



STANDARD COMMERCIAL LICENSE AGREEMENT (Native Traits)

This Standard Commercial License Agreement (the “**Agreement**”) is effective as of [Date] (the “**Effective Date**”)

between

KWS SAAT SE & Co. KGaA, a corporation having its principal office at Grimsehlstraße 31, 37574 Einbeck, Germany

- hereinafter referred to as “**KWS**” -

and

Contract Partner, having its principal office at [address]

- hereinafter referred to as “**LICENSEE**” -

- LICENSEE and KWS hereinafter also referred to individually as a “**Party**” and collectively as “**Parties**” -

PREAMBLE

A. WHEREAS, KWS is one of the world's leading plant breeding companies with a tradition of family ownership. KWS has operated independently for some 160 years. It focuses on plant breeding, including the production and sale of seed for corn, sugar beet, cereals, rapeseed, sunflower and vegetables.

B. WHEREAS, KWS is the owner of or has the right to grant licenses to certain native traits in field crops and/or vegetables claimed by certain patent application or patents.

C. WHEREAS, LICENSEE is [short description].

D. WHEREAS, subject to the terms and conditions of this Agreement, LICENSEE is interested to obtain and KWS is willing to grant a non-exclusive commercial license to practice certain native traits covered by certain patent applications or patents and sell and distribute products derived therefrom.

NOW THEREFORE, in consideration of the terms and conditions set forth hereunder, the Parties agree as follows:

1 – DEFINITIONS

Capitalized terms used in this Agreement shall have the meaning assigned to them in the following and shall have the same meanings in both their singular and plural form:



“Affiliate” means in relation to a Party, any existing and/or future legal entity which directly or indirectly Controls, is Controlled by, or is under common Control with such Party. For the purpose of this definition, “Control” shall mean the direct or indirect ownership of more than fifty percent (50%) of the voting stock of an entity and with respect to any other legal entity, ownership of more than fifty percent (50%) of total equity interests, or otherwise the power, directly or indirectly, to direct substantial management and business policies or decisions of that entity, or the power to veto substantial management and business policies or decisions of any such entity, whether through the ownership of voting securities, by contract or otherwise. Affiliates shall not be considered third parties hereunder.

“Confidential Information” as used in this Agreement means all information in any form whatsoever disclosed in any manner by or on behalf of one Party or its Affiliates to the other Party or its Affiliates after the Effective Date and includes, without limitation, information about products, materials, data, packaging, manufacturing processes, samples, technical information, scientific information, financial information, business information and reports as well as the terms and conditions of this Agreement.

“First Commercial Sale” means the date of the first sale of a Licensed Product in any country of the world by or on behalf of LICENSEE and/or its Affiliates or a sub-licensee of LICENSEE and/or its Affiliates to which LICENSEE and/or its Affiliates have licensed the Licensed Product in accordance with the provisions of this Agreement.

“Field” means [*name of crop / all agricultural crops*].

“Improvements” means any development, modification, enhancement or improvement to the subject matter of the Patent Rights as licensed hereunder, whether patentable or not, which i) is made either solely or partly by or on behalf LICENSEE and/or its Affiliates and/or sub-licensees, and which ii) cannot be practiced without infringing a Valid Claim absent a license from KWS.

“Licensed Native Trait” means [*name of Native Trait from KWS Website Native Trait Catalogue*] and covered by a Valid Claim of the Patent Rights.

“Licensed Products” means any lines and varieties and seed thereof, which are owned or controlled by LICENSEE and/or its Affiliates and contain the Licensed Native Trait.

“Net Sales” means the total amount invoiced to third parties with regard to the sale of a Licensed Product, less i) cash and trade discounts and returns actually granted to the purchasers, as customary in the industry; and ii) sales taxes paid on such sales (excluding Withholding Taxes).

“Patent Rights” means any subject matter claimed in the claims or disclosed in the specification of the patent(s) and patent application(s) listed in **Annex 1** and all national or regional patents and patent applications derived from the aforementioned patent(s) and patent application(s) or claiming priority thereto or inventions disclosed therein including all divisions, continuations, continuations-in-part (to the extent the claims thereof are enabled by disclosure of the parent applications), re-examined and reissued patents.

“SME” or **“small and medium-sized enterprise”** is an enterprise which employs fewer than 50 persons, and which has an annual turnover not exceeding EUR 50 million and/or an annual balance sheet not exceeding EUR 43 million.

