

**RESEARCH AND DEVELOPMENT
AGREEMENT**

BETWEEN

.....

AND

.....

CONFIDENTIAL

R&D Agreement – Schedule 1

Version:

This Agreement, effective as of the first day of xxxx 2011, between
....., with offices located at,, (“A”)
and (“B”), a limited liability company, with offices
located at,,

RECITALS

- A. A has capabilities, knowledge, expertise and technologies in plant and insect genetics and genomic sciences, natural products related to plant and insect biology, and in high throughput cellular and molecular analysis and automation.
- B. B has capabilities, knowledge, expertise and technologies relating to seeds, traits, agricultural biotechnologies and crop protection.
- C. B is interested in utilizing certain technical services from A through various Research Projects with a view to the development of new agricultural products for the global marketplace.
- D. Research Projects will utilize A capabilities, knowledge, expertise and background technologies with the general aim of developing novel applications of technologies and carrying out transformational research in specific crops and biological materials.
- E. A is interested in carrying out the Research Projects upon the terms and conditions of this Agreement.

1. Definitions

1.1. Definitions

In this Agreement including the Recitals, Exhibit and the Schedules, the following definitions apply unless there is a contrary intention:

“**Affiliate**” means with respect to a particular Party, any person or entity that directly or indirectly controls, is controlled by or is in common control with such party. The term “controls” (with correlative meanings for the terms “controlled by” and “under common control with”) means the ownership, directly or indirectly, of fifty (50%) per cent or more of the voting securities or other ownership interest of an entity, or the possession, directly or indirectly, of the power to direct the management or policies of the entity, whether through the ownership of voting securities, by contract, or otherwise;

“**Agreement**” means this agreement which includes the Recitals, Exhibit and Schedules;

“**Background Technology**” of a Party means the technologies, developed by a Party before the respective Research Project and listed as Background

Technology in a Research Project in Schedule 2 in all instances, with the Intellectual Property Rights subsisting therein;

“**Commencement Date**” means, 201x;

“**Confidential Information**” means proprietary scientific, technical and business information, information relating to any Research Project including know-how, information pertaining to technical and business relationships with third-party clients, academic institutions and their faculty, staff and students, customers, and collaborators; and information contained in reports, documents, drawings, prototypes, and the like; which is not publicly known, and which is disclosed by one Party to the other Party for the purpose of this Agreement;

“**Deliverables**” means all material and information, to be provided by A to B pursuant to Research Projects as identified in Schedule 2;

“.....” means either owned or licensed to B, or which are publically available or that contain an Event;

“**End Date**” means, 201x;

“**Event**” means a,,, and/or derived from a Research Project that contains one or more and that is protected by Intellectual Property Rights. Events may or may not comprise B

“**Exploit**” means produce, have produced, commercialise, market, distribute, have distributed, adapt, trial, develop, have developed, sublicense, sell and have sold and “**Exploitation**” shall be similarly construed;

“**Fee**” or “**Project Fee**” means the total fee payable in Euro and based on a fixed FTE cost per annum which B will pay A for each Research Project as set out in Schedule 2;

“**Field**” means definition of field as set out in each Research Project on Schedule 2. The Field will be specific to each project and may be different for each project.

“**FTE**” means Full-time Equivalent. The number of working hours per annum performed by the person carrying out work under the Research Project is equivalent to the number of working hours of a full-time worker.

“**Gatekeeper**” means one (1) designee from each Party, each of whom is responsible for the tasks set down in clause 6.11 which includes managing the transfer between the Parties of Background Technology and of all information and materials, whether or not generated under this Agreement;

“**Intellectual Property Rights**” means all rights constituted by statute, law or otherwise relating to industrial or intellectual property and which include, but are not restricted to, patents, plant variety rights, copyright, designs, trademarks, and

all other rights as defined by Article 2 of the Convention establishing the World Intellectual Property Organisation of July 1967 and all applications relating to these rights;

"Invention" means new, useful, and nonobvious process, machine, product, creation of a new material or a new use for an existing product or material. An Invention is also a new, useful, and nonobvious improvement of a process, machine, product or material.

"Know-how" means knowledge, experience or expertise of a technical nature, which is generated by B during the performance of the respective Research Project and is applicable to the creation of Deliverables or Project Technology.

"New Tools" means newly discovered methods and processes for use in discovery and/or development, including but not limited to and methods which in all cases are created as a result of carrying out a Research Project or multiple Research Projects, together, in all instances, with any Intellectual Property Rights subsisting therein, but wherein such New Tools exclude Traits.;

"Nominated Representative" means the nominated representative of a Party, as set out in Schedules 1 and 2;

"Parties" means B and A and **"Party"** means any one of them;

"Payments" or "Project Payments" means the time and manner B will pay IME the Fee as set out in Schedule 2;

"Project Technology" means all tangible information, Inventions, discoveries, including but not limited to works, designs, innovations and all other subject matter which is (or are) created by carrying out the respective Research Project and includes Events, Deliverables, and New Tools created during the performance of the respective Research Project, together, in all instances, with the Intellectual Property Rights subsisting therein;

"Research Committee" means the committee appointed in accordance with clause 6.6 that is responsible for directing the Research Project Leaders and the Research Projects in accordance with clause 6.7.

