

LICENSE AGREEMENT NO. L-08202

between

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION
as LICENSOR

and

SYNGENTA SEEDS, INC.
a Delaware corporation
as LICENSEE

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

LICENSE AGREEMENT NO. L-08202

THIS LICENSE made and issued this 4th day of December, 2007, by and between the State of Hawaii by its AGRIBUSINESS DEVELOPMENT CORPORATION, the place of business and mailing address of which is 235 S. Beretania Street, Room 205, Honolulu, Hawaii 96813, hereinafter called "LICENSOR," and SYNGENTA SEEDS, INC., a Delaware corporation, the business and post office address in the State of Hawaii for purposes of this License Agreement is 7050 Kaunualii Highway, Box 823, Kekaha, Hawaii 96752, hereinafter called "LICENSEE."

W I T N E S S E T H:

WHEREAS, LICENSOR is obligated to manage and operate that certain parcel of land situated at Kekaha, Waimea, Kauai, identified as "Portion of the Government Crown Land of Waimea," and further identified by Tax Map Key (4)1-2-02:por.1, under Governor's Executive Order No. 4007, as modified by Governor's Executive Order Nos. 4034 and 4165, hereinafter referred to as the "Property"; and LICENSOR is authorized to grant licenses for the use of this land for public purposes;

WHEREAS, LICENSOR has agreed to allow the Kekaha Agriculture Association, a Hawaii non-profit corporation (the "Cooperative"), to manage the operation and maintenance of the common infrastructure at the Property in exchange for mutual consideration and other agreed upon terms; and

WHEREAS, LICENSEE has requested a license to use a portion of said Property at Kekaha, Kauai for agricultural purposes;

NOW, THEREFORE, in consideration of the terms and conditions herein contained to be observed and performed by LICENSEE, LICENSOR, pursuant to and as set forth in this License Agreement, hereby grants to LICENSEE an exclusive license to use that portion of land outlined on the map attached hereto and incorporated herein as Exhibit "A", and more particularly described in Exhibit "B" attached hereto and incorporated herein, containing a land area of 2,939.01 acres, more or less, hereinafter referred to as the "Premises." The "Premises" shall not include any areas containing or consisting of any common infrastructure improvements serving the Premises that are under

the control, operation, or management of the Cooperative or any other entity, including Licensor.

The license of the Premises hereby granted by LICENSOR to LICENSEE shall be together with the right to use, in common with other licensees of other lands included with the Property, the roadways providing ingress and egress to and from the Premises and the right to use utility easements serving the Premises (excluding such easements for common infrastructure improvements that are under the exclusive control, operation, and management of the Cooperative or any other entity, including Licensor).

THE TERMS AND CONDITIONS upon which LICENSOR grants the aforesaid license, right, and privilege are as follows:

1. Term. The term of this License is for twenty (20) years, or until such time as LICENSEE ceases to operate the agribusiness or other permitted use, unless this License is sooner terminated as hereinafter provided. LICENSOR and LICENSEE also may agree to extend the term of this License any number of times for such period or periods of time as LICENSOR and LICENSEE shall determine.
2. License Fee. The base license fee for this License shall be \$50.00/acre/year for tillable acres and \$1.00/acre/year for non-tillable acres, payable in monthly installments, on or before the first of each month. LICENSOR and LICENSEE agree that the Premises consist of 2,274.41 tillable acres and 664.60 non-tillable acres. For purposes of this License Agreement, "tillable acres" shall include all portions of the Premises measured in acres that are suited for cultivation in accordance with normal agronomic practices, and "non-tillable acre" shall include all portions of the Premises measured in acres that are not suited for cultivation in accordance with normal agronomic practices.
3. Common Infrastructure Improvement Costs. In addition to the base annual license fee provided in Paragraph 2 above, LICENSEE shall also pay its proportionate share of the costs of operating and maintaining the common infrastructure improvements (namely, the irrigation system, drainage system, electrical power system, and roadway system) that serve the Property, including the Premises (the "Common Infrastructure Improvement Costs"). Unless otherwise agreed by LICENSEE, all such Common Infrastructure Improvement Costs shall be on a "service at cost" basis, shall not include any "mark-up" or profit (except for reasonable administrative expenses), and

shall not include any costs or obligations related to any capital improvements to the common infrastructure serving the Property, including the Premises.

LICENSOR has disclosed to LICENSEE, and LICENSEE acknowledges, that LICENSOR has entered into a Memorandum of Agreement ("MOA") between LICENSOR and the Cooperative pursuant to which LICENSOR has licensed and turned over to the Cooperative responsibility for operation and maintenance of certain portions of the common infrastructure improvements serving the Property. It is contemplated that LICENSEE shall be a member of the Cooperative and shall pay membership dues or assessments pertaining to the costs of operating the common infrastructure improvements subject to the MOA.

LICENSEE acknowledges that, pursuant to the MOA, the Cooperative is responsible for the operation and maintenance of the portions of the common infrastructure subject to the MOA in accordance with the terms thereof. LICENSEE shall have the option to join or not to join the Cooperative as a member and, if LICENSEE joins the Cooperative, to discontinue such membership at any time. In the event that LICENSEE becomes (and as long as LICENSEE continues to be) a member of the Cooperative, LICENSEE shall be obligated to pay such membership dues or assessments as are chargeable to the members of the Cooperative on a proportionate basis for the cost of maintaining and operating the common infrastructure improvements subject to the MOA, and the payment of such dues or assessments shall fully discharge LICENSEE's obligations to pay Common Infrastructure Improvement Costs under this License Agreement. In the event that LICENSEE does not become or ceases to be a member of the Cooperative, LICENSEE shall pay to the Cooperative such service charges as are assessed by the Cooperative on a "service at cost" basis to non-member subscribers for use of the common infrastructure services provided to LICENSEE by the Cooperative; and the payment of such service charges shall likewise fully discharge LICENSEE's obligations to pay Common Infrastructure Improvement Costs under this License Agreement.

In the event that responsibility for the common infrastructure improvements subject to the MOA is, for any reason, including termination of the MOA in accordance with the terms thereof, turned over to an entity other than the Cooperative or re-assumed by LICENSOR, LICENSEE shall be obligated to pay, on a "service at cost" basis, directly to such other entity or LICENSOR, LICENSEE's proportionate share of the Common

Infrastructure Improvement Costs attributable to said Common Infrastructure Improvements.

4. Re-opening of Base Annual License Fee.

A. Adjustments to License Fee Related to Changes in Common Infrastructure Improvement Costs. The base annual license fee for tillable acres shall be increased or decreased, after the first twelve months of the term of the MOA between the LICENSOR and the Cooperative described in Paragraph 3 above, to the extent (hereinafter the "Common Infrastructure Improvement Costs Adjustment") that the amount (determined on a per acre basis for tillable acres) assessed against or charged to LICENSEE by the Cooperative or any other entity (including LICENSOR) for LICENSEE's share of Common Infrastructure Improvement Costs is more or less than \$75.00/acre/year. In the event that the Common Infrastructure Improvement Cost Adjustment results in a reduction in the base annual license fee, any such reduction shall not in any circumstances exceed on a per acre basis the base annual license fee then payable for tillable acres.

The base annual license fee for tillable acres shall thereafter be renegotiated after the third year of the term of the MOA and every five (5) years thereafter during the term of the MOA, and shall be increased or decreased to the extent that the amount (determined on a per acre basis for tillable acres) assessed against or charged to LICENSEE by the Cooperative or any other entity (including LICENSOR) for LICENSEE's share of Common Infrastructure Improvement Costs is more or less than \$75.00/acre/year, plus or minus, as the case may be, any Common Infrastructure Improvement Costs Adjustment previously taken into account.