“Source Material” means any biological material that contains the Licensed Native Trait, that has been registered and approved for commercialization and is sold on the open market in part or all of the Territory, and that is owned by KWS or its Affiliates or any third party authorized by KWS, or otherwise legally available.

“Territory” means the 39 member states of the European Patent Organization existing at the Effective Date.



“Valid Claim” means any pending claim or claim in any issued and unexpired patent under the Patent Rights, which has not been abandoned, revoked, or held unenforceable, unpatentable or invalid by a court or other governmental agency of competent jurisdiction, from which no appeal has been or can be taken, and which has not been admitted being invalid or unenforceable through reissue, disclaimer or otherwise.

2 – COMMERCIAL LICENSE

2.1 Subject to the terms and conditions set forth herein, KWS hereby grants to LICENSEE and its Affiliates, and LICENSEE accepts, a non-exclusive, non-sublicensable (except as otherwise provided for in Article 2.3), non-transferable, royalty-bearing license under the Patent Rights to use the Source Material during the term of this Agreement within the Field and Territory to introgress the Licensed Native Traits into LICENSEE'S germplasm to breed and develop as well as, once they have been registered and approved for commercialization in the respective countries of the Territory, produce, keep in stock, market and sell Licensed Products. Such license shall also include the right to use molecular markers and/or DNA sequences representing molecular markers that are associated with the Licensed Native Trait (and also claimed under the Patent Rights) to determine absence or presence of the Licensed Native Trait in biological material of the respective crop.

2.2 For the avoidance of doubt and without limiting anything said in the foregoing, the license granted hereunder is strictly limited to the usage rights described in Article 2.1, and no license is granted under the Patent Rights for any other activities, including without limitation i) to use any technical process to modify plant genomes or to introduce novel traits into plants; or ii) to use any other biological or non-biological materials or tools – including but not limited to molecular markers and/or DNA sequences representing molecular markers– other than Source Material, except as set forth above in Article 2.1; or iii) to use any DNA Sequences not representing molecular markers; or iv) to use Source Material for any other purpose than as donor material for the Licensed Native Trait.

For the avoidance of doubt nothing herein shall be construed or interpreted as limiting any rights or exemptions under applicable laws, i.e., Plant Variety Protection or Patent laws.

2.3 LICENSEE has no right to sub-license the rights granted hereunder, except as required in the commercialization chain for Licensed Products that have been registered and approved for commercialization in the respective countries of the Territory, i.e. to seed producers and growers with regard to the production and treatment of Licensed Products for the benefit of LICENSEE and / or its Affiliates and / or to seed agents or distributors acting in its own name or on behalf of LICENSEE and/or its Affiliates with regard to the production, storage, marketing, sale, delivery or other commercialization of Licensed Products.

Such sub-licensing rights are granted under the condition that LICENSEE shall

- inform KWS in writing or via e-mail of the identity of any sub-licensees, the territories in which they produce and commercialize, and the variety names of the Licensed Products sold by such sub-licensees in due time before they start any of the foregoing activities;
- enter into a respective sub-license agreement with its sub-licensees under terms no less stringent than set out in this Agreement and, in particular, on terms which afford to KWS no less protection of its proprietary interests than that afforded by the terms of this Agreement and which ensure that the scope of rights and licenses granted to sub-licensees does not exceed the scope of rights and licenses granted to LICENSEE hereunder;
- ensure that the sub-license agreement includes a provision that LICENSEE is entitled to disclose to KWS the existence of the sub-license together with the identity of the sub-licensee and the identity of Licensed Product covered by the sub-license and that KWS has the right to audit sublicensees' records with regard to the Licensed Products in accordance with Article 4.6;



- assume full responsibility and liability for all actions and omission of its sub-licensees, including without limitation the payment of Royalties due by such sub-licensees.

2.4 Further requirements regarding quality checks, patent and license markings, Trademark requirements, stewardship requirements etc. are listed in **Annex 2**, if any.

3 -ROYALTIES

3.1 LICENSEE shall pay to KWS a royalty of [figure] % of Net Sales for the sale of Licensed Products by or on behalf of LICENSEE and/or its Affiliates or a sub-licensee and/or its Affiliates to which LICENSEE and/or its Affiliates have licensed the Licensed Products in accordance with the provisions of this Agreement. Royalties shall be payable with respect to each Licensed Product from the date of the First Commercial Sale on a country-by-country basis until the last date on which the making, using, producing, processing, treating, packaging, storing or selling of the Licensed Product falls within the scope of a Valid Claim in such country in which the Licensed Product is made, used, produced, processed, treated, packaged, stored or sold (“**Royalty Term**”).

