

This agreement is made and entered into between _____, a
_____ established under _____ law

(hereinafter called **Licensor**) having its principle office at
_____ ,

and

_____ a for-profit corporation organized under the laws
of _____ (hereinafter called **Licensee**), having its principle office at
_____ .

Witnesseth that:

1. whereas, **Licensor** has the right to grant licenses under the licensed patent rights (as hereinafter defined),and wishes to have the inventions covered by the licensed patent rights in the public interest; and
2. whereas **Licensee** wishes to obtain a license under the licensed patent rights upon the terms & conditions hereinafter set forth:

Now, therefore, in consideration of the premises and the faithful performance of the covenants herein contained it is agreed as follows:

Article I - DEFINITIONS

For the purpose of this agreement, the following definitions shall apply:

1. **Licensed Patent Rights:** Shall mean:

a. Patent Application Serial No. _____ filed
_____ by _____.

or

New Plant Variety registered and protected
through _____ .

b. Any and all improvements developed by **Licensor**, whether patentable or not, relating to the **Licensed Patent Rights**, which **Licensor** may now or may hereafter develop, own or control.

c. Any or all patents, which may issue on patent rights and improvements thereof, developed by **Licensor** and any and all divisions, continuations, continuations-in-part, reissues and extensions of such patents.

2. **Product(s):** Shall mean any materials including plants and/or seeds, compositions, techniques, devices, methods or inventions relating to or based on the **Licensed Patent Rights**, developed on the date of this agreement or in the future.
3. **Gross Sales:** Shall mean total _____ (Currency Unit) value(s) of Product(s) FOB manufactured based on the Licensed Patent Rights.
4. **Confidential Proprietary Information:** Shall mean with respect to any Party all scientific, business or financial information relating to such Party, its subsidiaries or affiliates or their respective businesses, except when such information:
 - a. Becomes known to the other Party prior to receipt from such first Party;
 - b. Becomes publicly known through sources other than such first Party;
 - c. Is lawfully received by such other Party from a party other than the first Party;
or
 - d. Is approved for release by written authorization from such first Party.
5. **Exclusive License:** Shall mean a license, including the right to sublicense, whereby **Licensee's** rights are sole and entire and operate to exclude all others, including **Licensor** and its affiliates except as otherwise expressly provided herein.
6. **Know-how:** Shall mean any and all technical data, information, materials, trade secrets, technology, formulas, processes, and ideas, including any improvements thereto, in any form in which the foregoing may exist, now owned or co-owned by or exclusively, semi-exclusively or non-exclusively licensed to any party prior to the date of this Agreement or hereafter acquired by any party during the term of this agreement.
7. **Intellectual Property Rights:** Shall mean any and all inventions, materials, **Know-how**, trade secrets, technology, formulas, processes, ideas or other discoveries conceived or reduced to practices, whether patentable or not.
8. **Royalty (ies):** Shall mean revenues received in the form of cash and/or equity from holdings from **Licensees** as a result of licensing and using, selling, making, having made, sublicensing or leasing of **Licensed Patent Rights**.

ARTICLE II- GRANT OF EXCLUSIVE LICENSE

1. **Licensor** hereby grants to **Licensee** the exclusive (worldwide, option) license with the right to sublicense others, to make, have made, use, sell and lease the **Products** described in the **Licensed Patent Rights**.
2. **Licensor** retains the right to continue to use **Licensed Patent Rights** in any way for non-commercial purposes.

3. It is understood by the Licensee that the Licensed Patent Rights were developed under _____ Grant No. _____. The _____ Government has a non-exclusive royalty free license for governmental purposes.

ARTICLE III- LICENSE PAYMENTS

1. **Initial payment and royalty rate.** For the licensed herein granted:
 - a. **Licensee** agrees to pay a sign-up fee of _____ ().
 - b. **Licensee** shall pay on earned royalty of _____percent (%) of **Licensee's Gross Sales of Products** and fifty percent (50%) of the sublicensing receipts.
 - c. **Licensee** shall pay an annual royalty of _____ () for each leased **Product**.
2. **Sublicenses.** The granting and terms of all sublicenses is entirely at **Licensee's** discretion provided that all sublicenses shall be subjected to the terms and conditions of this agreement.
3. **Minimum royalty:** **Licensee** will pay **Licensor**, when submitting their royalty report a minimum royalty of _____ (_____) annually.
4. **When a sale is made:** A sale of **Licensed Patent Rights** shall be regarded as being made upon payment for **Products** made using **Licensed Patent Rights**.
5. **Payments:** All sums payable by **Licensee** hereunder shall be paid to **Licensor** in _____ (name of country) and in the currency of the _____ or in U.S. dollars.
6. **Interest:** In the event any royalties are not paid as specified herein, then a compound interest of eighteen percent (18%) shall be due in addition to the royalties accrued for the period of default.