"Research License" means a fully paid license granted by either Party to the Other Party to carry out research and development and related activities under Research Projects including, without limitation, adaptation, trials and evaluation and for the development of events. Other than the foregoing, a "Research Licence" to subject matter does not include the right to Exploit that subject matter;

"Research Project" means a project performed pursuant to this Agreement as described in Schedule 2;

“Schedule” means a schedule to this Agreement;

“Steering Committee” means the committee appointed in accordance with clause 6.1 that is responsible for managing the interactions between the Parties pursuant to this Agreement, providing strategic guidance and reviewing new Research Project proposals in accordance with clause 6.2;

“Research Project Leader” means the A-nominated leader of a Research Project and any replacement made by A, as stated in Schedule 2;

“Research Project Team” means all of the A and B researchers working on a Research Project or the reviewing of the results and materials from that Research Project, as stated in Schedule 2.

1.2. In this Agreement:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing a gender include all other genders;
- (c) the word “person” includes a reference to a corporation; where applicable:
- (d) headings are for convenience only and shall not affect the interpretation of this Agreement;
- (e) all monetary amounts referred to in this Agreement shall be deemed to be in Euros;
- (f) the Schedules, Exhibit and Recitals form part of this Agreement;
- (g) a reference to a statute, regulation or provision of a statute or regulation includes a reference to that statute, regulation or provision as amended or re-enacted; and
- (h) the words ‘includes’ and ‘including’ are not words of limitation.

2. Term

- 2.1. This Agreement commences on, and with effect from, the Commencement Date and will continue until the End Date, subject to earlier termination under clause 15.
- 2.2. The term of the Agreement may be extended by mutual written agreement of the Parties.

3. Research Projects

- 3.1. A agrees to carry out the Research Projects in accordance with this Agreement as far as not otherwise agreed upon in writing through formal amendment of this Agreement duly signed by the Parties.
- 3.2. B agrees to provide A with the support, information as are reasonably necessary for A to carry out the Research Projects, as agreed by the Parties and as specified in writing in Schedule 2.
- 3.3. A agrees to provide B with support, information as are reasonably necessary for B to carry out the Research Projects, as agreed by the parties and as specified in writing in Schedule 2.
- 3.4. Additional Research Projects may be added to Schedule 2 of this Agreement from time to time subject to written agreement of the Parties as to the details of each Research Project under each of the proforma headings listed in Schedule 2. Each Research Project added to Schedule 2 and agreed to in writing by the Parties shall be carried out by the Parties under the terms of this Agreement.
- 3.5. In the event that there is a need to obtain any regulatory permit to carry out a Research Project, such permit must be obtained by A at B's cost and in B's name or - if mandatory according to the applicable law - by A at B's cost and in A's name.
- 3.6. B, in its sole discretion, has the right to terminate any Research Project without cause by providing A with thirty (30) days prior written notice. In the event B terminates a Research Project, B will pay all costs and non-cancellable obligations accrued by A as of the date a notice of termination is received by A. B will not be required to pay for any additional obligations or commitments for cost incurred by A after the date A receives written notification to terminate a Research Project.

4. Fee

B agrees to pay A the Fee for each Research Project in the time and manner set out in Schedule 2. A will invoice B in accordance with the Fee and Payments schedule specified for each Research Project in Schedule 2.

5. Research Project Leaders

- 5.1. A shall appoint a Research Project Leader for each Research Project.
- 5.2. The Research Project Leader for a Research Project shall be responsible for:

- (a) the day-to-day management of that Research Project;
- (b) submitting any written reports and other Deliverables of A to B as required by this Agreement.

6. Steering Committee, Research Committee and Research Project Leaders

Steering Committee

- 6.1. The Parties hereby establish the Steering Committee as specified in Schedule 1 , which will comprise a minimum of:
 - (a) Three (3) Nominated Representatives of A;
 - (b) Three (3) Nominated Representatives of B; and
- 6.2. The Steering Committee shall:
 - (a) convene either by telephone or by personal meeting at least once every six (6) months with at least two (2) personal meetings per year, alternating between the USA and Germany;
 - (b) discuss and review the progress of the Research Projects in general and provide oversight of the Research Committee;
 - (c) discuss and seek to agree upon any proposed variations to existing Research Projects and recommend that each Party approve such amendment to a Research Project in writing;
 - (d) discuss and seek to agree upon new Research Projects to be added to this Agreement in Schedule 2 and recommend that each Party approve such an addition to this Agreement in writing.
 - (e) discuss and review any other obligations or activities of the Parties pursuant to this Agreement, including (but not limited to) those relating to Project Technology pursuant to clause 9.
 - (f) discuss and review Invention disclosures, provide advice for intellectual property strategies and publication strategies as well as Invention filing decisions.
 - (g) discuss and review questions related to resources that are not resolved by the Research Committee.
 - (h) subject to clause 6.4, resolve any issues that cannot be resolved by the Research Committee.
 - (i) subject to clause 6.4, approve Research Projects, people and resources, including Research Project Leaders,

- (j) Receive and review reports from the Research Committee.
- 6.3. Each Party will bear its own costs with respect to its participation on the Steering Committee.
- 6.4. The decisions of the Steering Committee are advisory in nature and have no force or effect unless and until agreed to by the Parties in writing and attached hereto in Schedule 2.
- 6.5. In the event that the Parties cannot agree on a recommendation from the Steering Committee, then the “Dispute” resolution process contained in clauses 16 Sentence 1 may be followed by the Parties.