3.2 During the Royalty Term, LICENSEE shall deliver to KWS until [date] of each year at the latest a report (“**Royalty Report**”) covering the previous financial year which always runs from July 1 until June 30 (“**Royalty Year**”). With regard to the Sale of Licensed Products the Royalty Report shall contain the following information (in each instance, with a breakdown by country and selling entity, i.e. sold by LICENSEE, its Affiliates or its sub-licensees): i) the amount of Licensed Products sold within the preceding Royalty Year per relevant country; and ii) the total amount of royalties payable by LICENSEE to KWS.

3.3 If LICENSEE is an SME and is not an Affiliate of a non-SME entity, KWS will consider this fact with regard to a possible discount when calculating the Royalties.

4 - INVOICING AND PAYMENTS

4.1 Any Royalties to be paid by LICENSEE to KWS under this Agreement shall be made within 30 days after receipt of a due and proper invoice. Such invoice shall be sent after receipt of the respective Royalty Report to:

[LICENSEE]
[address]
[email]

Value added tax (VAT) will be charged in addition to the Royalties. Invoices issued by KWS will meet applicable VAT requirements and will show the value-added tax separately.

4.2 Any Royalties to be paid under this Agreement by LICENSEE to KWS shall be made in Euros to the following bank account, unless stated otherwise in the respective invoice:

Bank Account Owner:
Bank Account No.:
BTC:
IBAN code:

4.3 All payments under or pursuant to this Agreement shall be made without deduction of bank charges, transfer fees, taxes or other similar charges, except for withholding taxes, subject however to Article 4.5.



4.4 If LICENSEE is overdue with any payment hereunder, KWS has the right to charge interest on the overdue amount at an annual rate of 2% above the prevailing base lending rate of the Central European Bank, which interest shall accrue on a daily basis from the date payment becomes overdue until KWS has received payment of the overdue amount together with all interest that has accrued in accordance with this provision.

4.5 If any LICENSEE payment pursuant to this Agreement is subject to withholding taxes under the applicable laws of any jurisdiction and KWS cannot provide LICENSEE in due time with a withholding tax exemption issued by the respective authority, LICENSEE will deduct and withhold the amount of such taxes to the extent required by applicable laws. The amounts payable to KWS shall be reduced by the amount of taxes deducted and withheld; and LICENSEE shall pay the amounts of such taxes to the proper governmental authority in a timely manner and transmit to KWS without undue delay an official tax certificate or other evidence of such tax obligations together with proof of payment from the relevant governmental authority of all amounts deducted and withheld sufficient to enable KWS to claim such payment of taxes.

4.6 LICENSEE shall keep complete and accurate records for the purposes of calculating Royalties payable under this Agreement for at least seven (7) years following the end of a Royalty Year to which they pertain. KWS shall have the right to inspect the books of LICENSEE for not more than three (3) years following a given reporting period by an independent accountant, bound by respective confidentiality provisions and reasonably acceptable to LICENSEE, in order to verify the completeness and correctness of the royalties. The inspection of the books can be done by the independent accountant determined by KWS after reasonable prior notice, but at least a prior written notice of 10 (ten) Business Days during normal business hours at LICENSEE not more than once every calendar year. Such inspector shall not disclose to KWS any information other than information relating to the accuracy of reports and payments made under this Agreement. The costs for the inspection of the books shall be borne by LICENSEE if the independent accountant reveals discrepancies regarding the royalties of more than 5 % (five percent) to the disadvantage of KWS, otherwise KWS has to bear the cost for the independent accountant. A deviation by more than 5% is considered a material breach of this Agreement.

5 –REPORTS AND OTHER OBLIGATIONS

5.1 LICENSEE shall inform KWS without undue delay about any grant of intellectual property rights filed by LICENSEE, its Affiliates or sub-licensee for the Licensed Products, such as for PVP or patents, national listing and the First Commercial Sale of Licensed Products including the name of the respective variety and the territory in which it was sold.

5.2 LICENSEE shall register Licensed Products in the PINTO database within three months after registration and commercialization of a Licensed Product in any part of the Territory, linking it to the Patent Rights.

