational units, employees, products, or services except to the extent permission is specifically granted by an authorized 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 and/or the Centers for Disease Control pertaining to possession or transference of technical information, biological materials, pathogens, toxins, genetic elements, genetically engineered 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, EXPRESSED OR IMPLIED, FOR THE MATERIAL, 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 inventorship if 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 Confidential Information received under this Agreement as it uses to protect its own information of a 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 (b) 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 (c) Recipient receives the information from a third party having the right to the information and who does not impose confidentiality, or (d) is independently developed by Recipient.
  - d. It shall not be a breach of this Agreement if Recipient is required to disclose the

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 either party under this Agreement; PROVIDED THAT Recipient shall provide prompt prior notice thereof to ARS to enable ARS to seek a protective order or otherwise prevent such disclosure, and PROVIDED FURTHER THAT the Confidential Information otherwise shall continue to be confidential.

12. If the Parties hereto decide, at some future date, to engage in a cooperative research project or program using the Material, a formal Cooperative Research and Development Agreement, or other research Agreement, must be negotiated and entered into between the Parties.
13. The parties agree to be bound by applicable state and federal rules governing equal employment opportunity, nondiscrimination, and immigration.
14. This Agreement is subject to the provisions of A.R.S. § 38-511 regarding Conflict of Interest. The Recipient may cancel this Agreement if any person significantly involved in negotiating, drafting, securing or obtaining this Agreement for or on behalf of the Recipient becomes an employee in any capacity of the other party or a consultant to the other party with reference to the subject matter of this Agreement while the Agreement or any extension thereof is in effect.

This Material Transfer Agreement shall become effective upon date of final signature and shall continue in effect for a period of two (2) years; provided, however, that the obligations assumed by Recipient, regarding the maintenance of confidentiality, under this Agreement shall remain in effect for two (2) years from the expiration of this Agreement.

**ACCEPTED FOR THE AGRICULTURAL RESEARCH SERVICE:**

 C. Corley Holbrook	Research Leader Title	3/15/09 Date
 Jeffrey P. Wilson	Research Plant Pathologist Title	3-16-09 Date

**ACCEPTED FOR THE RECIPIENT:**

 Lewis Barbieri	Director, Office of Research & Contract Analysis Title	3/23/09 Date
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**READ AND UNDERSTOOD BY:**

 Guangyao (Sath) Wang	Cropping Systems Specialist Title	3/20/09 Date
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**APPROVED:**

 Donald A. Nordlund	Technology Transfer Coordinator Title	03/12/2009 Date
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MTA/0011: October 2006