The adjustment to the base annual license fee specified in this Paragraph 4.A shall be made independently of any adjustment specified in Paragraph 4.B below.

Examples. The following examples are intended to illustrate the foregoing license fee adjustments based on any resulting difference between actual Common Infrastructure Improvement Costs and the initial estimated amount of \$75.00/acre/year.

Example 1. By way of example, if the Common Infrastructure Improvement Costs charged to LICENSEE by the Cooperative for the first twelve months of the term of the

MOA amounted to \$60.00 per acre (determined on a per acre basis for tillable acres), the base annual license fee for tillable acres for the ensuing two years would be increased by \$15.00/acre/year (being the difference between \$75.00/acre/year and the actual amount charged by the Cooperative), so that the base annual license fee for tillable acres for such ensuing two-year period would be \$65.00/acre/year. On the other hand, if the Common Infrastructure Improvement Costs charged to LICENSEE for the first twelve months of the term of the MOA amounted to \$90.00 per acre (determined on a per acre basis for tillable acres), the base annual license fee for tillable acres for the ensuing two years would be decreased by \$15.00/acre/year, so that the base annual license fee for such ensuing two-year period would be \$35.00/acre/year.

Example 2. If the Common Infrastructure Improvement Costs charged to LICENSEE for the first twelve months of the term of the MOA amounted to \$90.00 per acre, so that the base annual license fee for the next two years was reduced by \$15.00/acre/year to \$35.00/acre/year for tillable acres, and the Common Infrastructure Improvement Costs charged to LICENSEE for the third year of the term of the MOA amounted to \$100.00/acre/year, the base annual license fee for tillable acres would be further reduced by an additional \$10.00/acre/year (being the difference between the \$75.00/acre/year and the \$100.00/acre/year actually charged by the Cooperative, less the \$15.00/acre/year already taken into account in making the adjustment after the first year of the term of the MOA.)

Example 3. The base annual license fee for tillable acres shall under no circumstances be reduced below zero (0) by reason of the adjustments specified in this Paragraph 4.A. Accordingly, if the Common Infrastructure Improvement Costs charged to LICENSEE for the first twelve months of the term of the MOA amounted to \$125.00 per acre (determined on a per acre basis for tillable acres), the base annual license fee for tillable acres would be reduced by \$50.00/acre/year (being the difference between the \$75.00/acre/year and the \$125.00/acre/year actually charged by the Cooperative), so that the base annual license fee for the ensuing two-year period would be zero (0). On the other hand, if Common Infrastructure Improvement Costs charged to LICENSEE for the first twelve months of the term of the MOA amounted to \$150.00 per acre (determined on a per acre basis for tillable acres), the base annual license fee would be

reduced to zero (0), but not to a negative number, and LICENSOR would not be required to pay any amounts to LICENSEE to subsidize such excess Common Infrastructure Improvement Costs charged to LICENSEE or to refund to LICENSEE any base annual license fee amounts previously collected.

B. Adjustments Related to Changes in Fair Market Rental Values. The base annual license fee for tillable acres shall also be re-opened and re-determined at the expiration of the 5th and 10th years of the term to take into account any change in the fair market rental value of the tillable acres included in the Premises.

Upon re-opening, the base annual license fee may be increased by LICENSOR to the fair market rental value of the tillable acres included in Premises. If LICENSOR and LICENSEE are unable to agree on the fair market rental value of the tillable acres included in the Premises at least four (4) months prior to the effective date of any such re-opening of the base annual license fee, the fair market rental value of the tillable acres shall be determined by a single arbitrator who shall be a licensed real estate appraiser. Subject to any procurement requirements applicable to LICENSOR under the laws of the State of Hawaii, the arbitrator shall be selected by mutual agreement of LICENSOR and LICENSEE or by a court in the event that LICENSOR and LICENSEE are unable to select the arbitrator by mutual agreement. In determining the fair market rental value of the tillable acres, LICENSOR, LICENSEE, and the arbitrator shall take into account that the LICENSEE is required under the terms of this License Agreement to pay the Common Infrastructure Improvements Costs allocable to the Premises. Except as provided in Paragraph 4.A above, in no event shall the new base annual license fee be less than the base annual license fee for the immediately preceding period. The fees and costs of the arbitrator shall be paid one-half (1/2) by LICENSOR and one-half (1/2) by LICENSEE.

The adjustment to the base annual license fee specified in this Paragraph 4.B shall be made independently of any adjustment specified in Paragraph 4.A below.

Examples. The following examples are intended to illustrate the foregoing license fee adjustments effective as of the expiration of the 5th and 10th years of the term of this License Agreement.

Example 1. This example assumes that there has been no adjustment in the base annual license fee for tillable acres under Paragraph 4.A above. Assume that the fair market value of the tillable acres included in the Premises (as determined by the appraiser) increased by \$35.00/acre/year between the commencement date and the expiration of the 5th year of the term of this License Agreement. In such circumstances, the base annual license fee would be increased from \$50.00/acre/year for tillable acres to \$85.00/acre/year. In making the determination whether the fair market value of the land increased during said five-year period, the appraiser shall take into account that the LICENSEE is required under the terms of this License Agreement to pay the Common Infrastructure Improvements Costs allocable to the Premises, meaning that, in determining the fair market value of the tillable acres, the appraiser shall consider only comparable transactions in which a tenant of agricultural land must provide and pay for all irrigation, power, drainage, road, and other similar infrastructure service costs.

Example 2. Except as provided in Paragraph 4.A above, in no event shall the new base annual license fee be less than the base annual license fee for the immediately preceding period. Therefore, in Example 1 immediately preceding, if the appraiser determined that the fair market value of the tillable acres decreased, instead of increased, by \$35.00/acre/year between the commencement date of this License Agreement and the expiration of the 5th year of the term of this License Agreement, the base annual license fee for tillable acres during the second five years of the term of the License Agreement would remain at \$50.00/acre/year, the amount of the base annual license fee for tillable acres for the immediately preceding period.

Example 3. This example assumes that, pursuant to Paragraph 4.A above, the base annual license fee for tillable acres has been increased by the fifth year of the term of this License Agreement from \$50/acre/year for tillable acres to \$100.00/acre/year as a result of differences between the Common Infrastructure Improvement Costs actually charged to LICENSEE and the estimated amount of \$75.00/acre/year specified in Paragraph 4.A. This example also assumes that the appraiser determines that the fair market value of tillable acres involved in comparable transactions in which the tenant is required to provide and

pay for all irrigation, power, drainage, road, and other similar infrastructure service costs has increased by \$35.00/acre/year between the commencement date of this License Agreement and the expiration of the fifth year of the term of this License Agreement. Under such circumstances, the base annual license fee for tillable acres for the second five years of the term of this License Agreement would be increased to \$135.00/acre/year (\$100.00/acre/year plus \$35.00/acre/year).

Example 4. Assume all of the same facts as set forth in Example 3 immediately preceding, except that, instead of increasing, the fair market rent for tillable acres decreased by \$35.00/acre/year by the fifth year of the term of this License Agreement. Paragraph 4.B provides that, except as provided in Paragraph 4.A above, in no event shall the new base annual license fee be less than the base annual license fee for the immediately preceding period. Accordingly, under the facts of this Example 4, the base annual license fee for tillable acres for the second five years of the term of this License Agreement would remain at \$100.00/acre/year (computed as the base annual license fee of \$50.00/acre/year for the first five years of the term as adjusted pursuant to Paragraph 4.A.)

