

TELA Product Launch Collaboration Agreement (PLCA) Summary

The Product Launch Collaboration Agreement (PLCA) was made on February 15, 2019 between the African Agricultural Technology Foundation (AATF), Centro Internacional de Mejoramiento de Maíz y Trigo (CIMMYT) and Monsanto Company (Monsanto). The main purpose of the Agreement is to govern the Charitable Objective of the Project, which is to develop and deliver drought-tolerant and insect resistant hybrid Food Maize Germplasm improved through conventional breeding, molecular breeding and/or biotechnology for use by Small Holder Farmers (as defined below) in South Africa and by any farmer in the rest of sub-Saharan Africa.

Basic Principles

- The TELA Maize Project is a charitable enterprise aimed at developing and delivering transgenic drought-tolerant and transgenic insect-resistant maize hybrids for use by small holder farmers in South Africa and by all farmers in the rest of sub-Saharan Africa (the “Project Territory or territories”). This is the “Charitable Objective” of the Project.
- The word “Party” (or “Parties”) in this document means AATF, CIMMYT, and Monsanto.
- The Parties have agreed that they will not collect or receive a royalty for the insect resistant traits, or the drought-tolerance trait and the associated technology as delivered to small holder farmers in the Partner Countries of the Territory. At the same time, the technology used in the Project is expected to have considerable commercial value to larger scale farmers in and outside Africa, and the Parties also intend to manage Intellectual Property to preserve and participate in that commercial value creation.
- During the Project, the Parties may also make certain Intellectual Property creations and discoveries that have no relationship to the Project or the Charitable Objective. Such Intellectual Property creations and discoveries may also have significant value both in and outside Africa, and Parties may choose to seek and obtain Intellectual Property protection for those creations and discoveries.
- The Parties have adopted a strategy for ownership and management of Intellectual Property (the “Global Access Strategy”) to harmonize and implement these principles.

Implementation

- AATF, as the grant award recipient, is responsible for oversight and general management of the Project plans. The Parties agree to comply with all aspects of the Project Plans to ensure successful implementation. The Project Plans may be updated from time to time by mutual, written amendment signed by all Parties, which must be consistent with the objectives of the Project.
- AATF is permitted to subcontract to one or more third party seed producers under separate agreement for the transgenic seed production for parent lines of hybrids for deployment.
- Maize germplasm supplied by CIMMYT shall be provided under and subject to the terms of the Standard Material Transfer Agreement (SMTA) adopted by the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture.

Confidentiality

- The goals of the Project will be furthered by seeking and obtaining Intellectual Property protection for the insect protected traits, the drought-tolerant trait, and associated technology, as well as other

technology developed in the Project. To enable this, it will be necessary to keep certain information confidential for limited periods.

- The obligations of confidentiality are intended to meet the needs for accuracy and consistency of information communicated about the Project and to protect Intellectual Property that is either incidental to or necessary for, the Project and its Charitable Objective. The Parties do not intend to keep Project-related information confidential for the sole purpose of maintaining trade secrets.
- In addition to the public disclosures that occur in the course of obtaining Intellectual Property protection, the Parties intend to publish information about the Project as useful or needed to further the Global Access Strategy, as well as additional disclosures approved through their defined process for managing confidentiality.
- All publications are coordinated through a committee, composed of members of the Intellectual Property (IP) Team and the Operations Committee (OPSCOM), both with membership drawn from the Parties, so as not to impair the right of the parties to ultimately publish and disseminate results, information and data, while protecting the Intellectual Property contained therein.
- The obligation to maintain in confidence confidential information will last for the duration of the Project plus ten (10) years.

Patents and PVP

- The Charitable Objective of the Project is to successfully develop and deliver drought-tolerant and insect resistant hybrid maize germplasm for farmers in Partner Countries of the Territory, but the Project is expected to involve technology that also has broad commercial applicability and significant commercial value to larger scale farmers, and the parties intend to preserve their ability to participate in that commercial value creation.
- Intellectual Property creations and germplasm developed in the Project may be protected by patents, plant variety protection and/or trademarks, and such protection will be managed to enable the Parties to fulfill such control and stewardship responsibilities, to achieve the Charitable Objective, and to implement the Global Access Strategy.