6 –IMPROVEMENTS

6.1 LICENSEE agrees to notify KWS promptly in writing of any Improvements it makes and to disclose to KWS details of the same, subject to the confidentiality provisions agreed upon hereunder.

6.2 LICENSEE herewith grants to KWS and its Affiliates an automatic, fully paid up, royalty-free, worldwide, irrevocable, perpetual, unrestricted and non-exclusive right to use all Improvements for any and all research and breeding purposes.



6.3 In the event that KWS is interested in a commercial right of use for Improvements, including without limitation the right to practice these Improvements to develop, manufacture or otherwise make, use, market, offer for sale, sell, import, license, distribute, or otherwise commercialize products derived therefrom, KWS shall have the option to acquire a royalty-bearing, worldwide, irrevocable, perpetual, unrestricted, non-exclusive, non-sublicensable (except to its Affiliates and except as required in the commercialization chain, including without limitation the right to grant a sub-license to distributors, seed producers and end-users) and non-transferable (except to its Affiliates) commercial right of use for such Improvements. The option for such a commercial right of use has to be exercised during the term of this Agreement or within six (6) months after the termination or expiry of this Agreement or within six (6) months after LICENSEE has informed KWS in writing of such an Improvement in accordance with Article 6.2, whichever is later.

6.4 The compensation to be paid by KWS to LICENSEE for the commercial use of the Improvements generated solely by LICENSEE shall be discussed in good faith between the Parties and determined at arm's length conditions. In case the Parties cannot reach an agreement within twelve (6) months after KWS has exercised its option, the dispute shall be referred to an impartial expert to be agreed between the respective Parties whose decision shall be final and binding on the Parties. Should the Parties not be able to mutually agree on an expert with thirty (30) days, either Party may request the International Court of Arbitration (ICC) to appoint an expert who has sufficient expertise in the relevant field and agribusiness, subject to applicable conflict laws, such appointment being binding for the Parties. The respective Parties shall both submit to the expert within ten (10) days their respective positions in writing on the disputed matters. The expert shall be limited to choosing the one of such two (2) positions on each of the disputed terms that the expert considers most reasonable in the circumstances and shall not make any other determination. The Parties shall be bound by the decisions of the expert with no recourse to appeal or any other legal remedy or judicial review.

7 – FILING AND PROSECUTION OF PATENT RIGHTS AND IMPROVEMENTS

7.1 KWS shall have the sole right to file, prosecute, maintain and defend any Patent Rights. KWS is however not obliged to file, prosecute, maintain or defend any Patent Rights. KWS shall have the sole right but not the obligation to make any claims against third parties for infringement of the Patent Rights.

7.2 Each Party shall inform the other Party during the term of this Agreement of any claim or alleged claim of infringement by a third party relating to the Patent Rights upon receipt or acquisition of such information.

7.3 LICENSEE shall decide upon its own discretion whether to file or not to file, maintain, prosecute, defend and/or enforce actions with regard to Improvements, and all costs for such actions have to be covered by LICENSEE. Apart from that, Articles 7.1 – 7.3 shall apply accordingly.

8 – TERM AND TERMINATION

8.1 This Agreement becomes effective as of the Effective Date and shall remain in force and effect until the abandonment, expiration or invalidation of the last of the Patent Rights, unless terminated in accordance with the following provisions.

8.2 LICENSEE may terminate this Agreement by giving six (6) months prior written notice to KWS.

8.3 KWS shall be entitled to terminate this Agreement with immediate effect by giving notice in writing to LICENSEE in the event:



- LICENSEE files a petition of any type as to its bankruptcy, is declared bankrupt, becomes insolvent, makes an assignment for the benefit of creditor, goes into liquidation or receivership or otherwise loses legal control of its business to a third party; or
- of a Change of Control of LICENSEE. “**Change of Control**” shall mean that (i) a third party obtains control of more than at least 50% (fifty percent) of the voting securities or common stock of LICENSEE, or (ii) a significant change in the direct or indirect power to direct or cause the direction of the management and policies of LICENSEE, or (iii) any disposal of substantially all assets pertaining to the business concerned by this Agreement to a third party.
- the agreement between KWS and a third party, under which KWS has been granted the right to grant the licenses hereunder, terminates; or
- the respective Licensed Native Trait becomes subject at any time to a regulatory approval process related to its product safety properties, including but not limited to any approval under any GM or novel food & feed regulations.

