

Annex 1

STANDARD LICENSE AGREEMENT
under the International Licensing Platform (ILP)

THE UNDERSIGNED,

XXXX, having its registered office and principal place of business at _____ (address and postal code), _____(town/city), _____(country), hereinafter referred to as "Licensor", in this matter duly represented by: _____, in his/her position as _____,

and

YYYY, having its registered office and principal place of business at _____ (address and postal code), _____(town/city), _____(country), hereinafter referred to as "Licensee", in this matter duly represented by: _____, in his/her position as _____,

hereinafter both jointly and individually referred to as "Parties", respectively "Party"

WHEREAS:

- Licensor owns the Patents as defined in this Agreement,
- Licensee wishes to obtain a license under the Patents,
- Licensor is willing to grant a license to Licensee under the Patents on the terms and conditions specified hereunder,

HAVE AGREED AS FOLLOWS:

Clause 1 - Definitions

Unless stated otherwise, the following terms, either in plural or in singular form shall have the following meanings in this Agreement and/or its appendices:

- Affiliate: any company under the Control of a Licensee.
- Agreement: this agreement including its annexes.
- Articles of Association: means the Articles of Association of the International Licensing Platform (ILP) as well as the accompanying laws, agreements and regulations of said association.
- Confidential Information: any and all information concerning any aspect of either Party's business or proposed business not generally known to persons not associated with the disclosing Party.

Control: i) the direct or indirect ownership of more than fifty percent of the capital stock of a company, and/or ii) the power to exercise more than fifty percent of the voting rights in a company and/or iii) the power to determine the policy of a company in a decisive way.

Effective date: (date of grant of License)

Financial Year: (financial year of the Licensee)

International Licensing Platform: The International Licensing Platform (ILP) as established by the Articles of Association as established.....(correct reference to be included).

License: a world-wide, non-exclusive, non-assignable right under the Patents for Licensee and its Affiliates solely to use Source Material to breed, develop, produce, keep in stock, treat, market, sell and/or deliver Licensed Products without the right to sublicense other than explicitly specified hereunder.

For the avoidance of doubt, the License includes the right to use generic methods and processes of breeding and of seed production but does not include the right to practice any technical step claimed in the Patents, nor to use any other material claimed in the Patents - including but not limited to molecular markers or DNA sequences - other than Source Material. Thus, a Patent, which covers Source Material, can also cover non-generic technology, the latter being excluded from the License.

The License does not include any right to sublicense other than to third parties to have Licensed Products researched, developed, produced and/or treated solely for the benefit of Licensee and/or its Affiliates, all subject to the conditions as specified in this Agreement.

Licensed Products: any vegetable biological material, including but not limited to vegetable plants and seeds, which is exclusively owned by Licensee or co-owned with (an)other licensee(s) under the Patent with similar rights as under this License, and falls under the scope of a Patent with the exclusion of plant varieties developed by Licensor.

Net Sales: means the total invoiced amount to third parties by Licensee and its Affiliates in respect of the sales and/or delivery of a Licensed Products, including but not limited to the Licensed Product sales price and any value received from beneficiaries downstream the value chain, in any country where such Licensed Product is covered by a Valid Claim, after deduction of any discounts given, including commission directly related to turnover, and exclusive of costs for seed treatment as determined by the Expert Committee of the International Licensing Platform, if applicable.

In case the sales and/or delivery of the Licensed Products have not been invoiced on an "arm's length basis", the prices that are mentioned

in the prevailing sales catalogue of Licensee and its Affiliates have to be taken into account for the calculation of the Net Sales.

Patents: patent (application) no....., titled “.....” and all patents and applications claiming priority thereof, any divisional patent (application) thereof, national patents resulting therefrom, and/or any foreign counterpart. The list describing the Patents existing at the moment of signing this Agreement is enclosed in Annex I to this Agreement.

Source Material: any vegetable biological material, including but not limited to vegetable plants and seeds, that (i) falls under the scope of a Patent and (ii) is commercially available, or otherwise legally available for breeding purposes.

