

## SETTLEMENT AGREEMENT

### BY AND BETWEEN

This settlement agreement ("Settlement Agreement") is dated 20 April 2018:

### PARTIES

- (1) **Beta Renewables S.p.A.**, a company duly established under Italian law, with registered office in Tortona (Alessandria), Strada Ribrocca 11, VAT number and number of registration with the Companies' Register of Alessandria 02232720066, represented herein by its legal representative Dr. Dario Giordano ("Beta");
- (2) **Biochemtex S.p.A.**, (previously Chemtex Italia S.p.A.) a company duly established under Italian law, with a sole shareholder, with registered office in Tortona (Alessandria), Strada Ribrocca 11, VAT number and number of registration with the Companies' Register of Alessandria 04740320967, represented herein by its legal representative Dr. Giovanni Bolcheni ("Biochemtex");
- (3) **GranBio LLC** (previously Graal Bio LLC), a company duly established under the laws of Delaware (U.S.), with registered office in Atlanta, 3625 Cumberland Boulevard SE Suite 1000, GA 30339-6403 – U.S.A., VAT number 322475575, represented herein by its legal representative Mr. Bernardo Gradin ("GranBio");
- (4) **Bioflex Agroindustrial S.A.** (previously Bioflex Agroindustrial Ltda), a company duly established under Brazilian law, with registered office in Av. Brigadeiro Faria Lima, 2277 15<sup>th</sup> Floor, CEP 01452-000, Sao Paulo, Brazil, enrolled with the Brazilian Taxpayer Number under n. 13.808.130/0001-05, represented herein by its legal representatives Mr. Carlos Arruti Rey and João Baptista Emiliano Farah ("Bioflex");
- (5) **GranBio Investimentos S.A.**, a company duly established under Brazilian law, with registered office at Av. Brigadeiro Faria Lima, 2277 15<sup>th</sup> Floor, CEP 01452-000, Sao Paulo, Brazil, Brazil, enrolled with the Brazilian Taxpayer Number under n. 14.191.427/0001-29, represented herein by its legal representative Mr. Bernardo Gradin ("GranBio Investimentos");
- (6) **Beazley Staff Underwriting Ltd** for and on behalf of Lloyd's Syndicate 2623 and **Beazley Underwriting Ltd** for and on behalf of Lloyd's Syndicate 0623, with registered office at Plantation Place South, 60 Great Tower Street, London EC3R 5AD, United Kingdom, represented herein by their authorised representative Anthony Kerr (together, "Beazley");



- (7) **Markel Syndicate Management Limited** (in its capacity as managing agent for Lloyd's Syndicate 3000), with registered office at 20 Fenchurch Street, London EC3M 3AZ, United Kingdom, represented herein by its authorised representative Jennifer Smith ("**Markel**");
- (8) **AMTrust Syndicates Limited** (in its capacity as managing agent for Lloyd's Syndicate 1206), with registered office at 47 Mark Lane, London, EC3R 7QQ, United Kingdom, represented herein by its authorised representative Tom Maloney ("**AMTrust**").

Hereinafter, Beta, Biochemtex, GranBio, Bioflex and GranBio Investimentos will be collectively referred to as "**Parties**" and individually as "**Party**."

Hereinafter, Beazley, Markel and AMTrust will be collectively referred to as "**Primary Insurers**".

**M&G Finanziaria S.p.A.** (previously, M&G Finanziaria S.r.l.), a company duly established under the laws of Italy, with registered office in Strada Ribrocca 11 – 15057 Tortona (Alessandria), Italy, VAT number 02098590066, represented herein by its legal representative Dr. Vittorio Ghisolfi, is not a party to this Settlement Agreement. However, pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999, M&G Finanziaria S.p.A. ("**M&G Fin.**") is a beneficiary of this Settlement Agreement, entitled to all of its benefits, including a release from all of liabilities and may, in its own right, enforce all of its terms.

