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UNIVERSITY OF AGRICULTURAL SCIENCES

Directorate of Research, Krishinagar, Dharwad- 580 005 (Karnataka)



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No.DR/p-51/

/2009-10

Date: 31-12-2009

Dear Sri. Vivek Cariyappa,

Please find enclosed herewith a copy of sub-licence agreement with respect to Bt Brinjal research at UAS, Dharwad as desired by you. The data related to other aspects you desired to have are being compiled from various Specialists in the University and the same will be made available at the earliest.

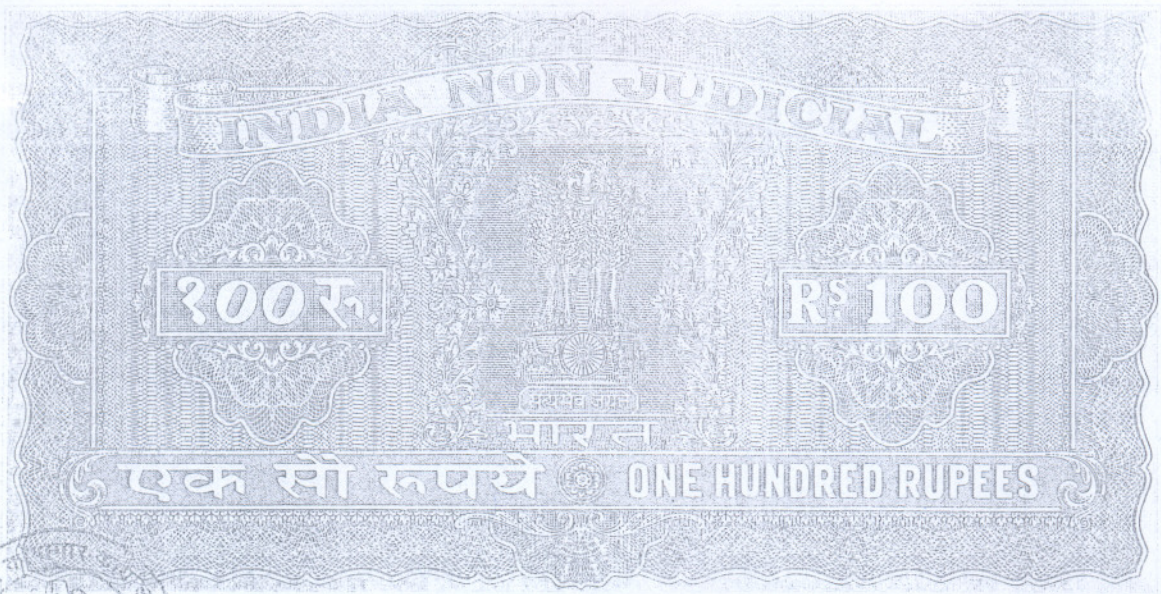
Thanking you,

Yours sincerely,

A handwritten signature in dark ink, appearing to be 'PMS' or similar, written over a light background.

(P.M. SALIMATH)

To
Sri. Vivek Cariyappa,
C/O Rampriyadas,
A4 Nandana Apartments,
Mysore-4
Phone No. 9845106406



MAHARASHTRA

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SUBLICENSE AGREEMENT

THIS AGREEMENT made and entered into this 2nd day of April, 2005, (the "Effective Date"), by and between:

MAHARASHTRA HYBRID SEEDS CO. LTD. a company duly incorporated under the Companies Act, 1956, having its registered office at Resham Bhavan, 4th Floor, 78 Veer Nariman Road, Mumbai - 400 020 (hereinafter referred to as "MHSCCL" / "Sublicensor"), and

SATHGURU MANAGEMENT CONSULTANTS PRIVATE LIMITED, having its office at 15 Hindi Nagar, Panjagutta, Hyderabad - 500 034, India, being the regional co-ordination office for the South Asian region for AGRICULTURAL BIOTECHNOLOGY SUPPORT PROJECT II (hereinafter referred to as "ABSP II"), a consortium of public and private sector institutions funded by the United States Agency for International Development (USAID) and led by Cornell University, and hereinafter referred to as "SATHGURU", and

UNIVERSITY OF AGRICULTURAL SCIENCES, having their address at Dharwad - 580 005, Karnataka, India, (hereinafter referred to as "Sublicensee" / "UAS").