Example 5. Assume all of the same facts as set forth in Example 3 above, and that, as set forth in Example 3, the base annual license fee for tillable acres for the second five years of the term of this License Agreement has been increased to \$135.00/acre/year. Assume also that, at the next adjustment in the base annual license fee for tillable acres specified in Paragraph 4.A, the Common Infrastructure Improvement Costs charged to LICENSEE by the Cooperative amounted to \$165.00/acre/year. Pursuant to Paragraph 4.A, the base annual license fee for tillable acres would be reduced by \$90.00/acre/year (being the difference between the actual amount of Common Infrastructure Improvement Costs actually charged by the Cooperative and the \$75.00/acre/year estimated amount specified in Paragraph 4.A) from \$135.00/acre/year to \$45.00/acre/year. (Paragraph 4.A permits the base annual license fee to be reduced below the initial amount of \$50.00/acre/year, but not below zero (0), in the event that the Common Infrastructure Improvement Costs exceed the initial estimated amount of \$75.00/acre/year.)

5. Interest on Delinquent License Fees. The interest rate on the principal amount of any and all unpaid or delinquent license fee payments shall be one percent (1%) per month, plus a service charge of FIFTY AND NO/100 DOLLARS (\$50.00) per month for each delinquent payment.
6. [Reserved.]
7. Taxes, Assessments, and Utilities. LICENSEE shall pay, if and when due, LICENSEE's proportionate share of all taxes and similar rates, assessments, charges, and outgoings, if any, of every nature and kind whatsoever, which shall during the term of this License be lawfully charged, assessed, imposed, or become due and payable upon or in respect of the Premises and the improvements now on or hereafter erected by LICENSEE thereon. In the event that any taxes or similar rates, assessments, charges, or outgoings are levied against any larger tract of land or property, including the Property, which includes the Premises, LICENSEE's proportionate share shall be based on the ratio that the total acreage of the Premises bears to the total acreage of such larger property subject to any such taxes, rates, assessments, charges, and outgoings. In the event that LICENSEE purchases any utility services from a provider other than the Cooperative or other entity (including LICENSOR) responsible for management of the common infrastructure that serves the Property, LICENSEE shall be required to pay, when due, all fees, charges, and costs of such additional utility services.
8. Character of Use. LICENSEE shall not do or commit, or permit or suffer to be done, any willful or voluntary waste or destruction in and upon the Premises, any nuisance in and upon the Premises, or any unlawful or improper use of the Premises.
- (a) LICENSEE shall use the Premises solely for agricultural purposes, as set forth in LICENSEE's land utilization plan attached hereto as Exhibit "C". LICENSEE's use of the Premises shall be subject to any recorded covenants, conditions, and restrictions of any and all recorded encumbrances on the Premises existing as of the date of this License Agreement.
- (b) No livestock production operations shall be conducted on the Premises without the prior approval of the State Department of Health.

- (c) All livestock production operations shall be operated and maintained so as not to create any public health problems as determined by the State Department of Health.
- (d) No cesspools shall be constructed on the Premises. However, upon approval from the State Department of Health, LICENSEE may use alternative wastewater treatment and disposal systems which do not pose a threat to the groundwater.
- (e) No solid or liquid animal waste shall be disposed of at the Premises. Disposal of all solid and liquid animal waste must be by a means acceptable to the State Department of Health.
- (f) LICENSEE shall take appropriate steps to reduce the risk of any excessive soil erosion by reason of LICENSEE's use of the Premises by LICENSEE and to address any material increase in weeds or litter on the Premises.

- 9. Utilization and Development of the Land. LICENSEE shall utilize and develop the Premises in accordance with LICENSEE's plan for utilization and development which has been approved by LICENSOR before execution of this License Agreement and which is incorporated in LICENSEE's land utilization plan attached as Exhibit "C" hereto. Any material modification or deviation from LICENSEE's utilization and development plan without the prior written approval of LICENSOR may constitute a breach of this License and a cause for the termination thereof.
- 10. Sublicensing. LICENSEE shall not sublicense or rent the whole or any portion of the Premises without the prior consent of LICENSOR, which consent may be withheld in LICENSOR's sole discretion. Any sublicensing request shall be submitted in writing to LICENSOR, together with a copy of the sub-licensee's land utilization plan and rental payment schedule for LICENSOR's consideration. Profit on any sublicense charges are neither allowed, nor shall be sought by LICENSEE.
- 11. Good Husbandry and Conservation Practices. Insofar as LICENSEE's use of the Premises (as set forth in LICENSEE's land utilization plan) includes the breeding, feeding, and keeping of livestock or other animals, LICENSEE shall at all

times practice good husbandry with regard to the use of the Premises for the use permitted. LICENSEE shall carry out a program of conservation based upon a conservation plan developed by LICENSEE in cooperation with the appropriate Soil and Water Conservation District. The conservation program shall be in accordance with a conservation plan which shall be submitted to LICENSOR for acceptance within one (1) year following the date of this License. The conservation plan shall include, but not be limited to, those practices such as land clearing, cropping system, irrigation system, drainage, noxious weed control, and other measures needed to protect the land against deterioration and to prevent environmental degradation; provided, however, that this requirement may be waived for licenses, premises, or uses with little or no apparent conservation problems when verified by the appropriate Soil and Water Conservation District. In the event the activities of LICENSEE in this regard shall be found to be contradictory to the aforesaid conservation plan or unsatisfactory to LICENSOR, LICENSOR shall notify LICENSEE and LICENSEE shall be required, within sixty (60) days of the notice, to cure or correct the contradictory or unsatisfactory condition and submit proof of such cure or correction that is satisfactory to LICENSOR.

12. Sanitation. LICENSEE shall keep the Premises and improvements in a strictly clean, sanitary, and orderly condition and shall use reasonable and prudent measures to cut, remove, or otherwise control weeds and grass, in complete conformance with applicable laws, rules, and statutes and consistent with the terms and conditions of this License.
13. Improvements. During the term of this License, LICENSEE shall not construct, place, maintain, or install on the Premises any building, structure, signs, or improvement, except with the prior written approval of LICENSOR and upon such conditions as LICENSOR may impose. The preceding sentence shall not apply to any building, structure, signs, or improvement constructed, placed, maintained, or installed on the Premises with the consent and approval of LICENSOR under any prior permit or agreement pursuant to which LICENSEE or any of LICENSEE's permitted assigns, sub-licensees, or permittees occupied the Premises before the effective date of this License Agreement. All buildings, structures, signs, or improvements constructed, placed, maintained, or installed pursuant to this paragraph shall be in accordance with all applicable federal, state, and county laws, ordinances, and rules. The ownership thereof shall be in LICENSEE until the expiration or sooner

termination of this License, at which time the ownership thereof shall, at the option of LICENSOR, vest in LICENSOR or shall be removed by LICENSEE at LICENSEE's sole cost and expense.

14. Repairs to Improvements. LICENSEE shall, at its expense, keep, repair, and maintain all buildings, structures, and improvements now existing or hereafter constructed or installed on the Premises in good order, condition, and repair, reasonable wear and tear excepted. Except for the payment of Common Infrastructure Improvement Costs as provided in Paragraph 3 above, LICENSEE shall have no obligation under this License Agreement to keep, repair, or maintain any common infrastructure improvements.
15. Involuntary Liens. LICENSEE shall not commit or suffer any act or neglect which results in the Premises or any improvement thereon becoming subject to any involuntary attachment, lien, charge, or encumbrance, and shall indemnify, defend, and hold LICENSOR harmless from and against all attachments, liens, charges, encumbrances, and all resulting expenses affecting the Premises and caused by LICENSEE.
16. Dwelling Restrictions. The construction or placement of any structure on the Premises for residential purposes is strictly prohibited. LICENSEE, its agents, employees, and invitees shall not use the Premises as a temporary or permanent residence.
17. Non-Discrimination. LICENSEE shall not use the Premises, nor permit the Premises to be used in support of, any policy that unlawfully discriminates against anyone based upon creed, color, national origin, sex, or a physical handicap. LICENSEE shall not practice any unlawful discrimination based upon creed, color, national origin, sex, or a physical handicap.
18. Breach or Default. It is expressly agreed that this License is contingent upon the continuing condition that, if LICENSEE fails to observe or perform substantially the provisions contained herein, and if LICENSEE does not commence to cure, and diligently continue to attempt to cure, such default within sixty (60) days, or thirty (30) days where the default involves a failure to make timely license fee payments, including payment of any Common Infrastructure Improvement Costs (or any substitute assessment or charges specified in Paragraph 3 above) payable directly to LICENSOR, after delivery by LICENSOR of a written notice of such failure by

personal service or by registered or certified mail to LICENSEE; or, if LICENSEE becomes bankrupt or insolvent or files any debtor proceedings or takes or has taken against it for good cause any proceedings of any kind or character whatsoever under any provision of the Federal Bankruptcy Code seeking readjustment, rearrangement, postponement, composition, or reduction of LICENSEE's debts, liabilities or obligations; then, in any such event, LICENSOR may, at its option, to the extent permitted by law, cancel this License and thereupon take immediate possession of the Premises, after a reasonable time or pursuant to any right of action which LICENSOR may have.