#### RECITALS

Whereas:

- A. Beta is the owner of a technology to produce fuel grade ethanol from energy crops and agricultural residues that is better described in **Exhibit 1 ("Proesa Technology")**. Proesa Technology originally included the patents listed in **Exhibit 2 ("First Patents")**. Following further development of Proesa Technology by Beta after May 2012, Beta filed and/or registered the patent applications / patents listed in **Exhibit 3 ("Second Patents")**. Beta owns the First and Second Patents. For the avoidance of any doubt, the definition of Proesa Technology in this Settlement Agreement does not include the Second Patents;
- B. Biochemtex is a company experienced in engineering, procurement and construction of chemical plants;
- C. On May 15, 2012, Beta and Graal Bio LLC (now GranBio) entered into a license agreement, by which Beta licensed the Proesa Technology (including the First Patents) to GranBio to design, procure, construct, operate and maintain a commercial manufacturing facility in Brazil (Sao Miguel dos Campos – State of Alagoas – "**Brazilian Plant**") to produce maximum 65 kt/y of cellulosic ethanol ("**License Agreement**" - **Exhibit 4**);



- D. On May 15, 2012, Chemtex Italia S.p.A. (now Biochemtex) and Bioflex Agroindustrial Ltda (now Bioflex) entered into two separate agreements: (i) the basic engineering and technical services agreement by which Biochemtex undertook to provide Bioflex with basic design and engineering information for the construction and operation of the Brazilian Plant ("**BETS Agreement**" - **Exhibit 5**); (ii) the equipment supply agreement by which Biochemtex undertook to provide Bioflex with certain critical equipment for the construction and operation of the Brazilian Plant ("**Supply Agreement**" - **Exhibit 6**). Hereinafter, the License Agreement, BETS Agreement and Supply Agreement will be collectively referred to as the "**Proesa Agreements**";
- E. A dispute arose between the Parties in relation to the Proesa Agreements, including, without limitation, as to (i) the alleged inability of the Brazilian Plant to achieve stable operations and perform in accordance with the License Agreement; (ii) the services provided by Biochemtex under the BETS Agreement; (iii) the equipment supplied by Biochemtex under the Supply Agreement; (iv) the liability of M&GFin. for the matters set out in this Recital E (i) to (iii) above; and (iv) the non-payment of certain invoices by GranBio and BioFlex under the Proesa Agreements ("**Disputes**");
- F. On April 7, 2016, GranBio and Bioflex filed a request for arbitration with the International Court of Arbitration of the International Chamber of Commerce ("**ICC**") against Beta and Biochemtex (ICC Case No. 21856/TO - "**Arbitration**") in relation to the Disputes. GranBio and Bioflex sought damages in excess of USD 85,000,000.00 in relation to their claims against Beta and Biochemtex;
- G. On May 19, 2016, Beta and Biochemtex filed separate responses to the request for arbitration and, *inter alia*: (i) objected to the jurisdiction of the International Court of Arbitration of the International Chamber of Commerce in the Arbitration on the basis that GranBio and Bioflex could not bring claims against Beta and Biochemtex in a single arbitration proceeding; (ii) rejected the claims brought by GranBio and Bioflex in the request for arbitration; and (iii) filed counterclaims against GranBio and BioFlex for the payment of several outstanding invoices, related to the Proesa Agreements and, in particular, USD 4,108,578.00 due by GranBio to Beta and USD 3,588,213.11 due by Bioflex to Biochemtex;
- H. On June 23, 2017, GranBio, Bioflex and GranBio Investimentos ("**Plaintiffs**") filed an application before the First Civil Court of the city of Sao Paulo Miguel Dos Campos for the early production of evidence against M&G Fin. on the basis of the inability of the Brazilian Plant to achieve stable operations and the inability to meet the performances set out in the License Agreement. The application requested the production of technical evidence to be carried out by a court-appointed expert with expertise in chemical engineering (Case no. 0700751-57.2017.8.02.0053 - "**Brazilian Proceedings**");