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WHEREAS:

- a) MHSCL is an Indian company engaged exclusively in the research and development of seeds of various crops, including vegetables, and the transfer of technology, which is the subject of this Agreement, and hereinafter referred to as "Sublicensor";
- b) ABSP II is a project that focuses on the safe and effective development and commercialisation of bio-engineered products as a complement to traditional and organic agricultural approaches in developing countries, and whose mission is to make such products available to farmers in forms they can use, to help reduce poverty and hunger and to boost food security, economic growth, environmental quality and nutrition ("Purpose");
- c) Sathguru Management Consultants Private Limited ("SATHGURU") is a company providing management advisory services relating to technology transfer strategies, structuring public-private partnerships and collaborative research programmes, to enterprises in private, governmental, non-governmental and academic sectors, and is the South-Asia regional co-ordinator for the ABSP II project;
- d) UAS/Sublicensee, a University having several campuses, research stations and extension education units, caters to a wide area in Karnataka and the border districts of Maharashtra and Goa, which are large growing areas for horticulture crops, and has a strong biotechnology programme that spans several crops, including eggplant, and is a Collaborator in the ABSP II project in India;
- e) In accordance with the goals of various partners, the parties to this Agreement perceive a common objective in development and delivery of pro-poor varieties of insect tolerant B.t. eggplant, and have conceived a collaborative project with a view to facilitate technology access to resource-constrained farmers under the ABSP II project, and in furtherance of ABSP II's above mandate/mission, SATHGURU and Sublicensee through SATHGURU, have previously approached Sublicensor in light of their expertise and research and development facilities, for development of pro-poor varieties of eggplant (*Solanum melongena*) that are insect tolerant, and the Sublicensor has received the request positively and has agreed to provide access to the technology without any payment for such access;
- f) Sublicensor, having certain rights in India vide license agreements relating to the use of the B.t. Gene, hereinafter defined, in eggplant, has previously entered into an agreement with SATHGURU dated 10th March, 2005, (hereinafter referred to as "Sathguru Agreement") to undertake the research and development of varieties of eggplant (*Solanum melongena*) that are tolerant to the fruit and shoot borer, i.e. *Leucinodes orbonalis*, with a view to product commercialisation or other distribution in certain South-Asian and East Asian territories by Licensed ABSP II Collaborators;
- g) Pursuant to the above-mentioned agreements, in particular Article 4.3 of the said SATHGURU agreement, Sublicensor wishes to provide access to the pro-poor insect tolerant varieties of eggplant (*Solanum melongena*) to Sublicensee, with a view to further development and product distribution in the Territory,

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h) Sublicensor wishes to sublicense transgenic eggplant products to Sublicensee, and the Sublicensee accepts the same, upon the following terms and conditions.

NOW THEREFORE, it is mutually agreed as follows:

ARTICLE 1 -- DEFINITIONS

When used in this Agreement, the following terms shall have the meaning set forth below:

1.1 "Affiliate" shall mean with respect to an entity, any other entity that, directly or indirectly is controlled by, under common control with or in control of, that entity. The term "control" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity whether through the ownership or possession of 50% of equity, by contract or otherwise.

1.2 "Agreement" shall mean this sublicense agreement and any appendices and schedules attached thereto including any amendments thereof.

1.3 "B.t. Gene" shall mean the DNA molecule encoding a B.t. Protein which, upon incorporation into the genome of an eggplant plant, confers tolerance to certain insects in the resulting transgenic plant and progeny thereof, and shall mean specifically the B.t. Gene contained in the transgenic event denominated EE-1 (MHSCL Technology) and identifiable as a *CryIAc* gene with specific flanking genomic sequences.

1.4 "B.t. Protein" shall mean the insecticidal protein produced by the *CryIAc* gene of *Bacillus thuringiensis*, and any active fragment, modification, deletion, or mutation thereof, which, when expressed in an eggplant plant, results in increased Insect Tolerance.

1.5 "Confidential Information" shall mean technology, Technical Information, and other proprietary information on Insect Tolerant Eggplant which may be provided by Sublicensor to Sublicensee and technology and proprietary information of Sublicensee which may be provided by Sublicensee to Sublicensor, and any and all proprietary information (including without limitation, information related to technical, business and intellectual property matters), know-how, data, intellectual property, trade secrets and germplasm and biological and other physical materials owned or held by any party to this Agreement, now and in the future, which is disclosed by any party to the other party or parties in connection with this Agreement, whether or not marked, declared or expressed as confidential, save and except information in public domain either at the time of disclosure or at future times. Confidential Information shall include proprietary information disclosed in writing or other tangible form, including samples of material. If disclosed orally, the Confidential Information shall be summarised in written form within thirty (30) days by the disclosing party and a copy shall be provided to the recipient.

1.6 "Cost" shall mean with reference to Licensed Domestic Eggplant Products, the current cost of non-transgenic seeds that are sold as truly certified seeds or as open-pollinated

registered varieties or in any other nomenclature, increased by direct incremental cost of producing, storing and distributing transgenic seeds. Direct incremental costs would comprise of men and material cost that are attributable to transgenic seed production, storage and distribution.