ARTICLE IV - REPORTS, BOOKS AND RECORDS

1. **Reports.** Within thirty (30) days after the end of the calendar quarter annual period during which this agreement shall be executed and delivered within thirty (30) days after the end of each following quarter annual period, **Licensee** shall make a written report to **Licensor** setting forth the **Gross Sales of Licensed Patent Rights** sold, leased or used by **Licensee** and total sublicensing receipts during the quarter annual period. If there are no **Gross Sales** or sublicensing receipts, a statement to that effect be made by **Licensee** to **Licensor**. At the time each report is made, **Licensee** shall pay to **Licensor** the royalties or other payments shown by such report to the payable hereunder.

2. **Books and records.** **Licensee** shall keep books and records in such reasonable detail as will permit the reports provided for in Paragraph 1. hereof to be determined. **Licensee** further agrees to permit such books and reports to be inspected and audited by a representative or representatives of **Licensor** to the extent necessary to verify the reports provided for in paragraph 1. hereof; provided, however, that such representative or representatives shall indicate to **Licensor** only whether the reports and royalty paid are correct, if not, the reasons why not.

ARTICLE V - MARKING

Licensee agrees to mark or have marked all **Products** made, used or leased by it or its sublicensees under the **Licensed Patent Rights**, if and to the extent such markings shall be practical, with such patent markings as shall be desirable or required by applicable patent laws.

ARTICLE VI - DILIGENCE

1. **Licensee** shall use its best efforts to bring **Licensed Patent Rights** to market through a thorough, vigorous and diligent program and to continue active, diligent marketing efforts throughout the life of this agreement.
2. **Licensee** shall deliver to **Licensor** on or before _____, a business plan for development of **Licensed Patent Rights**, which includes number and kind of personnel involved, time budgeted and planned for each phase of development and other items as appropriate for the development of the **Licensed Patent Rights**. Quarterly reports describing progress toward meeting the objectives of the business plan shall be provided.
3. **Licensee** shall permit an in-house inspection of **Licensee** facilities by **Licensor** on an annual basis beginning at _____ .
4. **Licensee** failure to perform in accordance with either paragraph 1, 2 or 3. of this ARTICLE VI shall be grounds for **Licensor** to terminate this agreement.

ARTICLE VII - IRREVOCABLE JUDGMENT WITH RESPECT TO VALIDITY OF PATENTS

If a judgment or decree shall be entered in any proceeding in which the validity or infringement of any claim of any patent under which the License is granted hereunder shall be in issue, which judgment or decree shall become not further reviewable though the exhaustion of all permissible applications for rehearing or review by a superior tribunal, or through the expiration of the time permitted for such application, (such a judgment or decree being hereinafter referred to as an irrevocable judgment) the construction placed on any such claim by such irrevocable judgment shall thereafter be followed not only as to such claim, but

also as to all claims to which such instruction applies, with respect to acts occurring thereafter and if an irrevocable judgment shall hold any claim invalid, **Licensee** shall be relieved thereafter from including in its reports hereunder that portion of the royalties due under ARTICLE III payable only because of such claim or any broader claim to which such irrevocable judgment shall be applicable, and from the performance of any other acts required by this agreement only because of any such claims.

ARTICLE VIII - TERMINATION OR CONVERSION TO NON-EXCLUSIVE LICENSE

1. Termination by Licensee.

Option of Licensee: **Licensee** may terminate the license granted by this agreement, provided **Licensee** shall not be in default hereunder, by giving **Licensor** ninety (90) days notice to its intention to do so. If such notice shall be given, then upon the expiration of such ninety (90) days the termination shall become effective; but such termination shall not operate to relieve **Licensee** from its obligation to pay royalties or to satisfy any other obligations, accrued hereunder prior to the date of such termination.

2. Termination by Licensor.

Option of Licensor: **Licensor** may, at its option, terminate this agreement by written notice to **Licensee** in case of:

- a. Default in the payment of any royalties required to be paid by **Licensee** to **Licensor** hereunder
- b. Default in the making of any reports required hereunder and such default shall continue for a period of thirty (30) days after **Licensor** shall have given to **Licensee** a written notice of such default.
- c. Default in the performance of any other material obligation contained in this agreement on the part of **Licensee** to be performed and such default shall continue for a period of thirty (30) days after **Licensor** shall have given to **Licensee** written notice of such default.
- d. Adjudication that **Licensee** is bankrupt or insolvent.
- e. The filing by **Licensee** of a petition of bankruptcy, or a petition or answer seeking reorganization, readjustment or rearrangement of its business or affairs under any law or governmental regulation relating to bankruptcy or insolvency.
- f. The appointment of a receiver of the business or for all or substantially all of the property of **Licensee**; or the making by **Licensee** of assignment or an attempted assignment for the benefit of its creditors; or the institution by **Licensee** of any proceedings for the liquidation or winding up of its business or affairs.