Research Committee

- 6.6. The Parties hereby establish the Research Committee which will comprise a minimum of:
 - (a) Three (3) Nominated Representatives of A; and
 - (b) Three (3) Nominated Representatives of B;as nominated in Schedule 2, for each Research Project.
- 6.7. The Research Committee shall:
 - (a) convene either by telephone or by personal meeting at least one (1) time every month with at least two (2) personal meetings per year to be coordinated with the meetings of the Steering Committee, alternating between the USA and Germany;
 - (b) discuss the research tasks and timelines of Research Projects as well as the approaches to complete those research tasks. B must review all constructs and methods proposed for use in a Research Project and, if appropriate, approve them for use in a Research Project;
 - (c) discuss and review the progress of the Research Projects and prioritize resources across Research Projects, including any proposed changes to the Research Project plans and budgets,
 - (d) provide recommendations and written reports quarterly to the Steering Committee related to the process and findings of the Research Project(s) including reports prepared by the Gatekeepers pursuant to clause 6.11, where the reports to the Steering Committee shall be due two weeks after receiving the reports from the Research Committee; and prepare written recommendations related to any proposed variations to existing Research Projects for the Steering Committee’s review;

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- (e) discuss and seek to agree upon new Research Projects which should be reviewed by the Steering Committee and approved by each Party in an addendum to this Agreement in writing;
 - (f) discuss and review any other obligations or activities of the Parties pursuant to this Agreement, including (but not limited to) those relating to Project Technology pursuant to clause 9;
 - (g) discuss and review Inventions and review strategies for filing patent applications so that patent filings are aligned with this Agreement.
 - (h) develop and administer a comprehensive publication strategy for each Research Project and review manuscripts and proposed presentations;
 - (i) discuss and review questions related to resources;
 - (j) review progress of reaching milestones specified in Research Projects;
 - (k) review any modifications to Research Projects and provide recommendations to the Steering Committee for its consideration;
 - (l) resolve any differences between the reports on information and material transfers submitted by the Gatekeepers from each Party; and
 - (m) resolve any disputes within Research Project Teams.
- 6.8. Each Party will bear its own costs with respect to its participation on the Research Committee.
- 6.9. In the event that the members of the Research Committee cannot agree, then the matter shall be referred to the Steering Committee.

Research Project Leaders

- 6.10. The Research Project Leaders are responsible for executing the Research Projects as specified under this Agreement which includes:
- (a) preparing Research Project charters, resource plans and budgets in accordance with the proforma in Schedule 2 and proposing Research Projects to the Research Committee for its approval;

- (b) executing against approved Research Project plans, managing resources and delivering against milestones;
- (c) recommending variations to approved Research Projects to the Research Committee;
- (d) preparing a quarterly report to the Research Committee containing information requested by the Research Committee;
- (e) capturing Inventions through development and submission of Invention disclosures via the Research Committee;
- (f) managing transfer of materials and information through the assigned Gatekeepers; and
- (g) coordinating meetings between members of A and B Research Project Teams.

Gatekeepers

- 6.11. Gatekeepers, as nominated in Schedule 2 for each Research Project, must manage the transfer between the Parties of Background Technology, Project Technology and all other information and materials, whether or not generated from Research Projects. When transferring material or information that was not generated from the Research Projects but is not listed in Schedule 2 as Background Technology, the supply of materials and information shall be identified in writing in a mutually agreed Material and Information Transmittal Form (in the form in Exhibit A).
- 6.12. All transfers and the associated provenance of Background Technology, Project Technology and all other material or information (whether or not generated from a Research Project) are to be recorded by each Gatekeeper and reported quarterly to the Research Committee.
- 6.13. Background Technology added to a Research Project by means of the Material and Information Transmittal Form must be added to Schedule 2 by the Gatekeepers on a quarterly basis.

7. Deliverables, Reports and Records

- 7.1. A agrees to use scientific care to achieve the Deliverables in the time and manner set out in Schedule 2, unless otherwise agreed by the Parties in writing.
- 7.2. B acknowledges the uncertainties of research and development activities and accepts that there is no guarantee that any target

outcome will be achieved through the carrying out of the Research Projects and that, without limitation, A' obligations to provide the Deliverables is to be read and construed accordingly.

- 7.3. Each Party must keep proper records in respect of the Research Project in such detail and witnessing to enable securing intellectual property protection for all Inventions emanating from the Research Project. B may with advance written notice of ten (10) business days, inspect A's research records relating to Research Projects at B's sole expense.

8. Background Technology – Grant of License

- 8.1. Each Party retains all title, rights and interest in and to its Background Technology and subject to clauses 8.3 and 8.4, neither Party will be under an obligation to make its Background Technology available to the other Party.
- 8.2. Subject to clause 8.3 and 8.4, neither Party shall be permitted to use the other Party's Background Technology for any purpose outside of carrying out a Research Project.
- 8.3. B hereby grants to A, a royalty-free, non-exclusive research license to use B Background Technology to the extent necessary for the carrying out of each Research Project.
- 8.4. A hereby grants to B, a royalty-free, non-exclusive research license to use A Background Technology listed in a Research Project in Schedule 2 for the particular Field defined in each Research Project to the extent necessary for the carrying out of the respective Research Project and during the performance of the respective Research Project.
- 8.5. A shall grant B a royalty-bearing, world-wide, non-exclusive license for the particular Field defined in each Research Project specified in Schedule 2, to A Background Technology listed for the respective Research Project only to the extent necessary for B to Exploit Project Technology. Prior to the addition of a Research Project to Schedule 2 according to sec. 3.4. A will advise B a royalty or other compensation for which A will licence to B the use of Background Technology for the respective Research Project according to sentence 1. Such compensation will only be due for Background Technology that has Intellectual Property Rights associated with it. The individual conditions governing the use of A Background Technology for the respective Research Project, including but not limited to the specific licence-fee, will require a separate written agreement.

