



**MINISTRY OF THE ENVIRONMENT
Genetic Heritage Management Council**

CGEN RESOLUTION No. 12, OF 18 SEPTEMBER 2018

Ratifies the standard Material Transfer Agreement - MTA document

Genetic Heritage Management Council (CGEN) - CGen as part of its attributions established by the Law no. 13.123, of 20 May 2015, and the Decree no. 8.772, of 11 May 2016, and considering the provisions of its Bylaws, attached to the MMA [Ministry of the Environment] Ordinance no. 427, of 29 September 2016, decides upon the following:

Article 1 - To approve the standard Material Transfer Agreement - MTA document, in the form of the Attachment 1 of this Resolution.

Article 2 - As provided in the Article 25 of the Decree nº. 8.772, of 11 May 2016, the clauses presented in this standard MTA model are mandatory.

Sole Paragraph. Additional clauses of specific interest to the sender or to the recipient, may be included as attachments to the MTA, provided they do not conflict with the provisions of this Resolution or any other applicable law.

Article 3 - The sender and the recipient may sign, at their sole discretion, one or several MTAs, which will remain valid for the maximum period of 10 (ten) years and which may be renewed.

§ 1. For each one of the shipments associated to the MTA indicated in the heading of this Article, the sender shall make a prior registration of the shipment at the “National System for the Management of Genetic Heritage and Associated Traditional Knowledge - SisGen”, including the Shipment Invoice, in a sequential number order, together with the description of the samples to be shipped according to the standard document in Attachment 2 of this Resolution.

§ 2. To be regularly shipped, genetic heritage samples must be accompanied by three documents:

- I - a receipt of the shipment registration in SisGen;
- II - a copy of the MTA signed by both sender and recipient; and
- III - the Shipment Invoice.

Article 4 - This Resolution comes into effect on the date of its publication.

Article 5 - The CGen Resolution nº 05, from March 20th, 2018, is hereby revoked.

THIAGO AUGUSTO ZEIDAN VILELA DE ARAUJO
President-in-office of the Council
Genetic Heritage Management Council

ATTACHMENT 1

MATERIAL TRANSFER AGREEMENT - MTA

THIS MATERIAL TRANSFER AGREEMENT - MTA, a legal document defined in the item III of the art. 25 of the Decree no. 8.772, of 2016, is signed by:

If the sender is a Legal Entity¹:

[NAME OF THE INSTITUTION AS INFORMED IN THE NATIONAL REGISTRY OF LEGAL ENTITIES - CNPJ], a legal entity registered with the CNPJ/MF under no. [CNPJ number], having its main headquarters located at [NAME OF THE STREET], number [NUMBER], [ADDITIONAL ADDRESS INFORMATION], neighborhood [NEIGHBORHOOD], in the municipality of [MUNICIPALITY], [STATE], postal code - CEP [NUMBER OF THE POSTAL CODE], herein represented in the form of [ENTITY INCORPORATION INFORMATION] through [EMPOWERMENT DOCUMENT] by [COMPLETE NAME OF LEGAL REPRESENTATIVE], [NATIONALITY], [MARITAL STATUS], [PROFESSION], Tax Number - CPF no. [CPF no.], identity card no. [IDENTITY CARD NUMBER], identity card issue office [NAME OF OFFICE], State [STATE], hereinafter simply referred to as the "SENDER",

If the sender is Natural Person²:

[FULL NAME], nationality [NATIONALITY], [MARITAL STATUS], [PROFESSION], Tax Number - CPF no. [CPF no.], identity card no. [IDENTITY CARD NUMBER], identity card issue office [NAME OF OFFICE], State [STATE], residing at [NAME OF THE STREET], number [NUMBER], [ADDITIONAL ADDRESS INFORMATION], neighborhood [NEIGHBORHOOD], in the municipality of [MUNICIPALITY], [STATE], postal code - CEP [NUMBER OF THE POSTAL CODE], hereinafter simply referred to as the "SENDER",

And:

If the recipient is a Legal Entity:

[NAME OF THE RECIPIENT INSTITUTION according to its registration in the host country], a legal entity with its main headquarters located at [COMPLETE ADDRESS], [CITY OR MUNICIPALITY], [REGION/STATE], postal code [POSTAL CODE], [COUNTRY], herein represented by [FULL NAME OF THE LEGAL REPRESENTATIVE], [NATIONALITY], [TITLE], hereinafter simply referred to as the "RECIPIENT".