- I. On September 20, 2017, M&G Fin. filed its response in the Brazilian Proceedings and rejected the claims. M&G Fin. objected, *inter alia*, that (i) M&G Fin. had no relationship with the Plaintiffs; (ii) the International Court of Arbitration of the International Chamber of Commerce in the Arbitration is the only body with jurisdiction over the claims raised in the Brazilian Proceedings; (iii) the claims were wrongly directed at M&G Fin; (iv) the claims lack the procedural requirements for the production of the technical evidence; (v) the Plaintiffs lacked a procedural interest in the claims; and (vi) should the production of evidence take place, M&G Fin. reserved a right to submit queries to the expert;
- J. Since the commissioning of Bioflex plant in 2014, GranBio and Bioflex carried out several modifications to the Brazilian Plant, in particular, ceasing to use the two-step configuration of the Proesa Technology, changing the 25% total solids and 19-hour residence time of the enzymatic hydrolysis, changing the fermentation/propagation process and repurposing certain equipment, as described in a letter sent by GranBio to Beta and Biochemtex, dated 28/03/18 ("**GranBio Letter**" - Exhibit 7). The new technical solutions adopted in the Brazilian Plant include, but are not limited to, new configurations to the pre-treatment system, new heat exchange equipment, a new hydrolysis system, a new fermentation/propagation process, a new effluent system with a vinasse evaporator, repurposing of equipment and other changes ("**New Technical Solutions of the Brazilian Plant**" - Exhibit 8);
- K. Mossi & Ghisolfi International S.a.r.l. has entered into the professional indemnity insurance policy no. 1902736 ("**Primary Policy**") with Primary Insurers and the professional indemnity insurance policies nos. 1902737 ("**First Excess Policy**") and 1902738 ("**Second Excess Policy**") with other insurers (respectively: "**First Excess Insurers**" and "**Second Excess Insurers**" - Primary Insurers, First Excess Insurers and Second Excess Insurers collectively also "**Insurers**"). Beta, Biochemtex and M&G Fin. are named insured under the Primary Policy, the First Excess Policy and the Second Excess Policy (collectively also "**Policies**");
- L. Insurers have not provided any confirmation of coverage under the Policies to Beta, Biochemtex and M&G Fin. in relation to any matter contained in the Disputes, the Arbitration and/or the Brazilian Proceedings;
- M. The Parties now desire to achieve full and final settlement of the Disputes, including the Arbitration and the Brazilian Proceedings, and to minimize the risk that similar disputes will arise in the future.

#### AGREED TERMS

Now therefore, the Parties hereby agree as follows:

##### 1. RECITALS AND EXHIBITS

1.1. The Recitals and Exhibits set out in Art. 11.9 below form an integral part of the Settlement Agreement.





## 2. UNDERTAKINGS OF THE PARTIES AND OF INSURERS

2.1. The entry into force of this Settlement Agreement is subject to and conditional upon the fulfillment of the conditions precedent set out at Article 8.1 below. Within seven (7) days from the entry into force of this Settlement Agreement, Primary Insurers will pay the total lump-sum amount of US\$ 25,000,000 (Twenty Five Million Dollars) (which the Parties agree is in full and final settlement and includes all interest, costs, taxes and the like) and, in particular, US\$ 6,000,000.00 to GranBio and US\$ 19,000,000.00 to Bioflex under the terms and the conditions set forth in the following Art. 3 of the Settlement Agreement ("Payment");

2.2 With the entry into force of this Settlement Agreement:

- a) Beta and GranBio will amend the License Agreement (Exhibit 4) as indicated in Art. 4 of this Settlement Agreement;
- b) Beta will grant 2 (two) non-exclusive and non-transferrable licenses of the First Patents and the Second Patents to GranBio so that GranBio may, at its discretion, construct two new plants in Brazil ("Two New Plants") under the terms and the conditions set forth in the separate agreement herewith attached as Exhibit 9 ("Further License Agreement"); and
- c) The Parties will withdraw all claims and counterclaims in the Arbitration and Brazilian Proceedings in accordance with Art. 6 of this Settlement Agreement.

## 3. PAYMENT

3.1. Primary Insurers will make the Payment to the following bank accounts:

For GranBio (US\$ 6,000,000.00):

Bank: Itaú Unibanco SA, New York Branch – NY - USA

Account: 3470622106

ABA: 026002613

For Bioflex (US\$ 19,000,000.00):

Beneficiary Bank: Itaú Unibanco SA / Sao Paulo / Brazil – Swift Code ITAUBRSPNHO – Account 3544030205001

Intermediary Bank: Standard Chartered Bank / New York / USA – Swift Code SCBLUS33 – ABA 026002561

Additional Information: Branch 4005 and Account 00603-8

3.2. This Settlement Agreement will release Beta, Biochemtex and M&G Fin. in full from all other liabilities to GranBio, Bioflex and subsidiary companies, in accordance with Article 6.5 below.