3 **Effect of termination.**

Termination of this agreement shall not in any way operate to impair or destroy any of **Licensee's** or **Licensor's** right or remedies, either at law or in equity, or to relieve **Licensee** of any of its obligations to pay royalties or to comply with any other of the obligations hereunder, accrued prior to the effective date of termination.

4. **Effect of delay, etc.**

Failure or delay by **Licensor** to exercise its rights of termination hereunder by reason of any default by **Licensee** in carrying out any obligation imposed upon it by this agreement shall not operate to prejudice **Licensor's** right of termination for any other subsequent default by **Licensee**.

5. **Option of Licensee to convert to non-exclusive license.**

Licensee shall have the right to convert this License at the same royalty rate as for the exclusive Licensee, without right to sublicense and minimum royalties under **ARTICLE III**, Paragraph 3. shall not be due thereafter.

6. **Return of Licensed Patent Rights.**

Upon termination of this agreement, all of the **Licensed Patent Rights** shall be returned to **Licensor**. In the event of termination of the agreement by **Licensee** or said conversion of the agreement by **Licensee**, **Licensee** shall grant to **Licensor** a non-exclusive, royalty- free License, with right to sublicense, to manufacture, use and sell improvements including all known-how to **Licensed Patent Rights** made by **Licensee** during the period of this agreement prior to the termination or conversion, to the extent that such improvements are dominated by or derived from the **Licensed Patent Rights**.

ARTICLE IX – TERM

Unless previously terminated as hereinbefore provided, the term of this Agreement shall be from and after the date hereof until the expiration of the last to expire of the licensed issued patents or patents to issue under the **Licensed Patent Rights** under ARTICLE I. **Licensee** shall not be required to pay royalties due only by reason of its use, sale, licensing, lease or sublicensing under issued patents licensed by this Agreement that have expired or been held to be invalid by an Irrevocable Judgment, where there are no other of such issued patents valid and unexpired covering the **Licensee's** use, sale, licensing, lease or sublicensing; provided, however, that such non-payment of royalties shall not extend to royalty payments already made to **Licensor** more than six (6) months prior to **Licensee's** discovery of expiration or an Irrevocable Judgment.

ARTICLE X - PATENT LITIGATION

1. **Initiation.** In the event that **Licensor** advises **Licensee** in writing of a substantial infringement of the patents/copyrights included in the **Licensed Patent Rights**, **Licensee** may, but is not obligated to, bring suit or suits through attorneys of **Licensee's** selection with respect to such infringement. In the event **Licensee** fails to defend any declaratory judgment action brought against any patent or patents of the **Licensed Patent Rights**, **Licensor** on written notice to **Licensee** may terminate the License as to the particular patent or patents involved in such declaratory judgment action.
2. **Expenses and proceeds of litigation.** Where a suit or suits have been brought by **Licensee**, **Licensee** shall maintain the litigation at its own expense and shall keep any judgments and awards arising from these suits expecting that portion of the judgments attributable to royalties from the infringer shall be divided equally between **Licensor** and **Licensee** after deducting any and all expenses of such suits; provided, however, **Licensor** shall not be entitled to receive more under this provision than if the infringer had been licensed by **Licensee**.
3. **Licensor's right to sue.** If **Licensee** shall fail to commence suit on an infringement hereunder within one (1) year after the receipt of **Licensor's** written request to do so. **Licensor** in protection of its reversionary rights shall have the right to bring and prosecute such suits at its cost and expense through attorneys of its selection, in its own name, and all sums received or recovered by **Licensor** in or by reason of such suits shall be retained by **Licensor**; provided, however, no more than one lawsuit at a time shall commence in any such country.

ARTICLE XI - PATENT FILINGS AND PROSECUTING

1. **Licensee** shall pay future costs of the prosecution of the patent applications pending as set forth in ARTICLE I, Paragraph 2. Which are reasonably necessary to obtain a patent. Furthermore, **Licensee** will pay for the costs of filling, prosecuting and maintaining foreign counterpart applications to such pending patent applications, such foreign applications to be filed within ten (10) months prior to the filing date of the corresponding _____ (Country) patent application.
2. **Licensor** shall own improvements by the inventors. **Licensee** shall pay future costs of preparation, filling, prosecuting and maintenance of patents and applications on patentable improvements made by inventors, however, in the event that **Licensee** refuses to file patent applications on such patentable improvements in _____ (Country) and selected foreign countries when requested by **Licensor**, the rights to such patentable improvements for said countries shall be returned to **Licensor**.
3. **Preparation** and maintenance of patent applications and patents undertaken at **Licensee's** cost shall be performed by patent attorneys selected by **Licensor**; and due diligence and care shall be used in preparing, filling, prosecuting, and maintaining such applications on patentable subject matter. Both parties shall review and approve any and all patent related documents.