Valid Claim: A claim of any unexpired Patent, that would without a License be infringed by the use of biological material for breeding new varieties of vegetable plants and/or by the use and exploitation of such newly developed varieties, which is not withdrawn, canceled, or disclaimed by the Licensor, nor finally refused, held invalid or revoked by a court of competent jurisdiction or any administrative body in an un-appealable decision.

Clause 2 - Grant of license

1. Subject to the terms and conditions of this Agreement, as of the Effective Date Licensor grants to Licensee a License.
2. In case Licensee wishes to have the License included in an official register, in order to procure validity of the License towards third parties, Licensee shall undertake the necessary actions on its own costs.

Clause 3 - Royalties

In consideration of the grant of the License, Licensee shall pay to Licensor a non-refundable fee in the form of royalties at the rate of ___% on the Net Sales of the Licensed Products for the term of this Agreement.

Clause 4 - Payment and reports

1. Each year not later than three (3) month following the end of the previous Financial Year, Licensee shall provide Licensor with a report using the standard provided in Annex II indicating the royalties due for the previous Financial Year, hereinafter referred to as the “Royalty Report”.
2. Licensee shall pay the invoice prepared by Licensor on the basis of the Royalty Report within thirty (30) days after receipt of the invoice. In case payment of this invoice is overdue or delayed, an interest of one (1)% per month will be due by Licensee.
3. Deferred payments: For any sales in countries where a Patent is a pending application the Licensee may defer payment under clause 3 for sales in the Financial Years

preceding the grant of the Patent until twenty (20) business days after receiving a written notice of patent grant from Licensor. Any such deferred payment shall obligate Licensee to pay computed interest, the interest period commencing from the date of first sale of the Licensed Product and ending on the grant date of the patent to the Licensor at a rate per annum equal to the EUR LIBOR for one month quoted two business days prior to due date by the British Bankers' Association plus a premium of one percent (1%). The interest rate shall be adjusted monthly. Interests shall be calculated based on the actual/360 adjusted day count convention. Licensee shall make the reports under clause 4.1. for each Financial Year irrespective whether a Patent is granted or pending.

4. Licensee shall keep complete, true and accurate books of account and records and is responsible for the fact that its Affiliates do the same, for the purpose of showing the derivation of all royalties payable to Licensor under this Agreement. Said books and records shall be kept at Licensee's principal place of business for at least seven (7) years following the end of a Financial Year to which they pertain.
5. If requested by the Licensor, Licensee shall at Licensor's costs, issue a statement of a certified public auditor appointed by the Licensee, in which this auditor declares that the royalties paid by Licensee are calculated in a correct and complete way. If the certified public auditor calculates an amount of royalties that deviates more than 5 % from the amount calculated by the Licensee, the cost of the audit shall borne by Licensee.
6. Tax:
 - a. Notwithstanding anything to the contrary herein, in the event that withholding taxes apply with respect to any amounts due by the Licensee, the Licensee shall be entitled to withhold from any payment due to the Licensor under this Agreement any taxes that the Licensee is required to pay and such withholding shall decrease by an equivalent amount the payment due to the Licensor. The Licensee shall provide the Licensor with notification of any anticipated withholding requirements with as much advance notice as practicable and shall cooperate in good faith with the Licensor to minimize such withholding taxes. The Licensee will timely pay to the proper governmental authority the amount of any taxes withheld and will provide the Licensor with an official tax certificate or other evidence of tax obligation, together with proof of payment from the relevant governmental authority sufficient to enable the Licensor to claim such payment of taxes. In case the Licensee cannot deduct the withholding tax due to the fulfillment/completion of payment obligation by settlement or set-off, the Licensor will pay the withholding tax to the Licensee separately. If the Licensee missed to deduct withholding tax but is still required by tax law to pay withholding tax on account of the Licensor to the tax authorities, the Licensor shall assist the Licensee with regard to all procedures required in order to obtain reimbursement by tax authorities or, in case tax authorities will not reimburse withholding tax to the Licensee, the Licensor will immediately refund the tax amount excluding (i) interests for late payment or (ii) penalty payments for non-compliance with withholding tax law obligations.
 - b. All payments and fees required to be paid pursuant to this Agreement are free and clear of any taxes, duties, fees or charges other than withholding taxes and considered net of VAT. VAT applies additionally as legally owed, payable within

thirty (30) days after receipt of a correct invoice, which meets all requirements according to the applicable VAT legal requirements.