9. Ownership of Project Technology and Licenses to Project Technology

- 9.1. All right title and interest in and to Project Technology created solely by A shall vest solely in A at the time of its creation, unless otherwise agreed by the Parties in writing. B shall be granted licenses on the respective Project Technology in accordance with clause 9.2 - 9.4.
- 9.2. B is granted an exclusive right of use for research and commercialization for the particular Field of the respective Research Project specified in Schedule 2 to Inventions, generated by A during the performance of the Research Project as well as to Intellectual Property Rights filed by A for these Inventions. B shall pay A a reasonable fixed fee for each Research Project (but in no event less than 200.000 €) for the aforementioned exclusive right to use A Inventions. The reasonable fixed fee will be specified in each Research Project in Schedule 2. This fixed fee includes all costs of, all employee-inventor fees for A employee inventors in respect of these Inventions generated within the performance of the respective Research Project and a surcharge for the exclusive right of use according to Sentence 1 of this Section 9.2.

This fixed fee shall be due and paid to A at the earlier of the milestones and timelines specified in Schedule 2 for each Research Project, or within 6 weeks of the first sale by B, its Affiliates or sublicensees, of a product covered by a valid Intellectual Property Right patent claim resulting from a Research Project but at the latest 10 years after completion of the respective Research Project.

B shall inform A of the date of the first sale by B, its Affiliates or sublicensees, of a product covered by a valid Intellectual Property Right patent claim and of Net-Incomes gained per annum within 60 days after the end of the relevant financial year, but at the latest until the 31st of March, if required by the royalty schedule in a specific Research Project in Schedule 2.

- 9.3 In addition to the fee in 9.2, additional royalties may be specified and due, as set forth in specific Research Projects in Schedule 2. In no event shall such royalties be due unless B, its Affiliates and sublicensees attain Net Incomes in connection with the Exploitation of licenced Intellectual Property Rights according to sec. 9.2, including but not limited to a product or a product made, in part or in whole, which exceed 200.000.000 USD in annual sales. Such royalties on sales in excess of USD 200.000.000 shall not exceed 1% of Net Sales of such product covered by a valid Intellectual Property Right patent claim.

0,2 - for a Net-Income of 200.000 000 up to 400.000 000 USD
(step 1)

0,5 % - for a Net-Income of 400.000 000 up to 600.000 000 USD
(step 2)

0,75 % - for a Net-Income of 600.000 000 up to 1 Billion USD
(step 3)

1 % - for a Net-Income of more than 1 Billion USD (step 4)

Upon reaching the respective sales threshold B shall notify A in writing within 4 weeks, Payments shall be made annually and be due 60 days after the end of the relevant financial year, but at the latest until the 31-st of March.

B shall keep complete books and records of all uses, sublicenses, sales, returns or other disposals, also by Affiliates and sub-licensees. B shall oblige all its Affiliates and sub-licensees to follow this regulation.

A has the right to hire an auditor or an accountant, agreeable to both parties, bound to professional discretion, in order to analyse this books and records of B. The respective costs are to be born by A, except for a situation, when the variances of more than 5 % to the disadvantage of A are discovered. In such case B shall bear the costs of auditing. The auditing shall take place in accordance with the relevant regulations of a respective country.

- 9.4 B is granted a non-exclusive, royalty-free right of use for the Field of the respective Research Project, which is specified in Schedule 2, to Project Technology and Know-How created by A during the performance of the respective Research Project.
- 9.5 Inventions jointly invented by the contracting parties during the performance of the Research Project (joint Inventions) may be used and licensed by each contracting party without any financial compensation to the other party except that A shall not out-license to unrelated third parties rights in the Field of the respective Research Project without the prior written consent of B. Consent shall not unreasonably withheld by B. In any case, A shall insofar retain an exclusive, royalty-free right to out-license to unrelated third parties rights outside of the Field of the respective Research Project and a non-exclusive, royalty-free right of use for purposes of research and development. The contracting parties shall each bear an equal

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portion of the costs for patent filing, maintenance, defence, attorneys' fees and prosecution of the applications in national and regional patent offices of the Intellectual Property Rights in question. Joint Inventions must be filed and prosecuted by mutually agreeable outside counsel. In the case of copyright protected works jointly created during the performance of the contract (joint authorship) Section 9.4, sentence 1 shall apply correspondingly.

- 9.6 If B elects not to support prosecution or maintenance of patent or copyright protection of joint Intellectual Property or licensed A Intellectual Property, A will be free to continue to prosecute or maintain any such Intellectual Property Rights, and to maintain any protection issuing thereon in the U.S. and in any foreign country at A's sole expense, and B will have no further rights to said technology.
- 9.7 Steering Committee may advise to file for protection of Intellectual Property Rights of Project Technology, Parties shall cooperate to provide any reasonable assistance required in this regard.
- 9.8 B shall not Exploit A's Project Technology from each Research Project in accordance with Clause 9.2 - 9.4 until B meets all of its Payment and other obligations defined within the relevant Research Project as set out in Schedule 2 of this Agreement.
- 9.9 B hereby grants A a royalty-free world-wide license to use Project Technology created by B for the performance of Research Projects.

10. Confidential Information

- 10.1. Each Party must treat all Confidential Information received from the other Party and declared as confidential at the time of its disclosure as confidential and must not, without the prior written consent of the other Party, disclose or permit the same to be disclosed to any third person, unless permitted by this Agreement. However each Party may disclose Confidential Information of the other Party to agents, contractors, scientific collaborators and consultants under obligations of confidentiality consistent with the confidentiality obligations in this Agreement.
- 10.2. Each Party must ensure that its directors, officers, employees, agents, contractors, scientific collaborators, consultants and representatives comply with the obligations of confidentiality imposed upon it by this clause 10, as if to be personally bound by such obligations.