1.7 **"Crop Specie"/"Eggplant"** shall mean eggplant (*Solanum melongena*).

1.8 **"Date of First Distribution"** shall mean the first date on which Sublicensee transfers to a third party (excluding a third party under contract with Sublicensee for seed multiplication) Licensed Domestic Eggplant Products for use in producing a commodity crop.

1.9 **"Eggplant Planting Seed"** shall mean varietal seed, which is intended for and has been so produced out of Eggplant Public Germplasm and conditioned as to be suitable for planting to produce an Eggplant crop.

1.10 **"Eggplant Proprietary Germplasm"** shall mean the proprietary hybrid Eggplant parent lines developed by or on behalf and/or owned or controlled or licensed-in by Sublicensee and/or by third parties during the term of this Agreement.

1.11 **"Eggplant Public Germplasm"** shall mean the public bred Eggplant varieties developed by public institutions.

1.12 **"Eggplant Seed Production and Distribution Functions"** shall mean the activities which may be carried out by Sublicensee, including without limitation, varietal testing, breeding, product selection, production oversight, production including contract production through farmers, storing, conditioning, quality control, warehousing and distribution of Eggplant Planting Seed.

1.13 **"Fiscal Year"** shall mean the twelve (12) month period beginning on the first day of April and ending on the last day of the following March.

1.14 **"Genetically Modified"** shall mean, when applied to a plant, a line, or a cultivar, that the genome of the subject plants has been altered through the use of recombinant DNA techniques or mutational breeding or backcross and other breeding methods.

1.15 **"Genetically Modified Eggplant"** shall mean Eggplant plants that have been Genetically Modified to exhibit Insect Tolerance and shall include seeds or other plant parts.

1.16 **"Insect Tolerance"** or **"Insect Tolerant"** shall mean reduced damage from fruit and shoot borer, i.e. *Leucinodes orbonalis* to fruiting and other parts of eggplant plants which have been Genetically Modified by recombinant DNA technology by introduction of the B.t. Gene.

1.17 **"Licensed Domestic Eggplant Products"** shall mean pro-poor Eggplant Planting Seed selected primarily for producers' own domestic growth/production and use that has been

Genetically Modified by MHSCl, via backcross and other breeding methods, using MHSCl Technology, to exhibit Insect Tolerance, and listed in **Annexure 1** hereto.

1.18 **"MHSCl Technology"** shall mean the certain eggplant event containing the B.t. Gene and known as the EE-1 Event. In particular, MHSCl technology shall mean MHSCl proprietary germplasm in the Crop Specie transformed using recombinant DNA technology to exhibit Insect Tolerance and evaluated for optimum event selection based on available data, which selected event containing the B.t. Gene and denominated as the EE-1 Event, is used for further breeding activities and commercialisation of the transgenic product.

1.19 **"Monsanto/MHSCl IP Rights"** shall mean all intellectual property rights that Monsanto or MHSCl owns or controls which will be infringed by making, using or selling **Licensed Domestic Eggplant Products** containing **MHSCl Technology** or **Monsanto Technology** (i.e. the B.t. Gene).

1.20 **"Quantity Distributed"** shall mean gross quantities of Licensed Domestic Eggplant Products distributed at Cost, less (i) returned quantities, and free sample quantity (to the extent mutually agreed), (ii) prepaid freight/transportation cost and (iv) taxes or other governmental charges actually paid in connection with distribution of Licensed Domestic Eggplant Products (but excluding what are commonly known as income taxes and value-added taxes). For purposes of determining Quantity Distributed, a distribution shall be deemed to have occurred when the Licensed Domestic Eggplant Products are shipped for delivery.

1.21 **"Recipient"** shall mean a party or parties to this Agreement who receives "Confidential Information" of another Party under the terms of this Agreement.

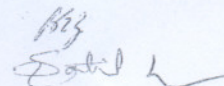
1.22 **"Technical Information"** shall mean that information which Sublicensor supplies to Sublicensee in written form.

1.23 **"Territory"** shall mean the area of operation of Sublicensee in the Republic of India.

1.24 **"Unit"** shall mean 10.0 (ten) gram/packet or such other quantity per packet as may be mutually agreed upon from time to time, of Licensed Domestic Eggplant Product.

ARTICLE 2 -- SUBLICENSE

2.1 **SUBLICENSE:** Sublicensor hereby grants to Sublicensee, and Sublicensee hereby accepts, on and subject to the terms and conditions of this Agreement, a nonexclusive and non transferable, royalty-free, not-for-profit sublicense, to further develop, to test, produce, have produced, distribute and have distributed other than by sale, Licensed Domestic Eggplant Products in the Territory. Sublicensee shall not have a right to grant further sublicenses, other than as provided in this Article 2.