Clause 5 - Maintenance and enforcement

1. Licensor aims at maintaining the Patents, but reserves explicitly the right to abandon any Patent. If Licensor is of the intention to do so, it shall notify Licensee two months prior to the abandonment. As of the moment of the abandonment no royalties are due any longer for the Licensed Products sold in the country where a Patent has been abandoned.
2. Licensor and Licensee shall inform each other of each allegation made by a third party that use, development, production, keeping in stock, treating, marketing, selling and/or delivery of the Licensed Products infringe any third party patent. The Parties shall then confer on the actions to be taken. Neither Party is obliged to act against such allegation, nor shall a Party bear any costs of defending the allegation, if it does not wish to take part in the defence against the allegation.
3. Licensee undertakes to notify Licensor on each activity of third parties that infringes or could infringe any Patent as soon as Licensee is informed about such an activity. Licensor is the Party to decide upon any action against infringement.

Clause 6 - Representations and Warranties

1. Licensor hereby represents that Licensor is entitled to grant licenses under the Patents.
2. Licensor does not warrant that the Patents do not infringe any rights of other parties than Licensor. Nor does Licensor warrant in general the fitness for any purpose of the Patents, the merchantability of the Licensed Product, and/or the effectiveness and endurance of any of its inherent properties as described in the Patents.

Clause 7 - Indemnities

Licensee agrees to indemnify Licensor against all actions, claims, costs, demands and expenses which the Licensor may incur, suffer or sustain as a result of the use, development, production, packaging, treating, marketing, selling and/or delivery of the Licensed Product(s) or relating otherwise to the exercise by Licensee and/or its Affiliates of the rights as herein granted and whether arising out of any matter, product or process approved by Licensor hereunder or not.

Clause 8 - Waiver

No waiver (whether express or implied) by a Party of the other Party's breach of any of its obligations under this Agreement shall be deemed to constitute a waiver or consent to any subsequent or continuing breach of any such obligation.

Clause 9 - No partnership

Nothing in this Agreement shall be deemed to constitute a partnership between the Parties hereto.

Clause 10 - Notices

Unless otherwise stated every notice and other communication shall be sent by e-mail, fax and confirmed by ordinary mail addressed to the other Party at its address stated herein or to such addresses as the Parties shall each subsequently advise to the other. These notices and other communications shall be deemed to have been received on the date upon which the confirmation by ordinary mail would have reached its destination in the ordinary course of postal delivery. The Parties shall inform each other promptly of any change of address.

Clause 11 - Confidentiality

1. Each Party shall keep the Confidential Information received from the other Party in confidence and shall therefore not disclose the Confidential Information to any third party in whatever way. In particular, Licensee shall keep the terms under which the License as meant in clause 2 is granted, in confidence and shall therefore not disclose these terms to any third party and Licensor shall keep the information regarding the Royalty Report in confidence and shall therefore not disclose these terms to any third party.
2. The confidentiality obligations shall not apply to disclosure to Affiliates and to the employees of the Parties. Each Party undertakes to impose the obligations as described in this clause to its Affiliates and its employees.
3. The confidentiality obligations shall not apply to Confidential Information if and as far as the recipient Party can show by documentary evidence that the Confidential Information:
 - i) was in the possession of the recipient Party prior to disclosure thereof by the other Party;
 - ii) is or through no fault of the recipient Party becomes part of the public knowledge or literature;
 - iii) lawfully becomes available without limitation as to its disclosure from an outside source; or
 - iv) is required to be disclosed by law or by court order provided that the Party who is required to disclose the confidential Information first provides the other Party with notice of such requirements and of its intent to disclose the Confidential Information.
 - v) is required to be disclosed to the International Licensing Platform by the Articles of Association.

Clause 12 - Assignment

1. Licensee shall not assign this Agreement to a third party without the prior written consent of Licensor.
2. In case a third party acquires (part of) the Patents of the Licensor and/or its Affiliates, for example as a result of an assignment, the Licensor undertakes that this Agreement shall be assigned to the acquiring third party with respect to the

acquired Patents.