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- 10.3. Notwithstanding any provision to the contrary, a party may disclose the Confidential Information of the other party: (i) in connection with an order of a court or other government body or as otherwise required by or in compliance with law or regulations; provided that the disclosing party provides the other party with notice and takes reasonable measures to obtain confidential treatment thereof; (ii) in confidence to recipient's Affiliates involved in the Exploitation of Project Technology, attorneys, accountants, banks and financial sources and its advisors on a need-to-know basis; or (iii) in confidence, in connection with the sale of substantially all the business assets to which this Agreement relates, so long as, in each case, the entity to which disclosure is made is bound to confidentiality on terms commensurate with those set forth herein.

Each Party may disclose Confidential Information of the other Party as far as necessary for obtaining any necessary permits for the performance of the Research Projects.

- 10.4. Exceptions: The obligations of confidentiality and limited use shall not apply to any of the Confidential Information which:
- (a) is publicly available by publication or other documented means or later becomes likewise publicly available through no act or fault of recipient; or
 - (b) is already known to recipient before receipt from the disclosing party, as demonstrated by recipient's written records or other proofs; or
 - (c) is made known to recipient by a third party who did not obtain it from the disclosing party and who does not obligate recipient to hold it in confidence; or
 - (d) is independently developed by the recipient as evidenced by credible written research records of recipient's employees or agents who did not have access to the disclosing party's Confidential Information. Specific information is not be deemed to be within any of these exclusions merely because it is embraced by more general information falling within these exclusions.
- 10.5. Each Party's obligations under this clause 10 will survive expiration or earlier termination of this Agreement and will continue for a period of ten (10) years after the expiration or termination of this Agreement or until such time as each part of the other Party's Confidential Information lawfully becomes part of the public domain, whichever is the sooner.

11. Publications

- 11.1. Each Party will have the right to publish any matters arising from the Research Projects pursuant to this clause 11, provided that it does not prejudice the Exploitation or ability to obtain Intellectual Property rights of the Project Technology. The Steering Committee shall review whether or not it is timely to publish any matter arising from the Research Project.
- 11.2. Any Party wishing to publish (the “Requesting Party”) any unpublished result of the Research Project must submit the proposed publication to the other Party for review (the “Reviewing Party”) sixty (60) days prior to submission for publication. The Parties shall in good faith work together to determine the timeliness for such publication, but in any event approval shall not be unreasonably withheld. Denial of approval due to the lack of completeness or thoroughness of the data shall not be considered unreasonable. Reasonable modifications or amendment to the proposed publication may be required before approval is granted.

12. Use of a Party’s Name and Corporate Logo

Neither Party will have the right to use the name or corporate logo of the other Party in respect of this Agreement, without that other Party’s prior written consent and any other conditions attached to such consent.

13. Risk Management

- 13.1. (a) A shall carry out the Research Project with scientific care and that to the best of its actual knowledge and belief as at the Commencement Date the information provided to B under this Agreement are accurate, but for the avoidance of doubt A shall not be liable for not achieving the research goal of the Research Project.
- (b) A has not made and excludes all warranties, conditions, terms and undertakings whether express or implied, written or oral, statutory or otherwise, including any implied warranty of, merchantability or fitness for purpose, in respect of the Background Technology, Project Technology and the Deliverables and non-infringement of third party intellectual property rights.
- (c) Without limiting the generality of clause 13.1(b), A will not be liable for any loss of profits, loss of business, interruption of business, special, indirect or consequential damages arising under or pursuant to this Agreement, whether based on contract or tort claims or otherwise, even if the party has been advised of the possibility of such loss.

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- 13.2. (a) To the extent that B is involved in the Research Project, B shall carry out the Research Project with scientific care and that to the best of its actual knowledge and belief as at the Commencement Date the information and materials provided to A under this Agreement are accurate.
- (b) B has not made and excludes all warranties, conditions, terms and undertakings whether express or implied, written or oral, statutory or otherwise, including any implied warranty of, merchantability or fitness for purpose, in respect of the Background Technology, any information that is provided by B in accordance with clause 11.2, and non-infringement of third party intellectual property rights.
- (c) Without limiting the generality of clause 13.2(b), B will not be liable for any loss of profits, loss of business, interruption of business, special, indirect or consequential damages arising under or pursuant to this Agreement in respect of the Project Technology, whether based on contract or tort claims or otherwise, even if the party has been advised of the possibility of such loss.
- 13.3. Except to the extent caused by a breach of A's warranties specified in clause 13.1, B releases and indemnifies and continues to release and indemnify A and all its respective directors, officers, employees, agents, contractors, consultants and representatives (all collectively referred to in this clause 13.3 as the "Indemnified Party") from and against all actions, claims, proceedings, demands, which may be brought by any person whether against it or them on their own or jointly with third parties in respect of any loss, injury or damage) howsoever arising, but excluding patent infringement, that the Indemnified Party may suffer, incur or sustain as a result of the use or Exploitation by B of:
- (a) the Project Technology; or
- (b) A's Background Technology (to the extent that such use or Exploitation is permitted by this Agreement);
- and from and against all damages, and legal costs and expenses incurred on a party/party basis in defending or settling any such action, claims, proceedings or demands.
- 13.4. Except to the extent caused by a breach of B' warranties specified in clause 13.2, A releases and indemnifies and continues to release and indemnify B (and all its respective directors, officers, employees, agents, contractors, consultants and representatives) (all collectively referred to in this clause 13.4 as the "Indemnified Party") from and

against all actions, claims, proceedings, demands, which may be brought by any person whether against it or them on their own or jointly with third parties in respect of any loss, injury or damage) howsoever arising, but excluding patent infringement, that the Indemnified Party may suffer, incur or sustain as a result of the use or Exploitation by A of:

(a) the Project Technology; or

(b) B's Background Technology (to the extent that such use or Exploitation is not permitted by this Agreement);

and from and against all damages, and legal costs and expenses incurred on a party/party basis in defending or settling any such action, claims, proceedings or demands

- 13.5. The Parties understand and agree, that any Deliverables or materials produced under the Project Technology are experimental in nature, that they may have unpredictable and unknown properties, that they are to be used with caution, and that they are e. g. not to be used for testing in or treatment of humans. Without limiting clauses 13.3 and 13.4, each Party will use and Exploit the Project Technology and the Deliverables at its own risk.
- 13.6. Further liability of A is limited to gross negligence and intent.
- 13.7. Any limitation of liability under this Clause 13 shall only be valid to the extent it is legally allowed.
- 13.8. This clause 13 will survive expiration or earlier termination of this Agreement. However, any claims of B for breach of duty and tort resulting of a specific Research Project shall be statute-barred within 12 months upon handing over of the Deliverables of the respective Research Project.

14. Force Majeure

- 14.1. Where a Party is unable, wholly or in part, by reason of any circumstance beyond the reasonable control of that Party ("Force Majeure") to carry out any obligation under this Agreement and that Party:
- (a) gives the other Party prompt notice of that Force Majeure, including reasonable particulars; and
- (b) uses all reasonable diligence to remove that Force Majeure as quickly as possible;

that obligation is suspended as far as it is affected by Force Majeure during the continuance of that Force Majeure and that Party shall be allowed a reasonable extension of time to perform its obligations.

- 14.2. If the Force Majeure continues for a period of three (3) months, the Parties will meet in good faith to achieve a satisfactory resolution to the problem.
- 14.3. The requirement that any Force Majeure must be removed with all possible diligence does not require the settlement of strikes, lockouts or other labour disputes or claims or demands by any government on terms contrary to the wishes of the Party affected.
- 14.4. A failure to meet an obligation to pay money is not excused by Force Majeure.

15. Termination of the Agreement for Breach

- 15.1. This Agreement may be terminated by one Party (the “Terminating Party”) providing written notice to the other Party (the “Defaulting Party”), where the Defaulting Party has committed a material breach of any obligation under this Agreement and the Defaulting Party has not rectified the breach (where the breach is capable of remedy) within sixty (60) days from the date of notice to rectify the breach, such termination to be immediately effective from the date of the first mentioned written notice.
- 15.2. In the event of any termination of this Agreement for breach
 - (a) the total Fee is payable for Research Projects completed at the time of termination.
 - (b) with regard to Research Projects uncompleted at the time of termination B shall be obligated to reimburse A the costs which are incurred up to the date when the termination becomes effective. Personnel costs for personnel employed at A and carrying out work under this Agreement shall be reimbursed by B to A as incurred up to 6 months after the date of termination, but no longer than up to the scheduled end date of the respective Research Project.
 - (c) the Defaulting Party must return all reports and other material which have been provided the Terminating Party.
 - (d) all rights and options granted to the Defaulting Party under this Agreement shall expire.

15.3. Termination of this Agreement:

- (a) is without prejudice to the rights of each Party to sue for and recover any fees, monies or payments then due and to the rights of that Party in respect of any previous breach of any of the provisions of this Agreement;
- (b) does not relieve either Party of its obligation of confidentiality, release and indemnity under this Agreement; and
- (c) Clauses 12, 13, 15.2 and 16 will survive expiration or earlier termination of this Agreement.

15.4. Notwithstanding this clause 15, this Agreement may be terminated earlier by written agreement of the Parties.

16. Dispute Resolution / Applicable Law

16.1. If any dispute arises in connection with this contract, the parties shall attempt to settle such dispute in good faith involving at least one senior representative of each party. Each party is entitled to terminate this negotiations at any time.

Any dispute, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be submitted to mediation in accordance with the WIPO Mediation Rules. The place of mediation shall be Munich . The language to be used in the mediation shall be English. In case of a final agreement the parties are obliged to take all necessary measures to obtain an enforcement order.

If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation within 90 days of the commencement of the mediation, it shall, upon the filing of a Request for Arbitration by either party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. Alternatively, if, before the expiration of the said period of 90 days, either party fails to participate or to continue to participate in the mediation, the dispute, controversy or claim shall, upon the filing of a Request for Arbitration by the other party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. The arbitral tribunal shall consist of one arbitrator . The place of arbitration shall be Munich . The language to be used in the arbitral proceedings shall be English.

16.2 This Agreement is governed by the laws of the Federal Republic of Germany.

17. Assignment

This Agreement may not be assigned to a third party by either Party without the prior written consent of the non-assigning Party. B shall have the right to assign this Agreement in connection with the reorganization, consolidation, spin-off, sale, or transfer of all or substantially all of the stock or assets related to one of its business, whether such business is conveyed alone, or in conjunction with other businesses. In addition, B shall have the right to assign its respective rights and corresponding obligations hereunder, in whole, to any of its Affiliates. B shall notify A of any assignment in due time. Any assignment or direct or indirect transfer that violates this clause is prohibited. In the event of a change of control of B, the Agreement shall inure to the benefit of its heirs.

18. Waiver

- 18.1. A Party's failure to exercise or delay in exercising a power or right does not operate as a waiver of that power or right.
- 18.2. The exercise of a power or right does not preclude:
 - (a) its future exercise; or
 - (b) the exercise of any other power or right.