2.2 **USE OF THIRD PARTY SERVICES:** The sublicense granted to Sublicensee shall include the right to utilise the services of third parties to act on behalf of Sublicensee in conducting those activities associated with the Eggplant Planting Seed Business which are directed towards the production of Licensed Domestic Eggplant Products for subsequent distribution in accordance with Section 2.5 (c) by Sublicensee to farmers in the Territory. By way of example, Sublicensee may engage a third party to act on its behalf to multiply Licensed Domestic Eggplant Products (for subsequent distribution by Sublicensee to third parties in the Territory) and to carry out all other activities reasonably necessary for the production, processing and distribution of Licensed Domestic Eggplant Products by Sublicensee in the Territory. Third parties will be required to meet basic performance standards that will be defined jointly by Sublicensor and Sublicensee. Sublicensee shall have written contracts with such third parties which shall provide that such third parties may only use MHSCL Technology to carry out services on behalf of Sublicensee, subject to limitations and restrictions at least as restrictive as those applicable to Sublicensee under this Agreement. Sublicensee shall also use its best efforts to prevent theft or other loss of the Monsanto and/or MHSCL Technology, and SATHGURU shall use its best efforts to facilitate the same.

2.3 **SUBLICENSING OF FARMERS:** The distribution by Sublicensee of Licensed Domestic Eggplant Products to any distributee shall include a limited sublicense transferable only to farmers to use such Licensed Domestic Eggplant Products only to produce a commodity Eggplant crop within the Territory.

2.4 **PROHIBITION OF USE AND MODIFICATION OF BIOTECH GENES:** Sublicensee shall not reverse engineer, isolate, modify or otherwise use the B.t. Gene or other recombinant DNA (including but not limited to associated regulatory sequences) that is part of the MHSCL Technology that is licensed under this Agreement, without the prior written consent of Sublicensor. Sublicensee is expressly prohibited from undertaking any transformation activity whatsoever using the MHSCL Technology, including the B.t. Gene.

2.5 **CONDITIONS ON SUBLICENSE:** In partial consideration for the above Sublicenses it is agreed that:

(a) Sublicensee may only further develop Licensed Domestic Eggplant Products in its breeding program for suitability for planting in the Territory. Sublicensee shall not cross or backcross the B.t. Gene into any other Eggplant Planting Seed or Eggplant Public Germplasm or public bred germplasm or third party germplasm.

(b) Sublicensee shall not cross or backcross the B.t. Gene into any Eggplant germplasm other than the varieties listed in **Annexure No. 1**. **Annexure No. 1** may be reviewed on an annual basis for the duration of this Agreement, and amended, if necessary, by mutual agreement of the parties hereto at such time.

(c) It is expressly understood by Sublicensee that this sublicense is granted solely for the distribution of Licensed Domestic Eggplant Products at Cost (defined in Article 1.6 and elaborated in **Annexure 2** hereto).

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(d) It is also further expressly understood by the Sublicensee, that under no circumstances shall the Licensed Domestic Eggplant Products be used as parental lines for the purposes of production of hybrids.

(e) Sublicensor shall be free, in its sole discretion, to sublicense other sublicensees in the Territory under any transgenic Insect Tolerance eggplant trait.

(f) Sublicense is provided for the Licensed Domestic Eggplant Products as provided below. Prior to any distribution of any new variety of Licensed Domestic Eggplant Products, each such variety shall be tested for gene equivalency as set forth in **Exhibit A** and for agronomic criteria as set forth in **Exhibit B** (together the "Quality Tests") for two (2) seasons (without an intervening failure to pass the Quality Tests) and shall submit the required test materials and test results to Sublicensor for approval. Based on the results of the Quality Tests, Sublicensor shall approve or disapprove the subject variety within thirty (30) days after it has received all of the materials and data required under the Quality Tests. Sublicensee shall neither distribute nor use any Licensed Domestic Eggplant Products without approval of Sublicensor as provided above.

(g) Sublicensee shall test each and every lot of Licensed Domestic Eggplant Products according to the Quality Assurance Criteria set forth in **Exhibit B** prior to distribution of that lot. Upon failure of any lot to meet such Quality Assurance Criteria, that lot shall be destroyed or otherwise disposed of in a manner prescribed by Sublicensor, but in no event shall it be distributed as planting seed. Sublicensee shall retain samples of each lot of Licensed Domestic Eggplant Products produced under the procedures set forth in **Exhibit C**. Such samples shall be retained for at least two (2) years after the last distribution of that lot.