8.4 Each Party shall be entitled to terminate this Agreement with immediate effect by giving notice in writing to the other Party in the event of the other Party being, or having been, in material breach of any provision of this Agreement and having failed to remedy such breach to the satisfaction of the complaining Party, within sixty (60) days of receipt of written notice of the breach. Material breach shall apply to any breach of this Agreement that is so substantial that it defeats the purpose of the Parties in making the Agreement.

8.5 Any (sub-) licenses given to an Affiliate of LICENSEE and any sub-licenses given by LICENSEE to a third party in accordance with this Agreement terminates by operation of laws with immediate effect at the moment (i) this Agreement terminates, or (ii) the respective Affiliate loses the status of an Affiliate, or (iii) the respective Affiliate files a petition of any type as to its bankruptcy, is declared bankrupt, becomes insolvent, makes an assignment for the benefit of creditor, goes into liquidation or receivership or otherwise loses legal control of its business to a third party.

9 – CONSEQUENCES OF TERMINATION

9.1 Except if terminated for breach of contract in accordance with Article 8.4, LICENSEE as well as its Affiliates and licensees i) may dispose of and sell-off all Licensed Products, which have been produced prior to the effective date of termination of this Agreement or are in production, i.e. have been sown already when the termination notice has been received by LICENSEE and they have been registered and approved for commercialization in the respective countries of the Territory, until the end of the Royalty Year following the effective date of such termination. The sale of such Licensed Products by LICENSEE, its Affiliates and / or licensees shall be subject to the terms of this Agreement, including but not limited to the provision of respective reports, payment of Royalties, audit rights etc. as required under this Agreement.

In case of termination due to material breach of contract by LICENSEE according to Article 8.4, LICENSEE shall have no right to sell off any Licensed Products or keep any material containing the Licensed Native Trait and shall be obliged to destroy the Licensed Products and material containing the Licensed Native Trait and send a respective certificate of destruction to KWS within thirty (30) calendar days from the effective date of termination.

9.2 All Royalties that have accrued and are due to KWS pursuant to this Agreement shall become due and shall be paid by LICENSEE immediately after termination, expiration or the sell-off period as stipulated in Article 9.1.

9.3 The following Articles including without limitation Article 1 to the extent the defined terms shall survive any expiration or termination of the Agreement: Articles 3, 4, 5, 6, 9, 10, 11, 12 and 14.



10 – CONFIDENTIALITY

10.1 The Parties agree to hold in confidence all Confidential Information of the other Party, to not disclose any Confidential Information of the other Party to any third party, to use Confidential Information of the other Party solely for the purposes contemplated herein, and to disclose such Confidential Information of the other Party only to those of its and/or its Affiliates' directors, officers, employees, professional, advisors/consultants and agents ("**Representatives**") that are directly involved with the subject matter of the Agreement and/or the purposes contemplated herein on a need-to-know basis. The receiving Party shall obligate its Representatives who become aware of the Confidential Information of the disclosing Party, prior to any disclosure of Confidential Information of the disclosing Party to such Representatives, in writing to observe any and all obligations of confidentiality and limited use contained in this Agreement as far as they are not already obligated by essentially similar terms of confidentiality and limited use according to their respective employment or service or similar contracts and/or pursuant to applicable statutory law.

10.2 Each Party receiving or having access to Confidential Information from the other Party, whether in oral, written, graphic, computer-generated, or any other form, shall exercise due care to prevent its unauthorized disclosure. Confidential Information shall not include information that the receiving Party can prove in writing:

- (a) is or becomes publicly known through no wrongful act, omission or fault of the receiving Party;
- (b) is already known to the receiving Party before receipt from the disclosing Party and is at its free disposal, as demonstrated by receiving Party's written records;
- (c) is received after the date hereof from a third party who is legally entitled to disclose such information without restriction and without breach of this Agreement; or
- (a) is independently developed by the receiving Party or the receiving Party's Affiliates as evidenced by its or the receiving Party's Affiliates' records kept in the ordinary course of business without making use of Confidential Information received from the disclosing Party hereunder.

Notwithstanding any provision to the contrary, a receiving Party may disclose the Confidential Information of the disclosing Party in connection with an order of a court or other government body or as otherwise required by applicable laws or regulations or the rules of any securities exchange on which such receiving Party's securities are traded provided that the receiving Party provides the disclosing Party with prior written notice and takes reasonable measures to obtain confidential treatment thereof and/or limit such disclosure.