19. Amendment

This Agreement may only be amended or modified by written agreement of the Parties.

20. Severance

- 20.1. Each word, phrase, sentence, paragraph and clause (a "Provision") of this Agreement is severable
- 20.2. If a Court determines that a Provision is unenforceable, illegal or void then the Court may sever that Provision. The Parties agree that the unenforceability, illegality or voidness of the severed Provision will not affect the validity of the other Provisions of this Agreement.

21. Notices

All notices to be provided by one Party to the other Party must be in writing and delivered by pre-paid mail or facsimile at the address for notices as set out in Schedule 1.

22. Costs

Each Party is responsible for its own legal costs incurred in relation to the preparation of this Agreement.

23. Entire Agreement

This Agreement contains the whole understanding of the Parties relating to its subject matter and it supersedes and cancels any and all representations, agreements and commitments made by the same Parties with respect to the same subject matter. Any purported representations, warranties or other promises of the Parties not recorded in this Agreement are of no effect.

24. Relationship

24.1. The Parties agree that this document does not create or evidence the relationship between them of partnership, joint venture, employer and employee, trust, agency or otherwise but that of independent contractors. Neither Party is authorized or empowered to act as agent for the other for any purpose and will not on behalf of the other enter into any contract, warranty, or representation as to any matter. Neither Party will be bound by the acts or conduct of the other Party.

24.2. Activities carried out pursuant to this Agreement are considered to be activities undertaken within the scope of a joint research agreement for the performance of experimental work under 35 U.S.C. §103(c) as provided for in the Cooperative Research and Technology Enhancement Act of 2004.

25. Export

It is understood that the export of goods and/or the transfer of results, services and information under this Agreement is subject to export laws and regulations. Neither Party warrants that if any import or export license is required for the fulfilment of any of its contractual obligations, such license shall be issued or shall be issued in due time. In case the fulfilment of any contractual obligation of either Party would violate import or export laws and regulations each Party is not obliged to fulfil that obligation. In any such case each contracting Party shall be entitled to terminate this agreement with immediate effect. Compensation claims shall be excluded in case of any restriction resulting from import or export laws and regulations and/or any delay of the granting of the import or export license.

Each Party agrees that it shall not knowingly export, directly or indirectly, any United States source technical data and material acquired from a United States based company, or any direct product of that technical data, to any country for which the United States government or any agency thereof at the time of export requires an export license or other approval, without first obtaining such license or approval, when required by applicable

United States law. B shall inform A where B becomes aware that A is required to obtain such license or approval in the exercise of its rights under this Agreement.

26. Subcontracting

A may subcontract standard technical work (i.e. sequencing, etc.) under this contract as long as confidentiality of the contract is not jeopardized

A may not subcontract any other of its obligations under this Agreement, without the prior approval of the Steering Committee.

27. Place of performance

Place of performance for the services to be provided by A is X. Place of performance for payments shall be X.

CONFIDENTIAL

R&D Agreement – Schedule 1
Version:

IN WITNESS WHEREOF, this AGREEMENT has been executed in duplicate by the Parties as of the day and year first above written.

SIGNED FOR AND ON BEHALF of

SIGNED FOR AND ON BEHALF of

A

B

Authorized Signatory

Authorized Signatory

Title

Printed Name

Date

Date

Schedule 1

I. Steering Committee:

- A Nominated Representatives: (1)
(2)
(3)
- B Nominated Representatives: (1)
(2)
(3)

II. Address for Notices:

FOR A:
.....
.....
....Street
Town, Zipcode, Country
(T) +
(F) +

FOR B:
.....
.....
....Street
Town, Zipcode, Country
(T) +
(F) +

Schedule 2**I. Research Project - Proforma Headings:**

1. **Project Title**
2. **Project Period**
(Start and End Dates for Project)
3. **Project Abstract**
4. **Project Objectives**
5. **Project Background**
6. **Project Deliverables**
(Tangible project outputs to be delivered to B by A)
7. **Project Plan of Work (and Scope)**
(Experiments and technical activities to be undertaken, associated methodologies, and any limits of the activities i.e. inclusions and exclusions in work to be performed)
8. **Project Milestones and Timelines**
(Time-specific expected achievements, performance indicators and any key factors critical to meeting achievements or indicators)
9. **Supporting Resources to be Provided by B**
(Support, information or materials to be provided by B to assist, support or enable A to carry out the project. Refer to clause 3.2)
10. **Project Background Technology**
 - B
 - A
11. **Third Parties**
(Any other party who in some way will be associated with the Research Project)
12. **Project Technology (Expected)**
(IPR expected to be created from the Research Project)
13. **Project Fee**
(Total payment for the Research Project plus GST if applicable, including timing of payments and breakdown against activities in the Project Plan of Work. Payments will be based on a fixed FTE cost of 000.000 Euros per FTE and per annum with a 2% annual increase to compensate for inflation rates and standard increase of expenditures.)