19. Acceptance of Rent Not a Waiver. The acceptance of rent by LICENSOR shall not be deemed a waiver of any breach by LICENSEE of any term, covenant, or condition of this License, of LICENSOR's right to re-entry for breach of covenant, or of LICENSOR's right to declare and enforce a forfeiture for any breach; and the failure of LICENSOR to insist upon strict performance of any term, covenant, or condition, or to exercise any option conferred herein, shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or option.
20. Security Deposit. Upon execution of this License, LICENSEE shall deposit with LICENSOR an amount equal to two times the monthly license fee as security for the faithful performance of all of these terms and conditions. The deposit will be returned to LICENSEE upon termination of this License, but only after all of the terms and conditions of this License Agreement have been observed and performed.
21. Assignment. Except as expressly provided in this License, this License is not transferable. At no time during the term of the License shall LICENSEE assign, mortgage, or pledge its interest in this License, or its interest in the improvements now or hereafter erected on the Premises, without the prior written consent of LICENSOR, which consent may be withheld in LICENSOR'S sole discretion.
22. Liability Insurance. LICENSEE shall procure and maintain during the entire period of this License a policy or policies of commercial general liability insurance sufficient to protect it from and against any liability for all claims for personal injury, death, and property damage which may arise out of the exercise of rights granted herein. The policy or policies shall cover the entire Premises, including all

buildings, structures, improvements, and grounds and all roadways or sidewalks on or adjacent to the Premises in the control or use of LICENSEE. The minimum limit of said policy or policies shall not be less than \$500,000.00 for each occurrence and \$1,000,000.00 aggregate, with an insurance company or companies licensed to do business in the State of Hawaii. Except for the payment of Common Infrastructure Improvement Costs as provided in Paragraph 3 above, LICENSEE shall have no obligation under this License Agreement to procure or maintain any commercial general liability insurance with regard to any activities of the Cooperative or any other entity (including LICENSOR) which has control from time to time over any of the common infrastructure improvements.

LICENSEE, prior to entry and use of the Premises or within fifteen (15) days from the effective date of its License, whichever is sooner, shall furnish LICENSOR with a certificate(s) showing the policy(ies) to be initially in force, keep the certificate(s) on deposit during the entire term of the License, and furnish like certificate(s) upon each renewal of the policy(s). The certificate(s) for such insurance shall contain or be accompanied by an assurance of the insurer not to cancel the insurance, limit the scope of the coverage, or fail or refuse to renew the policy(s) until after thirty (30) days written notice has been given to LICENSEE, except that, in the event this License is terminated, said insurance may be terminated on the same date as the License. The policy shall name LICENSOR as an additional insured.

LICENSOR shall retain the right at any time to review the coverage, form, and amount of the insurance required by this License. If, in the opinion of LICENSOR, the insurance provisions in this License do not provide adequate protection for LICENSOR, LICENSOR may require LICENSEE and any permitted sub-licensee to obtain insurance sufficient in coverage, form, and amount to provide adequate protection. LICENSOR's requirements shall be reasonable and shall be designed to assure protection for and against the kind and extent of the risks which exist at the time a change in insurance is required. LICENSOR shall notify LICENSEE in writing of changes in the insurance requirements and LICENSEE shall deposit copies of acceptable insurance policy(ies) or certificate(s) thereof with LICENSOR incorporating the required changes within thirty (30) days of LICENSEE's receipt of the notice from LICENSOR requiring the same.

The procuring of the required policy(ies) of insurance shall not be construed to limit LICENSEE's liability under this License. Notwithstanding the policy(ies) of insurance, LICENSEE shall be obligated for the full and total amount of any damage, injury, or loss caused by LICENSEE's negligence or neglect connected with this License.

23. Property Insurance. At all times during the term of this License, LICENSEE shall at its own cost and expense keep any state-owned improvements, which are located on the Premises and which are identified by LICENSOR prior to the commencement date of this License Agreement (but which are not licensed to the Cooperative pursuant to the MOA), insured against loss or damage by fire and other hazards, casualties, and contingencies for the full insurable value of those improvements. The policy shall name LICENSOR as an additional insured.

LICENSEE shall furnish to LICENSOR on or before the commencement date of its License a certificate showing such policy(ies) to be in full force and effect and shall furnish a like certificate upon each renewal of the policy(ies). Each certificate shall contain or be accompanied by an assurance of the insurer not to cancel the insurance, limit the scope of the coverage, or fail or refuse to renew the policy(s) until after thirty (30) days written notice has been given to LICENSEE, except that, in the event this License is terminated, said insurance may be terminated on the same date as the License. The policy(ies) shall also provide that all rights or claims of subrogation against the State of Hawaii, its officers, employees, and agents are waived.

24. Right to Enter. LICENSOR reserves the right for its agents or representatives, at all reasonable times during the term, to enter and cross any portion of the Premises at any time for the purpose of performing any public or official duties.
25. Inspection of Premises. LICENSEE shall permit LICENSOR and its agents or representatives, at all reasonable times during the term, to enter the Premises and examine the state of repair and condition thereof and the improvements, equipment, chattels, books, and records of LICENSEE in connection with the administration of this License.
26. Surrender. At the end of the term or other sooner termination of this License, LICENSEE shall peaceably deliver unto LICENSOR possession of the Premises, together with all

improvements existing or constructed thereon, unless provided otherwise in this License. Furthermore, upon the expiration, termination, or revocation of this License, should LICENSEE fail to remove any and all of LICENSEE's personal property from the Premises, LICENSOR may remove or dispose of any and all personal property from the Premises and either deem the personal property abandoned and dispose of the personal property or place such personal property in storage at the cost and expense of LICENSEE. LICENSEE shall pay all costs and expenses for removal, disposal, transporting, and storage of LICENSEE's personal property. The provisions of this paragraph shall survive the expiration or earlier termination of this License.