(h) Sublicensee and SATHGURU represent and warrant to Sublicensor that Sublicensee has the capability or will acquire the capability, some with the technical assistance from MHSCIL as defined in **Annexure No. 3**, and/or other sources, as envisaged in this agreement, to perform all further development activities provided for in this Agreement. Such capability shall include at a minimum, a dedicated greenhouse, a laboratory and the technical support of other technicians. Sublicensee shall use its best efforts to prevent theft or other loss of the Monsanto and/or MHSCIL Technology, and SATHGURU shall use its best efforts to facilitate the same.

(i) Sublicensee shall be solely responsible for any and all costs incurred in connection with the distribution of Licensed Domestic Eggplant Products. All documents used by Sublicensee in distribution (advertising copy, press releases, etc.,) concerning MHSCIL Technology shall be subject to review and approval by Sublicensor prior to release.

(j) Sublicensee shall develop secure, tamper-proof packaging for packing Licensed Domestic Eggplant Products in consultation with Sublicensor.

(k) Sublicensor, upon request of SATHGURU and/or Sublicensee, shall provide training relevant to Sublicensee's activities as per **Annexure 3** under this Sublicense to the relevant employees of the Sublicensee, up to a maximum of two (2) employees in the

shall be borne by Sublicensee, unless otherwise covered by ABSP II funding, as defined in the Sathguru Agreement.

(l) Sublicensor shall provide recommendations for procurement of kits, instruments, or other lab supplies that will be required for Sublicensee to carry out its activities under this Sublicense.

(m) Sublicensee shall provide training to its employees, distributors, agents and any other contractors and its farmer/customers as may be appropriate for that person's activities on the requirements of this Agreement and on the Licensed Domestic Eggplant Products that is licensed under this Agreement, its properties and the proper use of the product. Sublicensee shall only use training materials for such training that have been approved by Sublicensor.

(n) No party or parties hereto shall release any statement to the press nor submit any press releases for publication without the written consent of the other party or parties hereto.

(o) Sublicensee shall permit authorised representatives of Sublicensor to enter into and inspect, from time-to-time, Sublicensee's production fields, laboratories, quality assurance facilities for the purpose of ascertaining the quality of the Licensed Domestic Eggplant Products and the correctness of the production/cultivation practices.

(p) Sublicensee hereby provides assurance on stewardship of B.t. Gene and MHSCIL Technology to Sublicensor for managing the technology. Sublicensee's responsibilities in this regard include, but are not limited to, those listed in **Annexure No. 4** hereto. SATHGURU shall make best efforts to facilitate the responsibilities of, and the execution thereof by, Sublicensee as listed in **Annexure No. 4** without any financial obligations in this respect.

(q) Sublicensee further agrees that it shall be liable to bear and pay any taxes (including but not limited to sales tax, service tax, octroi, etc) that may be applicable on the Licensed Domestic Eggplant Products or to this Agreement, or which may become applicable in the future.

ARTICLE 3 – GRANT, REPORTS AND RECORD RETENTION

3.1 PROJECT PLAN:

(a) In the light of Sublicensor receiving support by ABSP II through SATHGURU under the Sathguru Agreement for fulfilment of the following objectives/activities, Sublicensor shall assist Sublicensee for technical services (**Annexure No. 3**) that are considered appropriate for achieving/carrying out the same and the cost of any such services not covered by the Sathguru Agreement shall be covered by the Sublicensee. As a recipient of funding support from USAID through ABSP II, the Sublicensee agrees to comply with the US AID general

stipulations governing grant assistance, and applicable from time-to-time. Sublicensor has already agreed to follow US AID stipulations as defined in the Sathguru Agreement and attached thereto.

(1) Supporting Sublicensor's efforts further to conclude the regulatory compliances of MHSCL Technology and Sublicensor's proprietary Eggplant products containing MHSCL Technology as defined in the Project Plan annexed to the Sathguru Agreement (Annexure 5 thereto), and Sublicensor's proprietary Eggplant products containing MHSCL Technology. Sublicensor would make available to Sublicensee, regulatory information generated as a result of this support also as a part of the regulatory package.

(2) Providing access to technology to public institutions in order to extend the advantage through backcrossing to pro-poor varieties that are populous and accessible by the lower income groups.

(3) Providing technology, capacity building and regulatory compliance assistance to Sublicensor in the Territory, for development of improved, tolerant public varieties.

(4) Providing nutrition through high quality eggplant access to low-income consumers by making available the Licensed Domestic Eggplant Products at Cost that would not deny the advantage of technology to the low-income group.

(b) Delivery of the Insect Tolerant Eggplant planting seed embodying MHSCL Technology as provided in Section 4.1 will be given by Sublicensor to Sublicensee subject to receipt of necessary government approvals and permissions, and only subsequent to the execution of this Agreement by the parties hereto.

