

EUFGIS MEMORANDUM OF AGREEMENT

THIS AGREEMENT dated [.....] is made **BETWEEN:**

1. [NAME OF ORGANIZATION WITH LEGAL PERSONALITY- (SHORTNAME)] OF COUNTRY [ADDRESS] ("**Data Provider**"); and
2. **Bioversity International** ("**Bioversity**") (formerly the International Plant Genetic Resources Institute, "IPGRI"), with international status conferred under an Establishment Agreement, signed and ratified by 54 Government in 2008, and with offices in Italy under a Headquarters agreement with the Italian Government, and which is an independent international research organization supported by the Consultative Group on International Agricultural Research (CGIAR).

1. BACKGROUND

- 1.1. This agreement regards the collaboration on the development of an information system on forest genetic resources in Europe between Bioversity on behalf of the Secretariat of the European Forest Genetic Resources Programme (EUFORGEN), and the Data Provider.
- 1.2. The establishment of a European Information System on Forest Genetic Resources (EUFGIS) is a targeted action co-funded by the European Commission under Council Regulation (EC 870/2004) and coordinated by Bioversity for the period of April 2007-September 2010. The action will create a Web-based information system to make available information on forest genetic resources in European countries. This information will be provided by European countries as their contribution to the implementation of Strasbourg Resolution 2 (1990), Vienna Resolution 4 (2003) and the Warsaw Declaration (2007) of the Ministerial Conferences on the Protection of Forests in Europe (MCPFE) and other international commitments, such as the Convention on Biological Diversity (CBD) and the development of the State of the World's Forest Genetic Resources report by the Food and Agriculture Organisation of the United Nations ("FAO").
- 1.3. The EUFGIS information system ("EUFGIS Portal") will be maintained by Bioversity and further developed as part of EUFORGEN Phase IV (January 2010-December 2014). The EUFGIS Portal will consist of two interfaces; an intranet with access limited to Data Providers and a public user interface.
- 1.4. The data shared with Bioversity by the Data Provider is information related to dynamic gene conservation units of forest trees.

2. OBLIGATIONS AND RIGHTS

- 2.1. Bioversity and the Data Provider will inform each other, in writing, of changes regarding this collaboration and look at options to expand the collaboration for mutual benefit.

2.2. Bioversity will:

- 2.2.1. not claim rights over any data provided by the Data Provider, express any opinion on the data when making the data publicly available, nor modify the original data provided by the Data Provider;
- 2.2.2. manage the EUFGIS Portal based on the principle that the data contained therein can be made available to the public without limitation or restraint, and excludes the Data Provider's geographical units' detailed geographical coordinates which have been previously opted solely by the Data Provider to comply with the Data Provider's national laws and/or regulations. The targeted action, in collaboration with EUFORGEN, has defined the structural and quality requirements of the data to be placed on the EUFGIS Portal. Therefore, if for whatever reason a set of data, or part thereof, does not comply with the requirements, such data may be withheld from the Portal by Bioversity;
- 2.2.3. compile the data from the provider on the EUFGIS Portal in a manner that can be available and accessible to the public. It will not modify data in any way, except as necessary to ensure that it complies with the defined requirements;
- 2.2.4. have the right to delay the release of data to the public, if it determines that further clarifications about the data are needed from the Data Provider;
- 2.2.5. maintain the internet site of the Portal and its user interfaces in consultation with the Data Providers;
- 2.2.6. if appropriate, facilitate access to the Data Provider being the source of the data via hyperlinks to the Data Provider's internet site and providing contact details of the Data Provider;
- 2.2.7. provide tools and assistance, whenever possible, that will facilitate data upload by the Data Provider to the EUFGIS Portal;
- 2.2.8. require data users to attribute the source of information or data to the EUFGIS Portal when information is obtained from the EUFGIS Portal;
- 2.2.9. display appropriate notices on the EUFGIS Portal concerning the terms of use of the data presented on the site.

2.3. The Data Provider will:

- 2.3.1. ensure that one of its staff members acts as the national focal point of «CTY_NAME» to the EUFGIS Portal;
- 2.3.2. exercise its best endeavours to ensure that to the best of its knowledge the data it provides to Bioversity to be uploaded onto the Portal is accurate and in compliance with the country's Data Provider's national laws and/or regulations ;

2.3.3. provide national data to the EUFGIS Portal following the agreed data standards and update it at reasonable intervals or at least once a year;

2.3.4. upon prior written notification to Bioversity, have the right to withdraw data from the EUFGIS Portal at any time.

3. INTELLECTUAL PROPERTY

Bioversity agrees that neither the receipt of data nor its publication through EUFGIS Portal shall affect whatever intellectual property rights the Data Provider may hold with respect to the data.

4. WARRANTIES AND LIABILITY

4.1. Bioversity will not provide any warranties for information or data posted on the EUFGIS Portal and disclaims any responsibility for data content, accuracy or the use of the data. This disclaimer will be stated clearly on the EUFGIS Portal.

4.2. The Data Provider warrants that it has made the necessary agreements with any original owners of the data or rights over the data to make their data publicly available, and that it will resolve any disputes which might arise from these issues. Subject to clause 2.2.2 and 2.3.2, the Data Provider further warrants that it will have ensured that the data is provided to Bioversity in full respect of the Data Provider's national laws and/or regulations.

4.3. Bioversity shall not be responsible for any breach of third parties intellectual property rights, or laws and/or regulations of the Data Provider's country arising out of the upload of the data that the Data Provider provides to Bioversity for the EUFGIS Portal.

5. SETTLEMENT OF DISPUTES

5.1. Without prejudice to the foregoing any dispute or disagreement arising from the interpretation or execution of this agreement shall be settled as follows:

5.1.1. amicably by direct dealings;

5.1.2. if no agreement is reached within sixty (60) days, the matter will be submitted to arbitration upon the application of either party;

5.1.3. there will be three arbitrators, one to be appointed by Bioversity, one by the Data Provider and the third, as Chair, jointly appointed by both parties;

5.1.4. in case of disagreement, the third arbitrator will be appointed according to the Rules of the United Nations Commission on International Trade Law (UNCITRAL). The UNCITRAL Rules will apply to any arbitration proceedings, arbitration will take place in a neutral country and the official language of the proceedings will be English.

6. TERM AND TERMINATION

6.1. This agreement shall commence on the day the last party has signed it, and shall continue until **31 December 2014** or until terminated in advance in accordance with clause 6.3.

6.2. The parties agree to initiate a discussion regarding further collaboration before 31 December 2014.

6.3. Either party can terminate this agreement by giving a six (6) months' written notice to the other party.

Signed

Date.....

Date: _____

Signature: _____

Emile Frison

Name: _____

Director General

Title: _____

Bioversity International

On behalf of the Institute acting as Data
Provider