27. Withdrawal for Public Purpose; Condemnation.

A. Withdrawal for a Public Purpose. LICENSOR shall have the right to withdraw the Premises, or any portion thereof, at any time during the term of this License with reasonable notice and without compensation, except as provided herein, for public uses or purposes, for constructing new roads or extensions, or changes in line or grade of existing roads, for rights-of-way and easements of all kinds, and the Premises shall be subject to the right of LICENSOR to remove soil, rock, or gravel as may be necessary for the construction of roads and rights-of-way within or without the Premises; provided that, upon any withdrawal or taking which causes any portion of the Premises to become unusable for the specific use or uses for which it was licensed, the base annual rent shall be reduced in proportion to the value of the Premises withdrawn or made unusable. If any permanent improvement constructed upon the land by LICENSEE is destroyed or made unusable in the process of any withdrawal or taking, the proportionate value thereof shall be paid by LICENSOR to LICENSEE based upon the unexpired term of this License; provided that no withdrawal or taking shall be had as to those portions of the Premises which are then under cultivation with any trees or crops until such trees or crops are harvested, unless LICENSOR pays to LICENSEE the value of the trees and crops; and provided further that, upon any withdrawal or taking, LICENSEE shall be compensated for the present value of all permanent improvements in place at the time of withdrawal or taking that were legally constructed upon the Premises by LICENSEE being withdrawn or taken or that are made unusable because of such withdrawal or taking. In the case of tree crops, LICENSOR shall pay to LICENSEE the residual value of the trees taken and, if there are un-harvested crops, the

value of the crops also. If any withdrawal or taking in LICENSEE's reasonable determination makes the Premises unusable by LICENSEE for the purposes and uses for which LICENSEE is then using the Premises, LICENSEE shall have the right to terminate this License Agreement, without waiving any other rights of LICENSEE by reason of such withdrawal or taking.

B. Condemnation. If at any time, during the term of this License Agreement, any portion of the Premises shall be condemned or required for public purposes by the Federal government or any county or city and county, or any governmental agency of either, the base annual license fee and any other charges under this License Agreement, including LICENSEE's proportionate share of Common Infrastructure Improvement Costs, shall be reduced in proportion to the value of the portion of the Premises condemned. LICENSEE shall be entitled to receive from the condemning authority (a) the value of growing crops, if any, which LICENSEE is not permitted to harvest, and (b) the proportionate value of LICENSEE's permanent improvements so taken in the proportion that it bears to the unexpired term of the License Agreement; provided, that LICENSEE may, in the alternative, remove and relocate its improvements to the remainder of the Premises occupied by LICENSEE. LICENSEE shall not by reason of the condemnation be entitled to any claim against the LICENSOR for compensation or indemnity for the license interest and all compensation payable or to be paid for or on account of the land comprising the Premises by reason of the condemnation shall be payable to and be the sole property of the LICENSOR. The foregoing rights of LICENSEE shall not be exclusive of any other rights to which LICENSEE may be entitled by law, and LICENSEE shall have the right to claim and recover from the condemning authority, but not from LICENSOR, such compensation as may be separately awarded or recoverable in LICENSEE's own right on account of such condemnation of LICENSEE's interest under this License Agreement and any improvements constructed by LICENSEE on the Premises. Where the portion of the Premises taken renders the remainder of the Premises unsuitable for the use or uses for which the Premises were licensed, LICENSEE shall have the option to surrender this lease and be discharged and relieved from any further liability; provided, that LICENSEE may remove the permanent improvements constructed, erected, and placed by it within any reasonable period allowed by the LICENSOR.

28. Inspection by Prospective Bidders. For purposes of informing and apprising that person or persons of the condition of the Premises preparatory to the proposed disposition thereof at the expiration of the term or earlier termination of this License Agreement, LICENSOR shall have the right to authorize any person or persons to enter upon and inspect the Premises at all reasonable times following an announcement at any of LICENSOR's public meetings of any proposed disposition of the Premises; provided, however, that any entry and inspection shall be conducted during reasonable hours after notice to enter is first given to LICENSEE, and shall, if LICENSEE so requires, be made in the company of LICENSEE or designated agents of LICENSEE.
29. Extension of Time. Notwithstanding any provision to the contrary, wherever applicable, LICENSOR, for good cause shown, may allow additional time beyond the time or times specified herein in which LICENSEE may comply, observe, and perform any of the terms, conditions, and covenants contained in this License.
30. Quiet Enjoyment. LICENSOR covenants and agrees with LICENSEE that, upon payment of rent at the times and in the manner specified and upon the observance and performance of the covenants, terms, and conditions hereof on the part of LICENSEE to be observed and performed, LICENSEE shall have, hold, possess, and enjoy the Premises for the term that the same are licensed to LICENSEE hereunder, without hindrance or interruption by LICENSOR or any other person or persons lawfully claiming by, through, or under LICENSOR.
31. Abandonment and Termination. If, after putting the Premises into service, LICENSEE abandons or ceases to use the Premises for a period of four (4) or more consecutive months, LICENSOR shall have the right to terminate this License Agreement. Any abandonment, termination, or cessation shall not affect or release any liability of LICENSEE at such time existing by reason of a breach of any of the terms hereof.
32. Non-warranty. LICENSOR does not warrant the condition of the Premises, as the same is being licensed "as is." LICENSEE assumes all risks incident to its use. Notwithstanding the foregoing or any other provision of this License Agreement, LICENSEE does not assume liability or responsibility for any hazardous material claims resulting from, arising out of, or relating to any hazardous materials on the Premises or hazardous discharge occurring prior to the date of this

License Agreement, and LICENSOR (and/or LICENSOR's predecessors in interest) shall be solely responsible for and in respect of any such hazardous materials claims.

33. LICENSEE's Risk. Any and all goods, wares, farm supplies, produce, equipment, and personal property of any kind or description that may be on the Premises at any time during the term of this License Agreement, regardless of ownership of such property, shall be at the sole risk and hazard of LICENSEE, and LICENSOR shall not be liable or responsible for any loss thereof or damage thereto caused by theft, vandalism, weather, water, defective electric wiring, fire, or by any other cause whatsoever.
34. Applicable Law; Severability. This License shall be governed by and interpreted in accordance with the laws of the State of Hawaii. If any provision of this License is held to be invalid or unenforceable, the validity or enforceability of the other provisions shall remain unaffected.
35. Costs of Litigation. If LICENSOR shall be made a party to any litigation commenced by or against LICENSEE (other than condemnation proceedings), without any fault on LICENSOR's part, LICENSEE shall pay all costs and expenses incurred by or imposed on LICENSOR, including, but not limited to, attorney's fees.

If LICENSEE shall be made a party to any litigation commenced by or against LICENSOR (other than condemnation proceedings), without any fault on LICENSEE's part, LICENSOR shall pay all costs and expenses incurred by or imposed on LICENSEE, including, but not limited to, attorney's fees; PROVIDED THAT, any such litigation arises out of any damage or personal injury resulting from wrongful or negligent acts or omissions of LICENSOR or LICENSOR's employees or agents while acting within the scope of their employment, and LICENSOR's liability for such damage or injury has been determined by a court or otherwise agreed to by LICENSOR. Unless otherwise determined by a court, LICENSOR shall pay for such costs and expenses to the extent that funds therefor have been authorized and appropriated by the Legislature of the State of Hawaii for such purpose and such funds have been allocated therefor by the executive budget process of the State of Hawaii.

36. Indemnity. LICENSEE shall indemnify, defend, and hold harmless the State of Hawaii, LICENSOR, and their officers, employees, and agents from and against any claim or demand for

loss, liability, damage, cost, expense, and attorneys' fees, including claims for property damage, personal injury, or wrongful death, arising out of any occurrence on the Premises and roadways adjacent thereto, or occasioned by any act or nuisance made or suffered on the Premises, or by any accident or fire thereon, or growing out of or caused by any failure on the part of LICENSEE to maintain the Premises in a safe condition, or by any act or omission of LICENSEE, and from and against all actions, suits, damages, and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms, covenants, and conditions herein or the laws, ordinances, rules, and regulations of the federal, state, or county governments. The provisions of this paragraph shall survive the expiration or earlier termination of this License.