3.2 **NOTICE OF FIRST DISTRIBUTION:** Sublicensee shall promptly notify Sublicensor in writing of the Date of First Distribution.

3.3 **REPORTS:** Sublicensee shall submit to Sublicensor, with a copy to SATHGURU, on September 30 and March 31 of each Fiscal year, beginning with the Fiscal Year in which transfer of Licensed Domestic Eggplant Products to Sublicensee took place, reports detailing further development of Licensed Domestic Eggplant Products, until Date of First Distribution. Further, Sublicensee shall submit to Sublicensor, with a copy to SATHGURU, beginning with the Date of First Distribution of Licensed Domestic Eggplant Products, reports containing the Quantities Distributed by Sublicensee, on a variety-by-variety, product-by-product, area-by-area basis and on the basis of package size (Unit). Such reports shall be submitted to Sublicensor on September 30 and March 31 of each Fiscal year, beginning with the Fiscal Year in which the Date of First Distribution took place. SATHGURU shall use its best efforts to ensure that Sublicensee submits reports at such time and for such periods as stated above.

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3.4 RECORDS AND AUDIT:

(a) Sublicensee shall keep records of the distribution of Licensed Domestic Eggplant Products and other information in sufficient detail to permit confirmation of the accuracy of Sublicensee's reports due under this Article 3. Such records shall be kept for at least the current Fiscal Year and the previous three (3) Fiscal Years. At Sublicensor's request, or as required by USAID funding norms, Sublicensee shall permit SATHGURU or an independent auditor appointed by SATHGURU to which Sublicensee has no reasonable objection, to examine, upon reasonable notice and at reasonable times, such records solely to the extent necessary to verify the accuracy of Sublicensee's reports. Records for the current Fiscal Year and the previous three (3) Fiscal years shall be subject to audit. If the audit determines that the reports submitted by Sublicensee were incorrect, corrections thereto shall be made by the Sublicensee as required by the audit, and shall be due within thirty (30) days after receipt of the audit report.

(b) The audit of Sublicensee's records shall be at the expense of the Party that requested the audit, provided that, if a net aggregate discrepancy in distribution of more than five percent (5%) is found in favour of Sublicensor, the Sublicensee shall be obligated to reimburse Sublicensor for the cost of the audit.

(c) In the light of assistance provided by SATHGURU under USAID funded ABSPH project, the Sublicensee shall ensure that proper books of accounts are maintained and comply with all the conditions stipulated by USAID with respect to maintenance of accounts and audit compliances. Additionally, the Sublicensee shall maintain adequate records that are essential to assess and verify the Quantity Distributed as defined in this agreement. The Sublicensee shall provide the above promptly to SATHGURU and Sublicensor.

ARTICLE 4 -- TECHNICAL ASSISTANCE

4.1 SEQUENCE OF ACTIVITIES: Sublicensor shall provide (or cause to be provided) to Sublicensee, finished or semi-finished Licensed Domestic Eggplant Products for use in Sublicensee's Eggplant Seed Production and Distribution Functions. Sublicensee shall then conduct activities directed towards further development of the Licensed Domestic Eggplant Products to make it suitable for use in the Territory and / or for subsequent distribution to farmers.

4.2 PERFORMANCE CLAIMS: At the request of Sublicensee, the Sublicensor shall assist Sublicensee in addressing any issues that may arise with reference to the performance of Licensed Domestic Eggplant Products. In no event shall the Sublicensee hold Sublicensor or SATHGURU responsible for any performance claims from third parties or issues that may arise with respect to Licensed Domestic Eggplant Products, nor shall Sublicensee make any statements that may cause potential damage or result in any liability to the Sublicensor and SATHGURU.

In addition, neither shall SATHGURU hold Sublicensor responsible, nor shall Sublicensor hold SATHGURU responsible, for any performance claims from third parties or issues that may arise with respect to Licensed Domestic Eggplant Products, nor shall Sublicensor

or SATHGURU make any statements that may cause potential damage or result in any liability to each other.

4.3 **TRIALS AND TESTS:** Sublicensee shall conduct field trials and laboratory tests and do all such things as are necessary to ensure the quality and stability of the Licensed Domestic Eggplant Products in the Territory, based on local government regulations. To the extent supported by assistance provided by SATHGURU under ABSPII project and additionally if requested, Sublicensor may provide technical guidance to the Sublicensee in carrying out such activities by deputation of suitable experts to Sublicensee's locations at the cost of the requesting party. Any additional requests not funded under ABSPII project will be directly compensated by Sublicensee to the Sublicensor.

