FUND USE AGREEMENT BY AND AMONG THE CONSORTIUM, THE FUND COUNCIL AND THE TRUSTEE UNDER THE CGIAR FUND (MTO 069018) FOR SYSTEM COSTS

This Fund Use Agreement (the “Agreement”) is entered into by and among:

- the Fund Council of the CGIAR Fund (the “Fund Council”), represented by the International Bank for Reconstruction and Development (the “World Bank”),

- the International Plant Genetic Resources Institute (operating under the name of Bioversity International, hereafter referred to as “Bioversity”), on behalf of the Consortium of International Agricultural Research Centers (the “Consortium”) and

- the World Bank, as Trustee of the CGIAR Fund (the “Trustee”)

(collectively referred to as the “Parties”). Capitalized terms not defined in this Agreement are defined in the Glossary approved by the Fund Council on November 2, 2010 and the Consortium on December 16, 2010 as part of the Common Operational Framework, as may be amended from time to time.

WHEREAS on October 28, 2010, the CGIAR Fund was established and since that time donors to the CGIAR Fund (each a “Fund Donor”) and the Trustee have entered into Contribution Agreements and Contribution Arrangements for the purpose of contributing funds to the CGIAR Fund;

WHEREAS on April 15, 2011, the Fund Council and the Consortium entered into a Joint Agreement (the “Joint Agreement”) setting out certain terms and conditions for, among other things, the treatment of funds received by the Consortium from Window I of the CGIAR Fund to finance System Costs (“Consortium Window I Funding”);

WHEREAS in accordance with the Joint Agreement and Section A.4.2 of Annex 2 to the Contribution Agreements and Arrangements, the Consortium receives Consortium Window I Funding on the basis of proposed work plans and budgets that have been approved by the Fund Council (each a “proposed WP&B” before and a “WP&B” after Fund Council approval);

WHEREAS, the Consortium is a contractual joint venture set up among the 15 International Agricultural Research Centers supported by the CGIAR under the Agreement establishing the Consortium of International Agricultural Research Centers signed on April 29, 2010 and governed by the rules of the Constitution annexed to that agreement; and

WHEREAS, pending its formal establishment as an international organization and until it is ready to carry out its business in its own name (the “Interim Period”), the Consortium shall draw on the legal personality of Bioversity, a Center which has its international headquarters in Maccarese, Italy and an office in Montpellier, France, and which is authorized to enter into agreements and contract obligations on behalf of the Consortium under a Memorandum of Understanding between Bioversity and the Consortium Board on behalf of the Consortium dated February 23, 2011;

NOW THEREFORE, the Parties hereto agree as follows:

1. Subject to the terms set forth in this Agreement, the terms of the Joint Agreement, which is incorporated by reference herein, shall apply to any Consortium Window I Funding requested by the Consortium, approved by the Fund Council and transferred by the Trustee.
2. Any reference to the Consortium in this Agreement shall include Bioversity as applicable during the Interim Period. Any terms in the Joint Agreement related to “Window 1 and Window 2 Funds” shall apply to Consortium WI Funding, except to the extent specifically modified in this Agreement.

3. The Consortium shall submit proposed WP&Bs to the Fund Council for Fund Council consideration. Unless otherwise agreed with the Fund Council, each proposed WP&B shall set out (i) the Consortium's expected work plan for the period specified therein, (ii) the overall proposed budget for that period, and (iii) the amount of that budget requested as System Costs from Window 1 of the CGIAR Fund.

4. Fund Council approval of a WP&B shall be documented in the approved minutes of the Fund Council meeting. Following approval, the WP&B and related minutes shall be incorporated by reference into this Agreement.

5. Upon receipt from the Fund Office of the approved minutes evidencing Fund Council approval of a WP&B, the Trustee shall record an amount equal to the Consortium WI Funding approved for that WP&B as an amount to be transferred and shall inform the Consortium that such Consortium WI Funding shall be available for transfer to the Consortium as of the first day of the period for which that WP&B has been approved.

6. The Consortium shall submit a cash transfer request to the Trustee for such Consortium WI Funding substantially in the form attached as Annex 1 or a form otherwise acceptable to the Trustee (a "Cash Transfer Request").

7. Following receipt of a duly completed Cash Transfer Request, but in no event prior to the first day of the period for which a WP&B has been approved, the Trustee shall transfer the Consortium WI Funding for that WP&B to the Consortium in accordance with this Agreement to the account indicated in the Cash Transfer Request and otherwise in a manner agreed with the Trustee.