Ownership and Use of Technology and Property of the Parties

- Each Party will continue to own all Intellectual Property it owned prior to joining the Project and/or it developed independently from the Project over materials, technology and/or processes in use in the Project, but each Party has licensed its pre-existing or independently generated Intellectual Property to the other Parties in the Project to the extent such licenses are necessary to enable them to carry out the Project.
- In general, the Parties will not supply or transfer any drought tolerance events, insect resistant events or germplasm licensed to them through the Project to any third party, except as permitted or required to carry out the Project and the Project's agreements.
- Each Party remains free to use its own property (including intellectual property) for other purposes, including the conduct of other drought-tolerant maize research, in Africa or elsewhere, at the Party's sole discretion.

- Rights in and to the **maize germplasm** outputs of the Project will be allocated and licensed or licensable as follows:

Ownership of the Project's technology and other Intellectual Property will be determined in accordance with United States law on inventorship and following the appropriate provisions of the country's legislation where Intellectual Property protection is sought. In general, this means that Intellectual Property made during the Project will be owned (or jointly owned) by the employer(s) of the creator(s), with the following agreed exceptions:

1. In general, Project IP developed by a single Party using only the resources and materials owned by the Party will be solely owned by that Party, and jointly-developed Project IP will be jointly owned by the developing and resource-contributing Parties in equal shares.
 2. Inbred lines or hybrids into which one or more transgenic traits are introgressed shall be owned by the Party that owns that germplasm (e.g., inbred line or hybrid variety); ownership of such germplasm is nevertheless subject to Monsanto's ownership rights with respect to any transgenic traits incorporated in such germplasm and the terms and conditions of the Agreement; germplasm of one Party that is introgressed with a trait of Monsanto will be jointly owned by those Parties.
 3. The Parties distinguish between **QTLs**, which are identifiable loci in the plant genome that are associated with expression of quantitative traits and confer an effect on a quantitative phenotypic trait in the germplasm, and **QTL Technologies (QTLTs)**, which are the molecular markers and information that enable identification and tracking of QTLs. In terms of ownership:
 - a. QTLs are owned by the owner of the germplasm, even if ownership of the related QTLT by another Party prevents marker-assisted manipulation of those QTLs;
 - b. QTLTs that affect efficacy of the drought tolerance transgene will be owned by Monsanto; and
 - c. QTLTs, other than QTLTs that affect efficacy of the drought tolerance transgene, will be owned by the owner(s) of the germplasm in which they are identified, regardless of inventorship.
 4. Subject matter that is not capable of Intellectual Property protection is presumed to be created and owned by the Party in whose research activities the subject matter was created, rebuttable only by clear and convincing evidence.
- To the extent that the foregoing allocations of ownership require assignment from one Party to another, the Parties shall arrange for such assignment. This will be done in a manner that preserves Intellectual Property protectability of the subject matter to the extent possible.
 - As a support to reporting and for the determination of who a creator or inventor is, the researchers engaged in the Project must record the purpose, plans, materials, methods and results of their research in notebooks. Entries in those notebooks must be dated and witnessed.

Cooperation

Each Party will cooperate with the other Parties in completing any Intellectual Property applications to secure rights for Intellectual Property generated in the Project, and in transferring ownership to the Party or Parties intended to own the Intellectual Property according to the foregoing principles.

Licensing

On Background IP

AATF, Monsanto and CIMMYT grant to each other a paid-up, royalty-free, non-exclusive license to use their Background IP to carry out each Party's activities and obligations under the Project.

In addition, Monsanto agrees that it will not assert an infringement action against AATF and/or any of its sub-licensees with respect to any incidental infringement of Background IP that might occur by the production and deployment of DT or IR Trait in Food Maize Germplasm in South Africa and other Partner Countries in the Territory.

On Project Intellectual Property (including transgenic technology)

Each Party grants to each other a paid-up, royalty-free, non-exclusive license to use any Project Intellectual Property to carry out each Party's activities and obligations under the Project.

Monsanto and CIMMYT grant AATF a license that is personal, non-transferable, non-exclusive, fully paid-up, royalty free, sub-licensable, and irrevocable, applicable to the Project Transgenic and Non-Transgenic Technology and the Background IP (to the extent Non-Transgenic Technology and/or Background IP is/are incorporated into the transgenic Finished Lines or hybrids), for carrying out the following activities with the transgenic Finished Lines and hybrids of maize germplasm developed in the Project:

- testing
- making,
- having made,
- distributing,
- licensing,
- offering for sale,
- selling,
- having sold,
- importing and exporting within South Africa and other Partner Countries.