4. **Licensee** shall have the right to, on thirty (30) days written notice to **Licensor**, discontinue payment of its share of the prosecution and/or maintenance costs of any of said patents and/or patent applications. Upon receipt of such written notice, **Licensor** shall have the right to continue such prosecution and/or maintenance on its own name at its own expense in which event the License shall be automatically terminated as to the subject matter claimed in said patents and/or applications.
5. **Notwithstanding** the foregoing paragraph of this ARTICLE XI, **Licensee's** obligations under such paragraphs shall continue only so long as **Licensee** continues to have an **Exclusive License** under the **Licensed Patent Rights** and, in the event of conversion of the License to non-exclusive in accordance with ARTICLE VIII, paragraph 1. (b), after the date of such conversion:
 - a. The costs of such thereafter preparation, filing, prosecuting and maintaining of said Licensed patents and patent applications shall be the responsibility of **Licensor**, provided such payments are at the sole discretion of the **Licensor** ; and
 - b. **Licensee** shall have a non-exclusive License without right to sublicense under those of such patents and applications under which **Licensee** had an **Exclusive License** prior to the conversion.

ARTICLE XII - NOTICES, ASSIGNEES

1. **Notices.** Notices and payments required hereunder shall be deemed properly given if duly sent by first class mail and addressed to the parties at the addresses set forth above. The parties hereto will keep each other advised of address changes.
2. **Assignees, etc.** This Agreement shall be binding upon and shall inure to the benefit of the assigns of **Licensor** and upon and to the benefit of the successors of the entire business of **Licensor**, but neither this agreement nor any of the benefits thereof nor any rights thereunder shall, directly or indirectly, without the prior written consent of **Licensor**, be assigned, divided, or shared by the **Licensor** to or with any other party or parties (except a successor of the entire business of the **Licensor**).

ARTICLE XIII - MISCELLANEOUS

1. **This agreement** is executed and delivered in _____ (Country) and shall be constructed in accordance with the laws of the Government of _____.
2. **No other understanding.** This agreement sets forth the entire agreement and understanding between the parties as to the subject matter thereof and merges all prior discussions between them.

3. **No representations** or warranties regarding patents of third parties. No representations or warranty is made by **Licensor** that the **Licensed Patent Rights** manufactured, used, sold or leased under the **Exclusive License** granted herein is or will be free of claims of infringement of patent rights of any other person or persons. The **Licensor** warrants that it has title to the **Licensed Patent Rights** from the inventors.
4. **Indemnity.** **Licensee** shall indemnify, hold harmless, and defend **Licensor** and its trustees, officers, employees and agents against any and all allegations and actions for death, illness, personal injury, property damage, and improper business practices arising out of the use of the **Licensed Patent Rights**.
5. **Insurance.** During the term of this agreement, **Licensee** shall, maintain the following insurance coverage:
 - a. Commercial general liability with a limit of no less than one million dollars (\$1,000,000.00, option) each occurrence. Such insurance shall be written on a standard ISO occurrence form or substitute form providing equivalent coverage.
 - b. Professional liability of no less than one million dollars (\$1,000,000.00, option) each occurrence.
 - c. Workers' compensation consistent with statutory requirements. Certificates of insurance shall be provided to **Licensor** upon request and shall include the provision for 30-day notification to the certificate holder of any cancellation or material alteration in the coverage.
6. **Advertising.** **Licensee** agrees that **Licensee** may not use in any way the name of **Licensor** or any logotypes or symbols associated with **Licensor** or the names of any researchers without the express written permission of **Licensor**.
7. **Confidentiality.** The parties agree to maintain discussions and proprietary information revealed pursuant to this agreement in confidence, to disclose them only to persons within their respective organizations having a need to know, and to furnish assurances to the other party that such persons understand this duty on confidentiality.
8. **Disclaimer of Warranty.** **Licensed Patent Rights** is experimental in nature and it is provided WITHOUT WARRANTY OR REPRESENTATIONS OF ANY SORT, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OF NON-INFRINGEMENT. **Licensor** makes no representations and provides no warranty that the use of the **Licensed Patent Rights** will not infringe any patent or proprietary rights of third parties.

In witness whereof, the parties hereto have caused this agreement to be executed by their duly authorized representatives.

The effective date of this agreement is _____, 20____.

Licensor _____

Name: _____

Title: _____

Licensee _____

Name: _____

Title: _____