8. Notwithstanding any other statement herein, any requirement or obligation on the part of the Trustee to transfer Consortium WI Funding under this Agreement shall at all times be qualified by and subject to the availability of cash funds in Window 1 that are not otherwise allocated.

9. Following transfer by the Trustee of Consortium WI Funding to the Consortium, (i) the Consortium shall have full fiduciary responsibility to the Fund Council for the handling and use of such funds in accordance with the terms of this Agreement and the Joint Agreement, and (ii) the World Bank will have no responsibility in any capacity to the Fund Donors, the Fund Council or otherwise for the Consortium's handling or use of such funds. The Consortium agrees to exercise its fiduciary responsibility hereunder.

10. The Consortium's applicable policies and procedures shall apply to the use of any Consortium WI Funding; provided that the Consortium may use such funding, and any investment income earned thereon, only in accordance with (i) the relevant WP&B, (ii) this Agreement, and (iii) the Joint Agreement.

11. Following completion of each WP&B period, allowing for a three-month period to complete expenditures for commitments made during the WP&B period, the Consortium shall promptly return to the Trustee for deposit into Window 1 any Consortium WI Funding that remains unexpended or uncommitted with respect to the WP&B for that period.
For clarity, the Consortium has submitted its proposed WP&B for the calendar year ending December 31, 2011 (the “2011 WP&B”) to the Fund Council. The Fund Council approved the 2011 WP&B on a no objection basis on March 18, 2011 for Consortium W1 Funding totaling US$5,046,000. Subsequently, a revision to the 2011 Consortium WP&B reducing the Consortium W1 Funding requested to US$1,782,000 was approved by the Fund Council on a no objection basis, with the concurrence of the Consortium Observer, as of January 30, 2012.

12. The terms of this Agreement apply to the Consortium W1 Funding to be provided to the Consortium for the 2011 WP&B.

13. The offices responsible for the Consortium, Fund Council, Fund Office and Trustee for coordination of all relevant matters related to the implementation of this Agreement, including providing or being provided any notice, taking any action and executing any documents required or permitted pursuant to this Agreement, are, except as may be notified in writing to the other Contact:

For the Consortium (the “Consortium Contact”):

Chief Executive Officer
Consortium Office of the CGIAR Centers
c/o Agropolis International
Avenue Agropolis
34394 Montpellier cedex 5
FRANCE
Tel: + 33 (0)4 67 04 75 31
Fax: + 33 (0)4 67 04 75 83

For the Fund Council (the “Fund Council Contact”)

Chair of the CGIAR Fund Council
Vice President, Sustainable Development Network
The World Bank
1818 H Street, NW
Washington, DC 20433, U.S.A.
Tel: +1 202 458 7405
Fax: +1 202 522 7122

For the Fund Office (the “Fund Office Contact”):

Executive Secretary, CGIAR Fund Council and
Head, CGIAR Fund Office
The World Bank
1818 H Street, NW
Washington, DC 20433, USA
Tel: +1 202 473 8918
Fax: +1 202 473 8110
For the Trustee (the "Trustee Contact"):  

Director  
Multilateral Trusteeship and Innovative Financing  
The World Bank  
1818 H Street, NW  
MSN G6-601  
Washington, DC 20433, U.S.A.  
Tel: + 1 202 458 0019  
Fax: + 1 202 614 0249  

14. The offices responsible for each of the Fund Donors for coordination of any relevant matters related to implementation of this Agreement, including providing or being provided any notice, taking any action or executing any documents required and permitted pursuant to this Agreement, are as specified as the "Donor Contact" in the respective Contribution Agreements or Arrangements with the Trustee. The Fund Office agrees to notify (i) each of the then-current Fund Donors in the event the Consortium Contact changes, and (ii) the Consortium Contact in the event any Donor Contact changes or is added to the CGIAR Fund.  

15. The Fund Council and the Consortium will be responsible only for performing their respective functions specifically set forth in the Joint Agreement and this Agreement and will not be subject to any other duties or responsibilities, including, without limitation, any duties or obligations that might otherwise apply to a fiduciary or trustee under general principles of trust or fiduciary law. Nothing in this Agreement will be considered a waiver of any privileges or immunities of the Fund Council, the Fund Donors, the World Bank, the Consortium or Bioversity under their respective Articles of Agreement or equivalent documents and any applicable law, all of which are expressly reserved.  

16. The Consortium consents to the disclosure of this Agreement and related information in accordance with the World Bank's policy on disclosure of information. This provision will continue in full force and effect following completion of all CGIAR Fund transfers and any termination of this Agreement or the CGIAR Fund.  