ARTICLE 5 -- REGISTRATION AND GOVERNMENTAL APPROVAL

5.1 Sublicensee shall follow and comply with all government laws and regulations relating to the MHSCS Technology and Licensed Domestic Eggplant Products, in the Territory. It shall be Sublicensor's responsibility to obtain and maintain using commercially reasonable means all registrations and other governmental approvals required use in the Territory of the MHSCS Technology and to determine the appropriate marketing claims for the MHSCS Technology. Sublicensee shall provide reasonable co-operation to the extent requested by Sublicensor to assist in obtaining such registrations and approvals for MHSCS Technology. It shall be Sublicensee's responsibility to obtain and maintain using commercially reasonable means all registrations or other governmental approvals required for distribution and use in the Territory of (Licensed Domestic Eggplant Products) specific varieties produced by Sublicensee under this Agreement and any approvals required for Sublicensee to carry out its activities under this Agreement. Sublicensor shall provide reasonable cooperation to the extent requested by Sublicensee to assist in obtaining such registrations and approvals for specific varieties, and shall upon request provide Sublicensee with access to regulatory approval data generated by Sublicensor to assist in obtaining such registrations and approvals.

Sublicensee shall provide Sublicensor with access to regulatory and approval data generated by it relating to the MHSCS Technology and Licensed Domestic Eggplant Products.

Reasonable translation costs and copying expenses relating to regulatory approval data, shall be borne by the party requesting access to regulatory approval data.

ARTICLE 6 -- CONFIDENTIALITY PROVISIONS

6.1 **CONFIDENTIAL INFORMATION:** Confidential Information shall remain the property of the disclosing party or parties and shall be maintained in confidence by the Recipient. Neither Sublicensor nor Sublicensee nor SATHGURU shall, at any time during the period specified by Section 6.2, disclose to any other person Confidential Information which has been disclosed to it by any other party except with the prior written consent of that other party or as provided in Section 6.3.

6.2 **PERIOD OF CONFIDENTIALITY:** This Article 6 and the obligations and benefits hereunder shall survive for five (5) years after the expiration or earlier termination of this Agreement.

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6.3 PERMITTED USES OF CONFIDENTIAL INFORMATION: Any

Confidential Information that is disclosed by any party to the other party or parties may be:

(a) Used by the Recipient and/or disclosed by the Recipient to any of its members, directors, officers, employees, agents or contractors of the Recipient, to such extent only as is reasonably necessary for fulfilment of the Recipient's obligations under this Agreement or for exploitation pursuant to the terms of this Agreement, and subject, in each case, to the Recipient's obligating the person in question to hold the same confidential by written agreement coincident in scope and term with the confidentiality obligation of this Agreement and that person further agreeing not to use the same except for the purposes for which the disclosure is made;

(b) Disclosed by the Recipient to any governmental or other authority or regulatory body to the extent required by law; provided, however, that the Recipient shall take all reasonable measures to ensure that such authority or body keeps the same confidential and does not use the same except for the purpose for which such disclosure is made; and provided further that the party proposing to so disclose shall give prior written notice of that intent to the other involved party or parties and permit said other party or parties, at its/their option, to contest said requirement and to seek confidential treatment of said information;

(c) Disclosed to a court or litigant, to the extent such disclosure is ordered by a court or government agency of competent jurisdiction, provided however that the Recipient shall take all reasonable measures to ensure that the court, other litigants, or government agency keep the same confidential and does not use the same except for the purpose for which such disclosure is made; and provided further that the party proposing to so disclose shall give prior written notice of that intent to the other party or parties and permit said other party or parties, at its/their option, to contest said requirement and to seek confidential treatment of such information; and

(d) Used by the Recipient for any other purpose, and/or disclosed by the Recipient to any person, to the extent only that it is on the Effective Date or thereafter becomes, public knowledge through no fault of the Recipient, or is disclosed to the Recipient by a third party as a matter of right, or can be shown by written records of the Recipient to have been known to the Recipient prior to such disclosure by written records.

6.4 EXPORT OF TECHNICAL INFORMATION PROHIBITED:

Notwithstanding other provisions of this Agreement, Sublicensee agrees to make no disclosure of or use any Confidential Information or MHSC Technology furnished or made known to Sublicensee pursuant to this Agreement, except as permitted above, and, in particular, Sublicensee agrees not to export, directly or indirectly, to any country or countries either (i) the technical data (the term "technical data" as used herein shall mean and include Confidential Information and MHSC Technology furnished or made known to Sublicensee pursuant to this Agreement), (ii) the "direct product" thereof, or (iii) any commodity produced using such technical data. The term "direct product" as used above is defined to mean the immediate product (including processes and services produced directly by the use of the technical data).

responsibilities beyond what is stated in 8.1 and other provisions of this agreement, with respect to:

(a) the performance, merchantability or fitness for a particular purpose of Licensed Domestic Eggplant Products or Genetically Modified Eggplant or MHSCL Technology or Confidential Information; or

(b) MHSCL Technology or use, sale or importation thereof in the Territory being free from infringement of third party patents or any other third party rights.