10.3 All Confidential Information of the disclosing Party remains the disclosing Party's property. Upon termination or expiration of this Agreement and request of the disclosing Party, the receiving Party agrees to return or destroy all copies of the Confidential Information received from the disclosing Party in whatsoever form the same is held. This shall not apply to Confidential Information which must be stored by the receiving Party according to mandatory law for so long as it is required so by mandatory law.

10.4 The confidentiality obligations of both Parties with respect to Confidential Information shall continue for a period ending five (5) years from the termination or expiration date of this Agreement.

10.5 In the event that either Party wishes to make a press release with regard to the collaboration of the Parties under this Agreement, the prior written agreement of the other Party is required.



11 – LIMITED WARRANTY AND LIABILITY

11.1 Each Party hereby represents and warrants that it has full power and authority to enter into this Agreement and grant the rights set forth herein.

11.2 The rights granted herein by KWS are provided “as is” and, except as set forth in Article 11.1, KWS makes no representations or warranties of any kind concerning the Patent Rights or the License Native Traits and hereby disclaims all representations and warranties, express or implied, including without limitation warranties of merchantability, fitness for a particular purpose, non-infringement of any intellectual property rights or other rights of any third party, validity, enforceability and scope of the Patent Rights, validity of any claims of the Patent Rights, whether issued or pending, and the absence of latent or other defects, whether or not discoverable.

11.3 Articles 11.2 and 12 shall apply accordingly with regard to Improvements provided by LICENSEE.

11.4 LICENSEE represents, warrants and covenants that it shall comply, and shall ensure that its Affiliates comply, with all applicable laws, rules and regulations that may be in effect from time to time in any applicable jurisdiction in connection with the performance of its rights and obligations under this Agreement, including without limitation laws, rules and regulations that govern the use of biological material during all stages of research or product development,

11.5 LICENSEE and its Affiliates and sub-licensees shall be solely responsible for its use of the Source Material.

11.6 With the exception of any liability arising from a breach of representations and/or warranties explicitly made or given in this Agreement, and with the exception of any liability caused by willful misconduct, and subject to Article 12, neither Party shall be liable to the other Party or that other Party’s Affiliates for special, incidental, indirect, consequential or exemplary damages. Nothing in this Agreement shall however limit or exclude any Party’s liability for death or personal injury caused by that Party’s negligence or for any other sort of liability that, by law, cannot be limited or excluded.

11.7 Each Party agrees to be responsible for any actions or omission of its Affiliates and sub-licensees, as applicable, in the context of this Agreement.

12 – INDEMNIFICATION

12.1 LICENSEE shall hold harmless, defend and indemnify KWS, and its Affiliates, board members, directors, officers, employees and agents (“**Indemnitees**”) from and against any claim, liability, cost, expense, damage, deficiency, loss, or obligation, of any kind or nature (including, without limitation, reasonable attorneys’ fees and other costs and expenses of defense) incurred by or imposed upon any of the Indemnitees in connection with any claims, demands, investigations, causes of action, suits or proceedings (“**Claims**”) arising out of or related to i) the exercise of any rights granted to LICENSEE and its Affiliates under this Agreement; and/or ii) any breach of this Agreement by LICENSEE and/or its Affiliates and/or its sub-licensees.

12.2 Indemnitees will provide LICENSEE with prompt notice of any such Claims, provided that a delay in providing notice will not limit the indemnification obligations of LICENSEE except to the extent such delay prejudices the ability of LICENSEE to defend the Claims. LICENSEE will defend any such Claims using counsel of its choice, and will have the exclusive right to control the defense and settlement thereof, at its expense (provided the Indemnitee shall nevertheless be entitled to retain separate counsel at its own cost to



participate in such matter), except that LICENSEE shall not enter into any settlement, consent judgment, or other voluntary final disposition of any claim that has an adverse effect on the rights of any Indemnitee hereunder or admits any wrongdoing or fault by any Indemnitee or imposes on any Indemnitee any payment or other liability, without the prior written consent of such Indemnitee. The Parties will provide each other reasonable cooperation in defending or settling any such Claims.

