

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)

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 a Patent to use Source Material to breed, develop, produce, keep in stock, treat, market, sell and/or deliver Licensed Products without the right to sublicense unless explicitly specified otherwise.

For the avoidance of doubt, the License includes the right to use generic methods and processes of breeding and of seed production as well as random mutagenesis (i.e. mutagenesis as meant in annex I B of EU directive 2001/18 as valid on the first day of August two thousand and fourteen), but does not include the right to practice any other technical step claimed in the Patents. In addition to the right to use Source Material as stated above, the License also includes the right to use any other material claimed in the Patents, - including but not limited to molecular markers or DNA sequences, but only to the extent necessary to carry out random mutagenesis as described above. Any other use of such other materials is not included in 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 any vegetable biological material, including but not limited to Products: 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.

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.

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 License fee

In consideration of the grant of the License, Licensee shall pay to Licensor a non-refundable fee in the form of a lump sum. The amount of the lump sum is--
(.....).

Clause 4 Payment

1. The lump sum as described in clause 3 will be paid within 60 days after receipt of an invoice sent by Licensor upon signature of this Agreement.
2. 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 – Limitation of Liability & Indemnities

7.1 Neither licensor nor its affiliates will be liable for any lost profits, costs of procuring substitute goods or services, lost business, enhanced damages for intellectual property infringements or any indirect, incidental, consequential, punitive or other special damages suffered by licensee or its affiliates arising out of or related to the use of source material and/or the use, development, production, packaging, treating, marketing, selling and/or delivery of licensed product(s) irrespective of the type of action (including tort, contract, negligence, strict liability and breach of warranty) even if the parties or their affiliates have been advised of the possibility of such damages

7.2 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.
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.

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.
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 (including but not limited to article 3.2 of its regulations) 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