37. Hunting. No hunting shall be allowed on the Premises during the term of this License.
38. Boundary Stakeout. LICENSOR shall not be responsible or liable for the surveying or boundary stakeout of the Premises. LICENSEE shall be solely responsible for any survey and boundary stakeout of the Premises.
39. Fences. LICENSEE shall, wholly at its own cost and expense, fence the whole or portion of the outside perimeter of the Premises if such fencing shall be required by LICENSOR or shall be so required by any law now in force or that may hereafter be enacted and LICENSEE shall and will maintain in good order and condition throughout the period of this License the fences so constructed and those now existing on the Premises.
40. Drainage Easements. The Premises shall be subject to drainage and flowage easements now of record or otherwise existing under law as and to the extent that the same are applicable to the Premises as of the commencement date of this License Agreement. The easement area(s) shall not be altered or used for any purposes which may obstruct flow or reduce the effectiveness of the drainage way, except with LICENSOR's prior written consent which may be conditioned upon appropriate measures undertaken by LICENSEE to divert, re-direct, retain, or detain any storm waters in a manner approved by LICENSOR. LICENSEE shall accept the storm runoff draining into and through the easement area(s), respectively, and shall be responsible for the maintenance and protection of

the drainage easements against deterioration or loss of functional effectiveness.

41. Roadway and Utility Easements. The Premises shall be subject to all existing roadway and utility easements, which easements shall be in favor of property owners served by such easements, and to any and all access and other easements over and across the Premises in favor of the Cooperative or any successor or substitute entity (including LICENSOR) necessary and appropriate for the operation and maintenance of the common infrastructure serving the Property, including the Premises; provided that LICENSEE may cross and may have access over and upon all such easements located on the Premises at any point.
42. Compliance with Laws. LICENSEE shall comply with the requirements of all federal, state, and county authorities and observe all federal, state, and county laws, ordinances, and rules pertaining to the Premises which are now in force or later may be in force.
43. Environmental Regulations. LICENSEE shall comply with all applicable federal, state, and county environmental impact regulations, including but not limited to Chapter 343, Hawaii Revised Statutes, as amended, and rules governing historic preservation. LICENSEE shall be responsible for obtaining all necessary federal, state, or county clearances.
44. Hazardous Materials. LICENSOR remains responsible under a prior agreement with the State Department of Land and Natural Resources for addressing any issue identified as having occurred prior to or during Kekaha Sugar's occupancy of the Premises as reported in the Phase 1 Environmental Assessment prepared by Clayton Group Services dated August 7, 2003 ("Clayton Report"). Any environmental issue occurring on Premises after the date of this License Agreement shall be the responsibility of LICENSEE.
 - (a) During the term of this License, LICENSEE shall not cause or permit the escape, disposal, or release of any hazardous materials, except as permitted by law. LICENSEE shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the Premises any such materials except to use in the ordinary course of LICENSEE's business, and then only after written notice is given to LICENSOR of

the identity of such materials and upon LICENSOR's consent, which consent may be withheld at LICENSOR's sole and absolute discretion. LICENSOR may, upon reasonable request and for reasonable cause, require testing of the Premises to ascertain whether or not there has been any release of hazardous materials by LICENSEE. In the event that the results of such testing establish that there has been a release of hazardous materials on the Premises by LICENSEE, LICENSEE shall, in addition to LICENSEE's other obligations hereunder, be responsible for the cost of such testing.

LICENSEE shall execute affidavits, representations, and the like from time to time at LICENSOR's request concerning LICENSEE's best knowledge and belief regarding the presence of hazardous materials on the Premises placed or released by LICENSEE. If LICENSEE at any time becomes aware of any past, present, or contemplated hazardous discharge or of any hazardous materials claims with respect to the Premises (other than those already disclosed in the Clayton Report) which could subject LICENSOR, LICENSEE, or the Premises to any liability or restrictions on ownership, occupancy, transferability, or use of the Premises under any hazardous materials laws, LICENSEE shall immediately advise LICENSOR thereof in writing and provide to LICENSOR such detailed reports thereof as may be reasonably requested by LICENSOR. LICENSOR shall have the right, in its sole discretion, to join and participate in, any settlements, remedial actions, or legal proceedings or actions initiated with respect to any hazardous materials claims.

- (b) LICENSEE shall be responsible for and shall indemnify, defend, and hold harmless LICENSOR and its employees, agents, successors, and assigns from and against any loss, damage, cost, expense, or liability directly or indirectly arising out of or attributable to the generation, manufacture, treatment, handling, refining, production, processing, storage, release, threatened release, discharge, disposal, or presence of hazardous materials occurring on, under, or about the Premises during the term of this License, including, without limitation: (1) all foreseeable and unforeseeable consequential damages; (2) the costs of any required or necessary repair, clean-up, or

detoxification of the Premises and of the preparation and implementation of any closure, remedial, or other required plans; (3) the costs of LICENSOR's investigation and handling of any hazardous materials claims, whether or not any lawsuit or other formal legal proceeding shall have been commenced with respect thereto; (4) the costs of LICENSOR's enforcement of this covenant, whether or not a lawsuit is brought therefore; and (5) all reasonable costs and expenses incurred by LICENSOR in connection with clauses (1), (2), (3), and (4) including, without limitation, reasonable attorney's fees.

(c) The provisions of this paragraph shall survive the expiration or earlier termination of this License.

45. Level One (1) Hazardous Waste Evaluation. At any time during the term or upon termination of this License, LICENSOR, for good cause, may require LICENSEE to conduct at LICENSEE's own expense, a Level One (1) Hazardous Waste Evaluation and a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency, the State Department of Health, the State Department of Agriculture, and the State Department of Land and Natural Resources, of any hazardous materials and hazardous materials claims attributable to the discharge of any hazardous materials on the Premise during the term of this License. The termination of this License will not be approved by LICENSOR unless this evaluation and abatement provision have been executed where required. This provision shall survive and continue in effect after termination of this License.
46. Soil Erosion. LICENSEE shall not engage in any activity that may result in soil erosion from water or wind. LICENSEE shall control soil erosion as completely as practicable by strip cropping and contouring, by filling in or otherwise controlling small washes or ditches that may form, and by adopting practices recommended by the Natural Resource Conservation Service (NRCS). Prior to the termination of this License, LICENSEE shall provide to LICENSOR a NRCS approved erosion control plan. The termination of this License will not be approved by LICENSOR unless LICENSEE is in full compliance with such plan to the satisfaction of NRCS and LICENSOR.
47. Encumbrances. This License is subject to all existing recorded and unrecorded encumbrances. At any time during the

term of this License, LICENSOR may create easements and encumbrances upon the Premises in addition to any easements and encumbrances which currently affect the Premises, provided that any such new easements or encumbrances do not unreasonably restrict or interfere with LICENSEE's use of the Premises.

48. Interpretation. The use of any gender shall include all genders. If there is more than one LICENSEE, all words used in the singular shall extend to all LICENSEES.
49. Paragraph Headings. The article and paragraph headings herein are inserted only for convenience and reference and shall in no way define, describe, or limit the scope or intent of any provision of this License.
50. [Reserved.]
51. [Reserved.]
52. Exhibits - Incorporation in License. All Exhibits referred to in this License are attached to this License and are hereby deemed incorporated by reference.

SPECIAL CONDITIONS:

53. Exclusion of Animals from Forest Lands. LICENSEE shall at all times during the License term keep its cattle, horses, and other grazing animals out of any forest reserve, if any, adjacent to the Premises and shall take all reasonable precautions to prevent forest fires, and, in the event fires occur, it shall use all reasonable means at its command or under its control to have the fires speedily extinguished.
54. Commercial Operations. LICENSEE, its employees, customers, guests, agents, and/or invitees shall not display or offer for sale or sell any article(s) or merchandise whatsoever within the Premises without the prior written approval of LICENSOR and upon such terms and conditions established by LICENSOR. No commercial activities whatsoever, including activities such as feedlots (excepting a private feedlot designed to feed LICENSEE's own cattle), dairy milking parlors, or boarding of horses, are permitted without the prior written approval of LICENSOR.