13 – NOTICES

To be effective, all notices shall be deemed to be properly given if delivered in person or if mailed by first-class certified mail, registered mail or a recognized overnight courier service, postage paid and acknowledgment receipt required, to the respective addresses given below or to such other address as are designated by written notice unless the Parties agree that notices can be provided by email.

To KWS: KWS SAAT SE & Co. KGaA
Attention: [name]
Grimsehlstraße 31, 37574 Einbeck, Germany
Phone: [number]
Email: [email]

With a copy to: [name]

To LICENSEE: [name and contact details]

With a copy to: [name]

14 – MISCELLANEOUS

14.1 Use of Name or Trademark. Neither Party may use the name or any trademark of the other Party or the other Party's Affiliates in any form of promotion or in connection with the subject matter of this Agreement unless such use is permitted by prior written approval from the other Party.

14.2 Assignment. This Agreement may not be assigned by LICENSEE without the prior written consent of KWS, except that LICENSEE shall have the right to assign its rights and/or obligations granted to it pursuant to this Agreement to an Affiliate, provided that such Affiliate agrees in writing to be bound by the terms and conditions of this Agreement and that LICENSEE remains liable for the full and complete performance of its obligations arising hereunder prior to such assignment. LICENSEE shall inform KWS in writing of any such assignment within thirty (30) business days of such assignment. Any assignment or attempted assignment by either Party in violation of the terms of this Article 16.2 shall be null and void and of no legal effect.

14.3 No Waiver. No waiver by either Party hereto of any breach or default of any of the covenants or agreements herein set forth is a waiver as to any subsequent and/or similar breach or default.

14.4 No Agency or Partnership. This Agreement shall not constitute either Party as an agent or a legal representative of the other Party for any purpose whatsoever nor create any form of partnership or joint venture between the Parties or any other persons.

14.5 Governing Law and Jurisdiction. This Agreement shall be interpreted and construed in accordance with the laws of Germany without regard to conflict of laws principles and the UN Convention on Contracts for the International Sale of Goods (CISG). All disputes arising out of or in connection with this Agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by three



arbitrators appointed in accordance with the said Rules. The Emergency Arbitrator Provisions shall not apply. The language of the arbitration proceedings shall be English and the civil procedure law of Germany shall be applied. The place of arbitration shall be Frankfurt a.M. / Germany.

14.6 Entire Agreement; Amendments. This Agreement constitutes the entire Agreement between the Parties with respect to the subject matter hereof and supersedes and cancels all previous discussions, agreements, commitments and writings in respect thereof. No amendment or addition to this Agreement shall be effective unless reduced to writing and executed by the authorized representatives of the Parties. This Agreement shall be signed in agreed written form via the platform DocuSign® and these electronic signatures of the Parties shall be deemed to be their original signatures for all purposes. Any amendments and/or modifications to the Agreement shall also be made in this written form. This shall apply as well to an amendment and/or modification of this very provision.

14.7 Severability. If a court of competent jurisdiction adjudges a provision of this Agreement to be unenforceable, invalid or void, such determination is not to be construed as impairing the enforceability of any of the remaining provisions hereof and such provisions will remain in full force and effect. The Parties agree to consult and use their best efforts to agree upon a valid and enforceable provision which shall be a reasonable substitute for such an invalid or unenforceable provision, whilst bearing in mind the intention and the spirit of the invalid or unenforceable provision and of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by proper persons duly authorized as of the Effective Date.

[Signature page follows]



KWS SAAT SE & Co. KGaA

LICENSEE

By: _____
Name:
Title:
Date:

By: _____
Name:
Title:
Date:

By: _____
Name:
Title:
Date:



KWS SAAT SE & Co. KGaA | P.O. Box 1463 | 37555 Einbeck | Germany

Annex 1 –Patent Rights

Annex 2 – Further requirements

[depending on the respective Licensed Native Trait]

KWS SAAT SE & Co. KGaA

Address

Grimsehlstr. 31
P.O. Box 1463
37555 Einbeck
Germany

Contact

Phone +49 5561 311-0
Fax +49 5561 311-322
info@kws.com
www.kws.com

Chairman of the Board

Philip von dem Bussche
Registry Court Göttingen
HR B 205722

General Partner: KWS SE

Registry Court Göttingen
HR B 205844

Chairman of the Board

Philip von dem Bussche
Executive Board
Felix Büchting (CEO)
Peter Hofmann
Eva Kienle
Nicolás Wielandt