3.3 A separate agreement is entered into by and between Beta, Biochemtex and M&G Fin., on the one side, and Insurers, on the other side, settling all respective obligations, claims, requests and

demands in relation to or having any connection with the facts set forth in the Recitals, the Disputes, the Arbitration and the Brazilian Proceedings, the GranBio Letter and the New Technical Solutions of the Brazilian Plant,

- 3.4. GranBio and Bioflex retain all rights to pursue their own insurers (construction, engineering and operational risks) ("GranBio Claims") including local insurers in the Brazilian market (the Brazilian Insurers). GranBio, Bioflex and GranBio Investimentos hereby agree to indemnify and keep indemnified Beta and/or Biochemtex and/or M&G Fin. (and/or any entity controlled, directly and/or indirectly, by M&G Fin.) and/or the Insurers against all and any costs and damages (including all legal costs and expenses) incurred in the event that any party, including but not limited to the Brazilian Insurers, seeks to pursue Beta and/or Biochemtex and/or M&G Fin. (and/or any entity controlled, directly and/or indirectly, by M&G Fin.) and/or the Insurers in relation to the GranBio Claims, whether following any settlement, by means of subrogation, or otherwise.
- 3.5 Upon the entry into force of this Settlement Agreement, GranBio, Bioflex and GranBio Investimentos acknowledge that, notwithstanding the Payment, they do not have, never had and will never have any right, claim, request and/or demand whatsoever against Insurers in relation to or having any connection with the facts set forth in the Recitals, the Disputes, the Arbitration and the Brazilian Proceedings, the GranBio Letter and the New Technical Solutions of the Brazilian Plant, as well as the Policies.

#### 4. LICENSE AGREEMENT

- 4.1. As set out in Art. 2.2(a) above, Beta and GranBio agree to amend the following terms of the License Agreement (Exhibit 4):
- a) Delete Articles 2 and 3 of the License Agreement. For the avoidance of any doubt, no further fee and/or sum will be due by GranBio and GranBio shall have no right to request the restitution of any fee and/or sum already paid in the performance of the License Agreement.
  - b) Replace the definition of "Patent Rights" as follows:  
  
*"means any and all patents listed in Annex 2 hereof."*
  - c) Delete Art. 10, 11, 13.4, 13.5 and 13.6, of the License Agreement in order to release Beta from any liability under those provisions and under Art. 28.3 of the License Agreement (Exhibit 4).
  - d) Replace Art. 12.1 as follows:  
  
*"Supplier gives no warranties or guarantees, either expressed or implied, with reference to the Proesa Technology and/or the Technical Information, that are licensed to Recipient on an "as is" basis. In particular, by way of example and without limitation, Supplier does not warrant or guarantee: a) the merchantability or fitness of the Proesa Technology and/or of the Technical Information for a particular purpose, b) that the Proesa Technology and/or the Technical*



Information will allow Supplier to design, procure, construct, operate and/or maintain the Plant, and/or to produce ethanol, c) that the Plant will meet specific performance levels, d) that the Plant will produce ethanol of a certain quality, and e) that the Proesa Technology and/or the Technical Information do not infringe third parties' rights."

- e) Replace Art. 15.2 as follows:

*"In the event that Supplier makes any improvement with regard to the PROESA™ Process Technology or the Patent Rights or Technical Information licensed hereunder, such improvement shall be the exclusive property of Supplier."*

- f) Replace Art. 15.3 as follows:

*"In the event that Recipient makes any improvement with regard to the process being operated by Recipient in the Plant, such improvement shall be the exclusive property of Recipient and Recipient can freely license such improvement to any third party with no fees due to Supplier and/or Contractor or their successors."*

*For the avoidance of doubt, the improvements to which this article 15.3 refer are the ones that have been developed and implemented by Recipient at the Plant with no participation from Supplier and/or Contractor at any time between the Date of Start-Up and 18 April 2018 and that are described in Annex 9".*

- g) Replace Art. 20.2 as follows:

*"Recipient expressly consents to the assignment and/or transfer of this Agreement by Supplier to any third party that will eventually result as the owner of the Patent Rights and/or of the Technical Information and/or of the Proesa Technology as a result of a competitive procedure pursuant to Art. 163 bis of the Italian Bankruptcy Law (R.d. 16.3.1942 n. 267)".*

- h) Replace Art. 28.2 as follows:

*"Annexes 1 to 9 are integral part of and shall have the same force as this Agreement itself. However, in the event of any inconsistency between the Annexes and the Definitions and/or Articles 1 to 28, the Definitions and Articles 1 to 28 shall prevail."*

- 4.2. All the above mentioned deletions or amendments to the License Agreement shall become effective as from the entry into force of the Settlement Agreement.

## **5. ACKNOWLEDGEMENTS OF BETA AND BIOCHEMTEX**

- 5.1. Beta and Biochemtex, only for settlement purposes and on the basis of the examination of Exhibit 7,



agree that the New Technical Solutions of the Brazilian Plant (Exhibit 8), to the best of their knowledge: (i) do not infringe the First Patents (Exhibit 2) and Second Patents (Exhibit 3); (ii) are the exclusive property of GranBio, GranBio Investimentos and BioFlex; and (iii) can be freely licensed by GranBio, GranBio Investimentos and BioFlex to any third parties, with no fees due to Beta and Biochemtex or their successors.

- 5.2. GranBio, Bioflex and GranBio Investimentos grant Beta and Biochemtex the right to visit the first plant, other than the Brazilian Plant and the Two New Plants in which the New Technical Solutions of the Brazilian Plant is or will be used ("First Possible Plant"), in order to verify whether the technology in the First Possible Plant use the First Patents and/or the Second Patents. For this purpose, in order to visit the First Possible Plant, Beta and Biochemtex only need to give GranBio and/or Bioflex and/or GranBio Investimentos and/or to third parties that will own the First Possible Plant 10 (ten) business days written notice.
- 5.3 Any visit(s) to the First Possible Plant shall be conducted on business days between 9am and 5pm and should not affect the normal activity of the plant. The right of visitation in Art. 5.2 will last for 5 (five) years from the date of entry into force of this Settlement Agreement and for a maximum total of 3 (three) visits per year by Beta and/or Biochemtex.
- 5.4 GranBio, Bioflex and GranBio Investimentos will use their best efforts to ensure that any sale and/or license and/or sub-license agreements with third parties regarding the New Technical Solutions of the Brazilian Plant in the First Possible Plant will include this right of visitation for Beta and/or Biochemtex.
- 5.5. If, during the visits indicated in Art. 5.2., Beta and/or Biochemtex become aware of any infringement of the First Patents and/or of the Second Patents by GranBio, Bioflex and/or GranBio Investimentos and/or by third parties' using the New Technical Solutions of the Brazilian Plant, they will promptly inform GranBio and/or Bioflex and/or GranBio Investimentos and the Parties will use reasonable endeavours to find a solution in good faith that may include a possible license agreement between the Parties or between some of them in relation to the infringed patent.

6. **DISPOSAL OF CLAIMS AND COUNTERCLAIMS IN THE ARBITRATION AND THE BRAZILIAN PROCEEDINGS**

- 6.1. Within five (5) business days of GranBio's and Bioflex's receipt of the Payment
- a) GranBio, Bioflex, Beta and Biochemtex shall irrevocably instruct their respective legal representatives in the Arbitration to request an Award by Consent in the agreed form at Exhibit 10 (the "Award by Consent"). Each of GranBio, Bioflex, Beta and Biochemtex shall instruct and procure that a copy of the agreed form letter at Exhibit 11 is signed by the legal representatives acting for them in the Arbitration and sent to the ICC.
  - b) GranBio, Bioflex and GranBio Investimentos shall withdraw the Brazilian Proceedings pursuant to art. 487(III)(c) of the Brazilian Code of Civil Procedure. In their motion requesting withdrawal