If the recipient is Natural Person:

[FULL NAME], nationality BRAZILIAN, [MARITAL STATUS], [PROFESSION], tax Number - CPF no. [CPF no.], identity card no. [IDENTITY CARD NUMBER], identity card issue office [NAME OF OFFICE], State [STATE], residing at [FULL ADDRESS], [CITY OR MUNICIPALITY], [REGION/STATE], postal code [POSTAL CODE], [COUNTRY], hereinafter simply referred to as the "RECIPIENT".

WHEREAS the RECIPIENT shall comply with the provisions of the Law n° 13.123, of 20 May 2015, and the Decree n° 8.772, of 11 May 2016, to have access³ to the genetic heritage samples⁴ subject to this MTA and their respective Shipment Invoices for the

purposes of research⁵ and technological development activities⁶, the RECIPIENT acknowledges that he / she shall:

- a) Partner with a national Brazilian scientific and technological research institution to perform research or technological development from this (these) genetic heritage sample(s), or associated traditional knowledge⁷, if the recipient is a foreign legal entity;
- b) Notify⁸ through SisGen (sisgen.gov.br), and share benefits, in case of commercial exploitation of finished product or reproductive material developed from the samples subject to the Shipment Invoice(s) attached to this MTA;
- c) Obtain the Prior Informed Consent (PIC) from the provider of the traditional local or Creole varieties or locally adapted or Creole breeds, to perform research or technological development, if the samples are not used in agricultural activities; and
- d) Obtain the Prior Informed Consent (PIC) from the provider in the case of research or technological development related to traditional knowledge associated with the samples subject to the Shipment Invoice(s) attached to this MTA.

The undersigned parties identified above hereby agree to sign this MTA, by their duly authorized representatives, and do so in conformity with the following terms and conditions:

1. The purpose of this Agreement is the Shipment⁹ of genetic heritage samples identified in the Shipment Invoice(s) together with which they will be shipped, pursuant to the art. 12, IV, of Law n° 13.123, of 2015 and will integrate the shipment registration at National System for the Management of Genetic Heritage and Associated Traditional Knowledge - SisGen.

2. The RECIPIENT acknowledges that he/she is not the provider of the genetic heritage samples subject of this MTA.

3. In the case of a shipment of traditional local or Creole varieties or locally adapted or Creole breeds, a copy of this MTA and its respective Shipment Invoice shall be sent by the SENDER to the provider, if the latter is properly identified.

4. The RECIPIENT agrees to the conditions of use of the samples, as defined by the SENDER under items 6 and 7 of the Shipment Invoice(s) attached to this MTA.

5. The RECIPIENT acknowledges that any non-compliance with the provisions of this MTA may result in the legal sanctions provided in Law n° 13.123, of 2015.

6. This MTA shall be interpreted in compliance with the Brazilian law and, in the case of litigation, the jurisdiction shall be that of the competent court in Brazil, as indicated by the SENDER; arbitration may be admitted if agreed between the parties.

7. This MTA shall remain valid for [TIME PERIOD] and may be renewed.

By agreeing to all the above terms, the representatives of the RECIPIENT and of the SENDER sign this MTA in at least 2 (two) counterparts of equal form and content, constituting a single instrument in regard to its legal effects.