Clause 13 – Termination and expiration

1. This Agreement enters into force on the Effective Date and remains in full force and effect until the last Patent has expired.
2. This Agreement terminates by operation of law with immediate effect at the moment one of the following events occurs regarding the Licensee: cessation, winding-up, moratorium on payments, bankruptcy, prejudgment attachment, attachment under a warrant of execution, dissolution or administration order.
3. The License given to an Affiliate under this Agreement terminates by operation of law with immediate effect at the moment (i) this Agreement terminates, or (ii) the Affiliate loses the status of Affiliate, or (iii) one of the following events occurs regarding the Affiliate: cessation, winding-up, moratorium on payments, bankruptcy, prejudgment attachment, attachment under a warrant of execution, dissolution or administration order.
4. Licensor may terminate this Agreement and therefore the License by giving notice in writing if
 - i) Licensee fails to make the payment of the royalties due under this Agreement in accordance with clauses 3 and 4 and after having been summoned thereto in writing remains in default during a term of sixty days from receipt of the summons, and/or
 - ii) in the event Licensee stops being a Member of the International Licensing Platform, provided that Licensor sends the notice in writing thereto within two (2) months of the Licensee's Membership being terminated.
5. Either Party may terminate this Agreement by giving notice in writing if the other Party constitutes a material breach under this Agreement, which breach is not repaired within 60 (sixty) days after being given notice by the one Party to repair this breach. The Licensee may also terminate this Agreement without stating reasons but subject to two months' notice.
6. In the event of a change in Control of Licensee, this Agreement can be terminated immediately by the Licensor upon written notice of the Licensor in case the new owner is not a Member of the International Licensing Platform.
7. If the Patent is considered to relate to a Special Trait after the Effective Date this Agreement shall terminate and the Parties shall negotiate a new agreement following the provisions in the Articles of Association.
8. Upon termination of this Agreement Licensee and its Affiliates shall immediately cease all acts that are covered by the License. However in case of premature termination, and in case this Agreement is not terminated by Licensor because of a material breach of this Agreement by Licensee, Licensee and its Affiliates are entitled to sell or deliver the remainder of its stock of Licensed Products, and any crops that are in the ground for a period of twelve months, using the same commercial conditions as up till then for a period of twelve months notwithstanding the obligation to pay the royalties in accordance with clause 3.

9. The provisions of the clauses 4, 6, 7, 11, 13.8, 13.9 and 15 hereof shall not be extinguished, but shall survive and remain in full force and effect notwithstanding the termination or expiration of this Agreement.

Clause 14 - Whole agreement

This Agreement shall be interpreted in light of the Articles of Association but otherwise constitutes the whole Agreement between Licensor and Licensee regarding the License and there are no promises, terms, conditions, obligations, representations or warranties, oral or written, expressed or implied, other than those contained herein. Terms and definition not specifically defined in this Agreement shall have the meaning as defined in the Articles of Association.

Clause 15 - Applicable Law and disputes

1. All disputes arising in connection with the present Agreement which cannot be solved amicably shall be finally settled by binding arbitration in accordance with the WIPO Arbitration Rules. The place of arbitration shall be Amsterdam, The Netherlands. The language to be used in the arbitral proceedings shall be English. The Tribunal will consist of three arbitrators. Each Party shall bear their own costs for any such arbitration unless a different award of costs is made by the arbitration panel. At least one of the arbitrators must at least have a degree equivalent to a masters degree in Dutch law, with this respect that the degree must at all times be a degree in Dutch law obtained at a Dutch university.
2. This Agreement shall be construed in accordance with Dutch law.

As agreed upon and signed in duplicate,

Licensor

Licensee

Name:
Position:
Place:
Date:

Name:
Position:
Place:
Date:

Annex I – List of the Patents
Annex II – standard for Royalty Report

Annex II
Royalty report

(On company letter)

Please find below the royalty report of(the company) for the period regarding the patent “.....”.

Net Sales: (currency and amount)

Royalty (..%): (currency and amount)

.....(the company) will pay the royalty amount provided the patent is granted following the receipt of an invoice sent to:

..... (Company)

Att. (Name)

..... (Address)

Best regards,

..... (Name)

..... (Function)