17. This Agreement may be terminated by either the Fund Council or the Consortium upon 180 days prior written notice. Additionally, in the event the Trustee exercises its right of suspension and/or termination under the Contribution Agreements and Arrangements, the Trustee shall consult with the Fund Council and the Consortium to determine the subsequent measures to be taken with respect to the CGIAR Fund (as provided in the Contribution Agreements and Arrangements), and the Consortium shall accordingly agree to suspend activities under or terminate, as the case may be, this Agreement. In the event of any such termination, unless the Fund Council and the Consortium agree on another course of action, (i) any agreement entered into prior to the termination between the Consortium and any consultants and/or other third parties will remain in effect and be unaffected by the termination, and (ii) the Consortium will be entitled to continue to request disbursement of amounts in respect of such agreements to the extent contemplated in this Agreement and necessary to fulfill the Consortium's obligations thereunder as if this Agreement had not been terminated. The Consortium shall cause all other Consortium W1 Funding amounts remaining with it after such termination, along with any remaining investment income From Consortium W1 Funding, to be returned to the Trustee for deposit into Window I or returned to the Fund Donors pro rata under their respective Contribution Agreements or Arrangements, as the case may be.  

18. This Agreement may be amended only by written amendment among the Parties. In the event of conflict between this Agreement and the Joint Agreement, this Agreement shall prevail.
19. This Agreement will come into operation on the date of the last duly authorized signature provided below (the "Effective Date"). Unless earlier terminated in accordance with the terms of this Agreement, this Agreement shall remain in effect through the closing of the CGIAR Fund or dissolution of the Consortium, or such later date as the Consortium, the Fund Council and the Trustee, including on behalf of all Fund Donors, may collectively agree.

20. Once the Consortium has been established with its own legal personality as an international organization and is ready to conduct operations in its own name, the Consortium may request approval from the Fund Council to transfer the rights and obligations contracted by Bioversity on behalf of the Consortium under this Agreement to such international organization. If approved by the Fund Council, then such rights and obligations shall transfer to such international organization as of the date of such approval or as otherwise specified by the Fund Council, and the Interim Period shall end on that date. Until such date, Bioversity shall have the rights and obligations contracted on behalf of the Consortium under this Agreement, and shall be responsible for any liabilities incurred on behalf of the Consortium under this Agreement, notwithstanding any termination of the Bioversity MOU or any termination under Section 17 above. As provided in the Bioversity MOU, any such liability of the Consortium or (during the Interim Period) Bioversity shall be paid from the Funds of the Consortium, as such term is defined therein, subject to the consent of the Fund Council, and shared jointly and severally among all Centers concerned for any liabilities that are greater than the assets held by or on behalf of the Consortium.

21. This Agreement may be executed by the Parties in separate counterparts and by each of them separately on a separate counterpart, and each such counterpart, when so executed, shall be an original. Such counterparts shall together constitute one and the same instrument.
IN WITNESS WHEREOF, the Fund Council, represented by the World Bank, Bioversity, on behalf of the Consortium, and the World Bank, as Trustee, have caused this Agreement to be signed in their respective names as of the respective dates indicated.

THE FUND COUNCIL,
by the International Bank for Reconstruction and Development,

Hart Schafer
Acting Vice President, Sustainable Development Network

Date March 15, 2012

THE INTERNATIONAL PLANT GENETIC RESOURCES INSTITUTE,
on behalf of the Consortium

Emile Frison
Director General

Date 28 March 2012

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT,
as Trustee

Axel van Trotsenburg
Vice President, Concessional Finance and Global Partnerships

Date: March 23, 2012

ANNEX 1: Form of Cash Transfer Request
CGIAR Fund

Date __________

Ref. No. __________

Cash Transfer Request for Consortium WP&B
For [calendar year/period] ________________
(in US dollars)

<table>
<thead>
<tr>
<th>Cumulative Net Cash received from the Trustee in Consortium account a/ (1)</th>
<th>Amount of Cash Transfer Requested now (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.00</td>
<td>0.00</td>
</tr>
</tbody>
</table>

a/ This column represents the cumulative amount sent to the Consortium less return of funds to the Trustee since the inception of the Consortium account.

Please arrange for the transfer of the above amount using the following banking instructions:

Account Holder: [__________________________]
Account Name: [__________________________]
Account Number: [__________________________]
Bank Name: [__________________________]
Address: [__________________________]
SWIFT ID: [__________________________]

Yours sincerely,

[CONSORTIUM]
[THE INTERNATIONAL PLANT GENETIC RESOURCES INSTITUTE, on behalf of the Consortium]

__________________________
[name]
[title]
Date: ______________________