55. Abandoned Vehicles. LICENSEE shall take all steps necessary to prevent the placing or storing of abandoned vehicles within the Premises. Any and all abandoned vehicles within the Premises shall be removed by LICENSEE at LICENSEE's cost and expense.
56. Removal of Trash. LICENSEE shall be responsible for the removal of all illegally dumped trash within the Premises at LICENSEE's cost and expense.
57. Prehistoric and Historic Remains. In the event any unanticipated historic, prehistoric, or archaeological sites or remains, such as shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or walls are found on the Premises, LICENSEE and LICENSEE's agents, employees, and representatives shall immediately stop all land utilization and/or work and contact the Historic Preservation Office in compliance with Chapter 6E, Hawaii Revised Statutes, and shall notify LICENSOR of these events.
58. Land Clearing. The Premises have not had a completed archaeological inventory survey. If land clearing or land alteration should need to occur in gulches or wastelands (gullies, valleys, ridges, and mountains), the Historic Preservation Division (HPD) shall be contacted prior to any work. A field check will be required and shall be performed by the HPD staff archaeologist prior to any work. Clearing by hand is the preferred method of work. If the alteration activity is on a large or significant scale or historic sites are found, then LICENSEE shall have an archaeologist inventory survey performed by a qualified archaeologist prior to any work. A report documenting the archaeological work shall be submitted to the HPD for review and approval. The report shall include:
1. detailed drawings of burials and deposits to scale,
 2. sketches and photographs of all artifacts,
 3. analyses of all perishable and datable remains,
 4. stratigraphic profiles that are drawn and made to scale,
 5. an overall map of the project area, which includes the location of all historic sites,

6. initial significance evaluations for each historic site found, and

7. documentation on the nature and age of historic sites.

If significant historic sites are found, then proposed mitigation or preservation plans must be submitted for review and approval.

If burials are discovered, a burial treatment plan shall be prepared for burial discoveries encountered during work, all in accordance with Hawaii Revised Statutes Section 6E-43.

59. Wells. Prior to expiration of the term of the License Agreement, LICENSEE shall, at LICENSEE's sole cost and expense, properly seal any unused and abandoned wells on the Premises, if any, that were developed by LICENSEE or otherwise registered to and used by LICENSEE during the term of the License Agreement. Any such unused or abandoned wells shall be sealed in accordance with Hawaii Administrative Rule 13-168-16 and the Hawaii Well Construction & Pump Installations Standards (Revised 2004). LICENSEE shall make and obtain application(s) and well construction permits prior to the development of any wells and the start of any required work to seal any unused or abandoned wells.

60. Polihale Flood Diversion. LICENSEE shall be aware that the flood water flow in the irrigation ditch, which redirects floodwaters from portions of Mana Plain through the Polihale Park, causes washout of Polihale Road and sedimentation.

61. Agricultural Preservation Easement. LICENSEE shall be aware that approximately 5,000 acres of the Kekaha agricultural lands is situated within the Agricultural Preservation Easement, approved by the Board of Land and Natural Resources on May 12, 2004. To the extent applicable to the Premises, LICENSEE shall be in full compliance with the conditions and restrictions specified in the easement.

62. Audits. LICENSOR reserves the right, for purposes of conducting an audit, to examine, and to make copies of all books, accounts, records, and receipts of LICENSEE concerning its operations under this License.

63. Land Swapping. LICENSEE is allowed, but shall not be obligated, to swap land for uses consistent with its land

utilization plan with any other licensees or revocable permit holder of any portions of the Property at no cost to LICENSEE.

64. Passage and Access. LICENSEE shall not impede or restrict passage or access by other licensees or the Cooperative and its agent to other areas of the Property or to any common infrastructure serving the Property or any part thereof (including the Premises) that may be located on the Premises.
65. Holding Over. Any holding over by LICENSEE after the expiration of the term of this License with the consent of LICENSOR shall be construed to be a tenancy from month-to-month at the rent herein provided for the last year of the term of this License and shall otherwise be on the terms and conditions herein specified, so far as applicable.
66. Cropping Changes. LICENSEE shall consult with and obtain prior approval from LICENSOR before adding or making changes to the type of crops to be grown as specified in its original business plan submitted with the license application.
67. Recordation. LICENSOR and LICENSEE agree that this License Agreement or a short form or memorandum hereof may be recorded in the Bureau of Conveyances of the State of Hawaii or with the Assistant Registrar of the Land Court of the State of Hawaii, as applicable, to give notice of this License Agreement to third parties and of the license of the Premises granted hereunder by LICENSOR to LICENSEE for the term specified herein.

DEFINITIONS

As used in this License Agreement, unless the context otherwise requires:

"Property" means the approximately 12,500 acres of land set aside to LICENSOR under Governor's Executive Order No. 4007, as modified by Governor's Executive Order Nos. 4034 and 4165, dated September 16, 2003, including buildings and improvements.

"Premises" includes the land hereby licensed by LICENSOR to LICENSEE and all buildings and improvements now or hereinafter constructed and installed thereon except for any buildings or improvements specifically excluded from the description of the Premises in the License Agreement.

"Sub-licensing," includes any long-term or short-term rental of the property to a third party.

"Drainage easements" and "flowage easements" mean natural or improved drainage courses that serve to convey stream flows from one point to another.

"Hazardous materials" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil, including any and all flammable explosives, radioactive materials, asbestos, petroleum and oil and their products, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule,

or by-law, whether existing as of the date hereof, previously enforced, or subsequently enacted.

"Hazardous discharge" means any event involving the use, deposit, disposal, spill, release, or discharge of any hazardous materials on, within, or under the Premises.

"Hazardous materials claims" means and includes: (i) any and all enforcement, clean-up, removal, mitigation, or other governmental or regulatory actions instituted or, to the best of LICENSEE's knowledge, contemplated or threatened, with respect to the Premises pursuant to any hazardous materials laws, and (ii) any and all claims made or, to the best of LICENSEE's knowledge, contemplated or threatened by any third party against LICENSEE or the Premises seeking damages, contribution, cost recovery, compensation, injunctive relief, or other relief resulting from any hazardous discharge or from the existence of any hazardous materials on, within, or under the Premises.

"Hazardous materials laws" means and includes all federal, state, and local laws, ordinances, and regulations now or hereafter in effect relating to environmental conditions, industrial hygiene and/or hazardous materials on, within, under, or about the Premises, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, et seq., the Resource

Conservation and Recovery Act, 42 U.S.C. §6901, et seq., the Hazardous Materials Transportation Act 49 U.S.C. §1801, et seq., the Clean Water Act, 33 U.S.C. §1251, et seq., the Clean Air Act, 42 U.S.C. §7401, et seq., the Toxic Substances Control Act, 15 U.S.C. §§2601 through 2629, the Safe Drinking Water Act, 42 U.S.C. §§300f through 300j, the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. §§11011 through 11050, the Environmental Response Law, Chapter 128D, Hawaii Revised Statutes, and any similar state or local laws, ordinances, and the regulations now or hereafter adopted, published, and/or promulgated pursuant thereto.

"LICENSEE" includes LICENSEE, its heirs, personal representatives, executors, administrators, successors, and permitted assigns.

"Waste" includes (1) permitting the Premises or any portion thereof to become unduly eroded or failure to take proper precautions or make reasonable effort to prevent or correct same; (2) permitting any material increase in noxious weeds or alien plant species in or on the Premises or any portions thereof; (3) failure to employ all of the usable portions of the Premises; and (4) abandonment of the Premises.

"Days" shall mean calendar days, unless otherwise specified.