8.5 **TECHNICAL INFORMATION:** Sublicensor shall only share with Sublicensee Technical Information, which to the best of its knowledge is accurate. It is expressly understood and agreed that Sublicensor otherwise makes no representations, extends no warranties, either express or implied, and assumes no responsibilities with respect to the suitability, completeness or accuracy of such information or other data provided in connection therewith, and during the term of this Agreement.

8.6 **INDEMNITY:** Except to the extent caused by a breach by Sublicensor of Section 8.1 above, Sublicensee hereby agrees to indemnify, defend and hold harmless SATHGURU, Sublicensor and its Affiliates and their officers, employees, directors, scientists and agents from and against any loss, cost, liability or expense (including court costs and reasonable fees of attorneys and other professionals) incurred from any claim arising or alleged to arise out of the manufacture, use distribution of any Licensed Domestic Eggplant Products or from the use of any MHSCL Technology or related Monsanto/MHSCL IP Rights by the Sublicensee pursuant to this Agreement. Such indemnity and defence obligation shall also apply to any product liability or other claims, and shall include without limitation, personal injury, death or property damage, made by employees, subcontractors, or agents of Sublicensee, as well as any member of the general public.

ARTICLE 9 - TERM AND TERMINATION

9.1 **TERM:** This Agreement shall be effective from the date first written above and, unless sooner terminated in accordance with the provisions of Section 9.2 or by operation of law, this Agreement shall be effective for an initial term of ten year period renewable for additional period of five years each by mutual agreement of the parties.

9.2 **EARLY TERMINATION:** This Agreement may be terminated by either Sublicensor or Sublicensee or SATHGURU, without liability for the termination, by written notice to the opposite Party, as follows:

(a) by the non-breaching party or parties, if any party or parties materially breaches this Agreement, and such breach is not cured within ninety (90) days after notice to the breaching party or parties, or if the breach is not capable of being cured, then this Agreement may be terminated forthwith upon such notice, provided, however, that the non-breaching party or parties shall retain all remedies available at law, against the breaching party or parties for such breach whether or not the non-breaching party or parties elects to terminate this Agreement;

(b) by Sublicensor, if Sublicensee (1) loses Government approval and/or funding and Sublicensee is dissolved by statute, or (2) the Project is discontinued by Sublicensee;

(c) by Sublicensor if in Sublicensor's judgement, reasonably exercised, laws and regulations in the Territory do not provide adequate assurance of protection for commercial and intellectual property rights, including, but not limited to: (i) effective, legal and practical protection of Licensed Domestic Eggplant Products, the B.t. Gene and/or MHSCS Technology against unauthorised reproduction; and (ii) implementation in the Territory of legislation affording protection for patented technology incorporated in living organisms;

(d) by either Sublicensor or Sublicensee, or SATHGURU if (i) Section 11.3 of this Agreement notwithstanding, any government authority requires any provision of this Agreement to be revised in such a way as to cause significant adverse consequences to such party; or (ii) a provision hereof is determined to be unenforceable or illegal under applicable laws and either Sublicensor or Sublicensee reasonably believes that the absence of such provision causes a material adverse change in either the risks or benefits of this Agreement to such party, provided that the parties agree to negotiate, prior to the effective date of such termination, in good faith concerning a commercially reasonable substitute or replacement for the provision determined to be unenforceable or illegal;

(e) by the Sublicensee if the Licensed Domestic Eggplant Products produced under this Agreement becomes ineffective in its resistance to insects or if the Licensed Domestic Eggplant Products produced under this Agreement does not evoke viable response making it detrimental for the Sublicensee to carry on its activities, in either case, the effects of termination shall be as provided in Section 9.6.

(f) if the consequences of Force Majeure (as defined in Article 11) prevail with the result of a major impairment to the functioning of Sublicensee for a period in excess of one hundred eighty (180) days and Sublicensee is unable to continue in the Eggplant Seed Business related to Licensed Domestic Eggplant Products;

(g) by Sublicensor, if SATHGURU is (1) dissolved or becomes the subject of proceedings for liquidation or dissolution or ceases to carry on business or becomes unable to pay its debts as such debts come due or (2) subject to a change in control such that a third party, which does not, as of the Effective Date, own at least 50% of the shares of SATHGURU or ownership rights for SATHGURU or have the power to direct the day-to-day activities of SATHGURU, comes to have more than 50% of the shares of or ownership rights for SATHGURU or have the power to direct the day-to-day activities of SATHGURU.

(h) by Sublicensor with prior written notice of 120 days;

(i) by Sublicensee with prior written notice of 120 days.