NARS, as sub-licensees of AATF, are also entitled to carry out any and all of the above listed activities with Finished Lines and hybrids of maize germplasm developed in the Project *as long as*:

- a. no royalty is charged by AATF sub-licensees on any of the Monsanto transgenic events (DT [MON87460] Event, and Bt [MON810 and MON89034] Events) and other Project Intellectual Property;
- b. commercialization is limited to South Africa and other Partner Countries in the Territory; and
- c. all such sublicenses are subject to quality assurance (e.g., genetic and trait purity), stewardship and meeting Project transgenic technology efficacy and performance standards that will be established by OPSCOM for each inbred line or hybrid at the time of release, with the approval of Monsanto.

Any manipulation of the DT Event or of MON810 or MON89034 requires the prior written consent of Monsanto. Thus, any modification of the DT Event or MON89034 or MON810 (alone or in combination),

or insertion of any of non-naturally occurring sequence into a variety that includes the DT Event, MON810 or MON89034 or modification of any of these transgenic events requires Monsanto's prior written consent.

The commercialized maize germplasm product containing the DT and/or IR phenotype(s) attributable to one or more of any of the DT IR, MON810 and MON89034 Events, must be appropriately identified as containing a transgenic trait when used for any of the above-listed activities. Other information that should accompany the materials are the source of the product and lot number, the source of germplasm and the trait (if required by Monsanto and CIMMYT) and contact information in case any problem occurs.

Any sale of a maize germplasm product containing the DT or IR phenotype attributable to the DT, IR, MON810, or MON89034 Events must be accompanied by an end-user license agreement with appropriate stewardship obligations for the end-user of the product, determined by the relevant government agency or agencies and Monsanto's guidance.

Licenses to AATF to commercialize transgenic maize germplasm products do not include licenses (i) for breeding purposes, (ii) for transgenic inbred line seed increases, or (iii) to disseminate such germplasm through any channel other than through this TELA Maize Project in South Africa and other Partner Countries of the Territory.

Licenses to Third Parties (Non TELA Parties)

Monsanto and CIMMYT may grant licenses to solely-owned transgenic Technology to third parties without the other Parties' consent, subject to other terms and conditions, such as hybrid qualification and quality control standards before their deployment. Seed companies requesting these materials should be able to demonstrate a satisfactory history of compliance with stewardship requirements, adequate business performance, as well as other factors to be established.

Stewardship, Product Management and Capacity Building

AATF shall have in place or cause any sublicensee to have in place a general stewardship plan designed to meet applicable stewardship and regulatory requirements to satisfy the terms of the PLCA, and to maintain the integrity, identity, purity and control for any material containing the transgenic events. The requirements for such stewardship plans shall be made available by Monsanto, and AATF agrees to obtain and have implemented the most current stewardship requirements applicable. Sublicensees will be required to perform all duties associated with the transgenic events as required under the PLCA in accordance with all applicable country laws and regulations within the Partner Countries.

AATF shall obtain the right to audit the required documented stewardship and quality processes of sublicensees at reasonable intervals and times for compliance with the PLCA. AATF will cause any sublicensee, and contractors of sublicensees, to effectively manage internal and external communications and actions in the event of a significant non-conformance with the potential to impact product integrity or compliance, and to establish a process-based quality management system.

Representations and Warranties

Each of the Parties represents and warrants that to the best of its knowledge, it has the right to provide its confidential information, materials and/or intellectual property for the Project as required and its employees or agents working on the Project are under an obligation to assign their rights in all Project intellectual property developed by them to the Party.

Monsanto and CIMMYT recognize that they are sub-contractors and sub-grantees, respectively, of AATF for the Project, and further recognize that AATF has agreed to be bound to the Grant Agreement. Monsanto

and CIMMYT agree to comply with the requirements and obligations expressly set forth in the Grant Agreement. For avoidance of doubt, the Grant Agreement is solely by and between the Gates Foundation and AATF, and neither Monsanto nor CIMMYT is a Party to the Grant Agreement.

Term, Termination and Survival

The Agreement begins on the 15th of February 2019 and extends for five years. The Parties have the right to terminate by mutual agreement at any time with immediate effect, and the right to terminate upon material breach of the agreement by another party following ninety days written notice.

Upon early termination, the Parties shall determine the process under which materials supplied by another Party may continue to be used in furtherance of the Project objective or any licenses granted.

All rights and obligations of the parties that have accrued prior to the date of expiration or termination of the agreement shall survive such expiration or termination. Certain provisions of the agreement (including the grant of licenses) shall survive any expiration or termination.