- 14. **Project Payments**
(Due dates for the payment of the Fee payable in instalments in advance of the relevant activities)
- 15. **Research Project Leader**
(A nominated leader of the Research Project)
- 16. **A Research Project Team Members**
(A nominated key personnel for the Research Project)
- 17. **B Research Project Team Members**
(B nominated key personnel for the Research Project)
- 18. **B Project Contact**
(B nominated representative for the Research Project)
- 19. **Research Project Field**
- 20. **Fixed Fees and/or Royalties**

II. Research Committee:

- A Nominated Representatives: (1)
- (2)
- (3)

- B Nominated Representatives: (1)
- (2)
- (3)

III. Gatekeepers:

- A Gatekeeper:
- B Gatekeeper:

EXHIBIT A

Material and Information Transmittal Form

Agreement Description:

B/A SPONSORED RESEARCH AND DEVELOPMENT AGREEMENT

Research Project Number Reference: _____

Transferring Party:

Name of transferring Party Representative:

Signature: _____

Date: _____

Name of receiving Party Representative:

Signature: _____

Date: _____

Description of materials (including quantity) or information transferred:

(Include sufficient information to identify the material/information and its provenance, i.e., who created the material/information or is its owner and whether or not it has been licensed in from a third party. In the case of Deliverables or Project Technology created in a Research Project, it is sufficient to identify the material/information as being a Deliverable or Project Technology.)

Is the material or information a Deliverable or Project Technology arising out of a Research Project?

(Yes or no.)

If the material or information IS NOT a Deliverable or Project Technology (i.e. may be Background Technology), refer to clause 8 for restrictions on its use and ensure that such such material or information, if it is Background Technology, is added to Schedule 2 by the Gatekeeper in accordance with clause 6.13.

Schedule 2 - Research Project One (1)

1. **Project Title-**
2. **Project Period:** 1st ... 20.. - 30st ... 20..
3. **Project Abstract**
4. **Project Objectives:** Identification of potential
5. **Project Background:** However, this technology is still far from being established, and research and development is required in order to afford better and more sustained protection, in addition to expanding the range of susceptible species.
The work will take advantage of the rapidly growing information on the The initial search fortargets will be done based on the publically accessible data. As soon as the become available, these data will be included in the analysis.
6. **Project Deliverables**

Del. no.	WP no.	Deliverable name	Del. date
D4.1	4.1	Potential targets in (>)	12
D4.3	4.2	Data on effects after	15
D4.2	4.1	Potential targets in (>)	21
D4.4	4.2	Data on effects after delivery of	24
D4.5	4.3	Standardized	42
D4.6	4.3	.....	42

7. Project Plan of Work (and Scope)

Work package number: 4.1	Start month: 1	End month: 21	Person-months: 27
Work package title: Knowledge-based selection of targets			
Description of work			
<p>The initial search for targets will be done based on the publically accessible data. As soon as the these data will be included in the analysis. Particular attention will be paid to those, which are present in both, thus being of immediate relevance to the target in case their evaluation in the is successful.</p> <p>Despite using most advanced technology for the generation of, individual may be missed. This may particularly apply to In these cases, promising initially only identified in may be retrieved by, respectively.</p>			
Deliverables			
<p>D4.1</p> <p>D4.2</p>			

Work package number: 4.2	Start month: 4	End month: 24	Person-months: 18
Work package title:			
Monitoring of			
Description of work			
Templates for the production of			
Deliverables			
<p>D4.3 Data on</p> <p>D4.4 Data on</p>			

Work package number: 4.3	Start month: 18	End month: 42	Person-months: 42
Work package title: optimization and new leads			
Description of work			
.....			

Deliverables
D4.5
D4.6

8. Project Milestones and Timelines

WP	Work package title	Year 1	Year 2	Year 3	PM	DL
4.1	Knowledge-based selection of targets				27	
	Potential targets in					D4.31
	Potential targets in					D4.3
4.2	Monitoring of effects in after delivery of				18	
	..... effects after					D4.2
	..... effects after delivery					D4.6
B	First demonstration of oral target in		X X X X			
B	Demonstration of oral target in			X X X X X X		
4.3	..... optimization and new leads				42	
	Standardized					D4.8
	..... with improved profile					D4.9

9. Supporting Resources to be Provided by B

(Support, information or materials to be provided by B to assist, support or enable A to carry out the project)

B lab:

.....

A lab:

- 1)
- 2) Collaboration with external group fortargets is availablewhen knocked out and will be

10. Project Background Technology

A listing of previously existing B not considered as targets within this collaboration.

11. **Third Parties**

(Any other party who in some way will be associated with the Research Project)
B third party contractor for

12. **Project Technology (Expected)**

.....

13. **Project Fee**

- 1) cost 00,000 €
- 2) Access fee of 000,000 € to Collaboration and experimental confirmation of targets

13. **Project Payments**

(Due dates for the payment of the Fee payable in instalments in advance of the relevant activities) according to the current umbrella agreement negotiation
month 30, 20xx: €

month 30, 20xx: : €

month 30, 20xx: : €

month 30, 20xx: : €

month 30, 20xx: : €

month 30, 20xx: : €

14. **Research Project Leader**

..... (A)
..... (B)

15. **A Research Project Team Members**

(A nominated key personnel for the Research Project)
.....
.....
.....

16. **B Research Project Team Members**

(B nominated key personnel for the Research Project)
.....
.....
.....

Muru Rangasamy entomology

17. Project Contact

(B nominated representative for the Research Project)

.....

18. Research Project Field

.....

19. Fixed Fees and/or Royalties:

19.1 License Fees (down payment)

00,000€ 1st demonstration in a directed
against a target identified in the collaboration

000,000€ 1st demonstration in a directed
against a target identified in the collaboration

000,000€ 1st sale of product covered by an Intellectual Property Right

19.2 Royalties of Net Sales

X %

19.3 Minimum License per calendar year to be paid in advance on March 31 of each
calendar year

2017: EURO 000,000

2018: EURO 000,000

From 2019: EURO 000,000 per calendar year

II. Research Committee:

A Nominated Representatives: (1)

(2)

(3)

- B Nominated Representatives: (1)
- (2)
- (3)

III. Gatekeepers:

A Gatekeeper:

B Gatekeeper: