**U. S. Department of Agriculture**

**Agricultural Research Service**

**DATA TRANSFER AGREEMENT - IN**

**Data in this Agreement is governed by the terms of the Federal Technology Transfer Act (15 U.S.C. 3710a (b) (3) (A)).**

**PARTIES:**

ARS: USDA, ARS, Area

Research Unit

Address

City, State Zip

Tel: Telephone # of Scientist

FAX: FAX # of Scientist

E-mail: Scientist E-mail Address

PROVIDER: Company/ University Name

Address

City, State Zip

PROVIDER’s Scientist: Name

 Tel: Company/University Scientist's Telephone #

 FAX: Company/ University Scientist's FAX #

 E-mail:

**PURPOSE:**

PROVIDER will provide ARS with [insert description of data] and associate knowhow, hereinafter DATA. The DATA has been collected from [mention source of data].

The DATA will be used by ARS only for research purposes and use is restricted to the following Research Project: [insert use]

ARS agree to the following before the PROVIDER transmits the DATA:

1. The above DATA is the property of the PROVIDER and is made available as a service to the research community.
2. THIS DATA SHALL NOT BE USED FOR COMMERCIAL OR OTHER PROFIT MAKING PURPOSES. Any and all commercial or profit making uses of this DATA require ARS to obtain in advance an appropriate license or other written permission from the PROVIDER. Some examples of prohibited commercial or other profit making uses that are not permitted include, but are not limited to, developing algorithms, etc. [recite other contemplated or desired limitation on use]. If the parties hereto decide, at some future date, to engage in a cooperative research project or program using the DATA (i.e., to for instance jointly develop algorithms), a formal Cooperative Research and Development Agreement (CRADA), or other research Agreement, must be negotiated and entered into between the parties.
3. The DATA will not be further distributed to others without the PROVIDER's written consent. ARS shall refer any request for the DATA to the PROVIDER.
4. Subject to Section 8, ARS cannot present the DATA or use the DATA for any public purpose including teaching or publication without the express written consent of the PROVIDER. ARS agrees to acknowledge the contribution of the PROVIDER in all written or oral public disclosures concerning ARS’s research using the DATA. ARS agrees to supply the PROVIDER with copies of public materials based on the use of the DATA.
5. PROVIDER GIVES NO WARRANTIES OR GUARANTEES, EXPRESSED OR IMPLIED, FORTHE MATERIAL/DATA, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Unless prohibited by law, ARS assumes all liability for Claims for damages against it by third parties which may arise from the use, storage or disposal of the DATA.
6. The ARS agrees to use the DATA in compliance with all applicable statutes, regulations, and policies.
7. The DATA is provided at no cost.
8. All DATA provided by PROVIDER is deemed Confidential Information, except for DATA that:
9. have been published or otherwise publicly available at the time of disclosure to ARS;
10. were in the possession of or were readily available to ARS without being subject to a confidentiality obligation from another source prior to the disclosure;
11. have become publicly known, by publication or otherwise, not due to any unauthorized act of ARS;
12. ARS can demonstrate it developed independently, or acquired without reference to, or reliance upon, such Confidential Information; or
13. are required to be disclosed by law, regulation, or court order.
14. Information deemed confidential under this Agreement shall be clearly marked "CONFIDENTIAL" by the PROVIDER and maintained in confidence by ARS for a period of [one to five (1-5) years] from ARS’S receipt of the Confidential Information. Any Confidential Information that is orally disclosed must be reduced to writing and marked "CONFIDENTIAL" by the PROVIDER and such notice must be provided to the ARS within thirty (30) calendar days of the oral disclosure.
15. These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive Order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive Orders and statutory provisions are incorporated into this agreement and are controlling.
16. ARS shall meet with PROVIDER’S representative(s) to determine inventorship if an

invention should arise during ARS’S work with the DATA.

1. The provisions of this Agreement are to be deemed severable and the invalidity, illegality or

unenforceability of one or more of such provisions shall not affect the validity, legality or

enforceability of the remaining provisions.

1. This Agreement for the Transfer of Data shall be construed in accordance with United States

of America Federal Law as interpreted by the Federal Courts in the District of Columbia.

1. This agreement is effective for a period of [one to five (1-5)] years from the date of final signature. Either Party may terminate this Agreement with thirty (30) days written notice to the other Party.  In the event this Agreement is terminated, ARS shall promptly return to PROVIDER or, at PROVIDER'S option, destroy all copies of DATA.  Upon PROVIDER's request, ARS shall confirm in writing as to such destruction. Obligations under paragraphs 2, 3, 4, 5, 6, and 8 shall survive the termination of this agreement.

# SIGNATURES BEGIN ON THE NEXT PAGE

**PROVIDER INFORMATION and AUTHORIZED SIGNATURE**

 Signature (Scientist) Date

 Typed Name (Scientist)

 Signature (Authorized Official) Date

 Typed Name (Authorized Official)

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**ARS INFORMATION and AUTHORIZED SIGNATURE**

 Signature (Scientist) Date

 Typed Name (Scientist)

 Signature (Research Leader) Date

 Typed Name (Research Leader)

 Signature (Technology Transfer Coordinator) Date

 Typed Name (Technology Transfer Coordinator)