Date and place:

Representative of the SENDER: *(space for Signature) / (Name of the representative of the sender) (Tax no. - CPF)*

Representative of the RECIPIENT: *(space for Signature) / (Name of the legal representative of the recipient) (Title)*

1st Counterpart (sender)

2nd Counterpart (recipient)

MTA DEFINITIONS

1. - Legal entity - consists of a group of persons or assets, legally constituted and incorporated into its own legal entity.
2. - Natural person - any person capable of acquiring rights and duties in the civil order.
3. - Access to the genetic heritage - research or technological development carried out on genetic heritage samples;
4. - Genetic heritage - information of genetic origin of plant, animal, microbial or species of other nature, including substances originating from the metabolism of these living organisms;
5. - Research - experimental or theoretical activity carried out on genetic heritage or associated traditional knowledge with the objective of building new knowledge by means of a systematic process that creates and tests hypothesis, describes and interprets fundamentals of observed phenomena and facts;
6. - Technological development - systematic work on genetic heritage or associated traditional knowledge based on existing procedures resulting from research or from practical experience carried out with the objectives of developing new materials, products or devices, or improving or developing new processes, for economic exploitation;
7. - Associated traditional knowledge - indigenous population, traditional community or traditional farmer who holds and provides associated traditional knowledge;
8. - Product notification- declaration document required prior to economic exploitation of a finished product or reproductive material originating from access to genetic heritage or to associated traditional knowledge in which the user declares compliance with the requirements of this Act and indicates the modality of benefit-sharing, when applicable, to be established in the benefit-sharing agreement;
9. - Shipment - transfer of a sample of genetic heritage, intended for access, to an institution located abroad, in which responsibility for the sample is transferred to the recipient institution.

ATTACHMENT 2

SHIPMENT INVOICE

“Shipment Invoice N° [] of the Material Transfer Agreement (MTA) signed by and between [SENDER] and [RECIPIENT] on [MTA DATE], valid until [DATE]

1. Identifying information on the genetic heritage samples to be shipped, to the most specific taxonomic rank possible:

2. Origin of the samples to be shipped, indicating the municipality of the place of obtainment collection *in situ*, even if it has been obtained from *ex situ* sources:

[OR]

2. Identifying information on the *ex situ* source of the genetic heritage, with the information contained in the deposit record, if it comes from an *ex situ* collection as determined in §1 of the article 22 of the Decree n° 8.772, of 2016:

3. Information on the kind of sample and method of stowage:

4. Number of containers, volume or weight:

5. Is the sample from traditional local or Creole varieties or locally adapted or Creole breeds?

Yes.

No.

6. The RECIPIENT declares that he/she will use the genetic heritage samples for:

PURPOSE	INTENDED USE AND APPLICATION DOMAIN
<input type="checkbox"/> Research	Intended uses:
	Project application domain / research activity:
<input type="checkbox"/> Technological development	Intended uses:
	Project application domain / technological development activity:
<input type="checkbox"/> Deposit in <i>ex situ</i> collection	

6.1. The RECIPIENT shall inform CGen (cgen@mma.gov.br) of any modification in the information provided under item 6.

[OR]

6.1. The genetic heritage samples subject to this Shipment Invoice shall be used exclusively for the purposes, intended uses and application domains indicated under item 6.

[OR]

6.1. The RECIPIENT shall be granted authorization from the SENDER to perform any modification on the purposes, intended uses and application domains indicated under item 6.

7. Genetic heritage samples subject to this Shipment Invoice may not be transferred to third parties.

[OR]

7. Genetic heritage samples subject to this Shipment Invoice may be transferred to third parties.

7.1. To perform this transfer, the RECIPIENT shall require the subsequent recipient to sign a new MTA containing all the terms of this MTA, including the Shipment Invoice identifying the samples, in accordance to the standard document ratified by the CGen.

7.2. The RECIPIENT shall send CGen (cgen@mma.gov.br) the MTA signed with the subsequent recipient in case of a subsequent transfer of the genetic heritage samples subject to this MTA, together with their respective Shipment invoice(s).

7.3. The provisions of items 7.1 and 7.2 applies to all subsequent transfers.