THIS LICENSE AGREEMENT IS SUBJECT TO THE PROVISIONS OF THE
ADDENDUM ATTACHED HERETO, WHICH MODIFIES CERTAIN OF THE
FOREGOING PROVISIONS OF THIS LICENSE. IN CASE OF ANY CONFLICT
BETWEEN THE FOREGOING PROVISIONS AND THE PROVISIONS OF THE
ADDENDUM, THE PROVISIONS OF THE ADDENDUM SHALL BE CONTROLLING.

IN WITNESS WHEREOF, the parties hereto have caused these
presents to be executed this 4th day of December,
2007.

LICENSOR

STATE OF HAWAII, AGRIBUSINESS DEVELOPMENT CORPORATION

By



Executive Director

LICENSEE

SYNGENTA SEEDS, INC.,
a Delaware corporation

By



Its Plant Manager

By



Its Head of Hawaii Seeds Operation

APPROVED AS TO FORM:

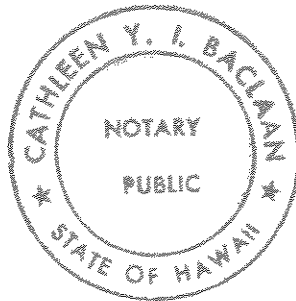


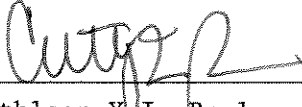
Deputy Attorney General

Dated: 12/4/07

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 29th day of November, 2007, before me personally appeared MARK T. WALL to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.




Cathleen Y. I. Baclaan
Notary Public, State of Hawaii

My commission expires: 04/12/2008

ADDENDUM

The foregoing License Agreement and the provisions thereof shall be subject to the following provisions of this Addendum, and, in the event of any conflict between the foregoing terms of the License Agreement and this Addendum, the provisions of this Addendum shall be controlling. Unless otherwise specified, any capitalized terms used in this Addendum shall have the same respective meanings given to such capitalized terms in the License Agreement.

1. Use. LICENSOR acknowledges that LICENSEE is involved in various types of agribusiness research and development aimed at increasing the quality, yield, productivity, and sustainability of various fruit, vegetable, and seed crops, and that certain aspects of the research and development conducted by LICENSEE involves the utilization of so-called "genome science" and other forms of biotechnology to develop genetically modified crops that, among other attributes, are potentially more resistant to insect pests, have higher levels of herbicide tolerance, and produce greater yields. These aspects of LICENSEE's research and development are subject to regulation by various governmental agencies, including specifically the United States Food and Drug Administration ("FDA") and United States Department of Agriculture ("USDA"). Research and development relating to these types of crops (referred to as "Regulated Crops") is conducted by LICENSEE in accordance with local, state, and federal regulations. LICENSEE also conducts research and development involving crops that are not subject to regulation by any governmental authorities (referred to as "Non-Regulated Crops"). The Premises shall be used solely for agricultural activities, including the planting and cultivation of corn, soy beans, cotton, wheat, sweet corn, specialty green bean crops, maize, and other vegetable crops, the planting and cultivation of both Regulated Crops and Non-Regulated Crops in connection with agricultural research and development, and other similar activities.
2. Ownership of Crops. LICENSOR hereby acknowledges and agrees that, because of the nature of the research and development engaged in by LICENSEE, including research and development involving Regulated Crops, any and all crops that LICENSEE

plants and cultivates on the Premises must and shall remain the sole, absolute, and exclusive property of LICENSEE, and that LICENSOR shall have no rights in or claims against any such crops, whether in the form of a landlord's lien or otherwise, even in the event of any default hereunder by LICENSEE. The Regulated Crops and Non-Regulated Crops cultivated by LICENSEE on the Premises shall be disposed of in the manner more particularly specified below.

3. Assignment. If LICENSEE's stock or other equity interests are listed and traded on a recognized national exchange, the transfer of any shares of stock of Licensee, including shares constituting control of Licensee, shall not be considered an assignment of this License Agreement and shall not require LICENSOR's consent.
4. Insurance. LICENSEE is generally self-insured, and, in connection with the execution of this License Agreement, and in lieu of any insurance required under Paragraphs 22 and 23 of the License Agreement, will furnish LICENSOR with evidence of financial responsibility to pay any losses that would otherwise be covered by the comprehensive general liability and hazard insurance required under the License Agreement. LICENSEE agrees to indemnify and hold harmless LICENSOR from any and all claims, demands, losses, liabilities, damage, costs, expenses, liens, charges, assessments, fines, and penalties of any kind and all court costs and reasonable attorneys' fees arising out of and relating to this License Agreement and LICENSEE's activities on or related to the Premises.
5. Paragraphs 24, 25, and 28 - Right of Entry and Inspections. In light of the nature of LICENSEE's research and development activities, LICENSOR's right to have reasonable access to the Licensed Premises for purposes of inspecting the same shall be subject to the requirement that LICENSOR shall give LICENSEE prior written notice of at least seventy-two (72) hours of any such inspection, and LICENSOR shall conduct such inspections in accordance with such reasonable guidelines as LICENSEE shall provide to protect the security and integrity of such research and development activities.
6. Disposal of Regulated Crops. LICENSEE hereby assumes sole and exclusive responsibility for the disposal of any and all Regulated Crops cultivated on any portions of the Premises. In the event that any portions of the Premises have been most recently cultivated with Regulated Crops, LICENSEE shall, following harvesting of such crops, dispose of any residual plant material in accordance with all local, state, and federal regulations, including, without limitation, mechanically tilling under and burying any plant stalks or residue, and/or treating plant material in such fields with herbicides. LICENSEE shall thereafter monitor such fields to

ensure that there is no regeneration or renewed growth of any such Regulated Crops.

Notwithstanding Paragraphs 26 and 27 of the License Agreement, LICENSOR understands, acknowledges, and agrees that, in the event of any withdrawal of any portion of the Premises pursuant to Paragraph 27 of the License Agreement, or upon expiration of the term or earlier termination of this License Agreement, including by reason of any default on the part of LICENSEE, any portions of the Premises that have been most recently cultivated with Regulated Crops shall not be released and surrendered to or withdrawn by LICENSOR, and LICENSOR shall not have any right to withdraw, enter upon, take possession of, or otherwise repossess same, until such time as LICENSEE certifies that such fields are free from possible regeneration or renewed growth of the Regulated Crops in issue.

Following the harvesting of any Regulated Crops on any portions of the License Premises, LICENSEE shall be required to proceed with all deliberate speed to mechanically till under and bury any plant stalks or residue or otherwise treat such fields with herbicides to ensure that such fields are free from possible regeneration or renewed growth of the Regulated Crops in issue. In the event that LICENSEE requires additional time beyond the expiration or termination of this License Agreement to render the Premises free from possible regeneration or renewed growth of Regulated Crops, LICENSOR shall allow LICENSEE to remain in possession of the Premises, on a month-to-month basis, upon the same terms and conditions as set forth in this License Agreement, for the sole purpose of taking whatever actions are appropriate to ensure that there is and will be no regeneration or renewed growth of the subject Regulated Crops on the fields or portions of the Premises in question.

7. Paragraph 62 -- Audits. Notwithstanding Paragraph 62 of the License Agreement, LICENSOR shall not be entitled to examine or make copies of any of LICENSEE's confidential proprietary business information, trade secrets, patents, copyrights, or other intellectual property in connection with any audits or inspections of the Premises or any audits or inspections of LICENSEE's books, accounts, records, and receipts concerning LICENSEE's operations on the Premises covered by the License Agreement.
8. Deletion/Return Right. LICENSEE shall have the right at any time during the term of the License Agreement to delete all or a portion of Fields 601, 602, 611, 612, 613, and 621 from the License Agreement and to return such fields to LICENSOR, in which event such deleted fields shall be deleted from the coverage of the License Agreement and LICENSEE shall thereafter have no obligations with respect to the deleted

fields, including any obligation to pay any license fees relating thereto.