of the Brazilian Proceedings based on said provision, GranBio, Bioflex and GranBio Investimentos shall include wording stating that they not only waive the right to produce evidence and other rights upon which the Brazilian Proceedings is based, but specific wording stating that they also unconditionally and permanently release and forever discharge M&G Fin. as well as any entity that is controlled, directly and/or indirectly, by M&G Fin. to the fullest extent permitted by law, of any dispute, difference, controversy or claim of any kind, whether in law or equity, in this jurisdiction or any other, known or unknown, asserted or unasserted, arising out of, relating to or having any connection with the Proesa Agreements, the Disputes and the Brazilian Proceedings, that GranBio, Bioflex and GranBio Investimentos may have against M&G Fin. as well as against any entity that is controlled, directly and/or indirectly, by M&G Fin. The procedural costs of the Brazilian Proceedings shall be borne only by GranBio, Bioflex and GranBio Investimentos. GranBio and Bioflex will bear its own costs and expenditures with respect to attorney fees, expert fees and other related costs, while M&G Fin will bear its own costs and expenditures with respect to attorney fees, expert fees and other related costs incurred and to be incurred with regard to the Brazilian Proceedings.

- 6.2 For the avoidance of doubt, GranBio, Bioflex, Beta and Biochemtex agree that the Award by Consent shall be a final, binding and non-appealable determination, and in agreeing such Award by Consent GranBio, Bioflex, Beta and Biochemtex have waived any and all rights they may have to (i) challenge the jurisdiction of the arbitral tribunal for any reason whatsoever, (ii) challenge the Award by Consent on grounds of jurisdiction or for any other reason and (iii) resist enforcement of the Consent Award for any reason and in any jurisdiction.
- 6.3 GranBio, Bioflex, Beta and Biochemtex agree that none of the grounds for refusal of recognition and enforcement set out in Article V of the Convention on the Recognition of Foreign Arbitral Awards apply.
- 6.4 GranBio, Bioflex, Beta and Biochemtex agree that the Parties will request that the ICC Secretariat fix the costs of the arbitration, which will be borne equally by the Parties up to the amount already paid by the Parties. GranBio and Bioflex will bear any remaining costs of the Arbitration above the amount already paid by the parties. GranBio and Bioflex will bear each its own costs and expenditures with respect to attorney fees, expert fees and other related costs, while Beta and Biochemtex will bear each its own costs and expenditures with respect to attorney fees, expert fees and other related costs incurred and to be incurred with regard to the Arbitration;
- 6.5. Upon receipt of the Payment, the Parties shall immediately, unconditionally, and permanently release and forever discharge each other, to the fullest extent permitted by law, of any dispute, difference, controversy or claim of any kind, whether in law or equity, in this jurisdiction or any other, known or unknown, asserted or unasserted, arising out of, relating to or having any connection with the Proesa Agreements, the Disputes, the Arbitration, or the Brazilian Proceedings, that either Party may have against the other as of the date of entry into force of this Settlement Agreement. For the avoidance of





doubt, GranBio is not liable for any past or future payments or fees under Articles 2-3 of the License Agreement (Exhibit 4) (which are to be deleted pursuant to Art. 4.1(a) above). Moreover, upon receipt of the Payment, GranBio, Bioflex and GranBio Investimentos shall immediately, unconditionally, and permanently release and forever discharge M&G Fin. as well as any entity that is controlled, directly and/or indirectly, by M&G Fin. to the fullest extent permitted by law, of any dispute, difference, controversy or claim of any kind, whether in law or equity, in this jurisdiction or any other, known or unknown, asserted or unasserted, arising out of, relating to or having any connection with the Proesa Agreements, the Disputes and the Brazilian Proceedings, that GranBio, Bioflex and GranBio Investimentos may have against M&G Fin. as well as against any entity that is controlled, directly and/or indirectly, by M&G Fin. as of the date of entry into force of this Settlement Agreement.

## **7. GOVERNING LAW AND DISPUTE RESOLUTION**

- 7.1 This Settlement Agreement, including Clause 7.2 and any non-contractual obligations arising out of or in connection with it shall be governed by English law.
- 7.2 Any dispute, claim, difference between the Parties and/or M&G Fin. arising out of, relating to or having any connection with this Settlement Agreement, including any dispute as to its existence, validity, interpretation, performance, breach or termination, or the consequences of its nullity and any dispute relating to any non-contractual obligations arising out of or in connection with it shall be submitted to the exclusive jurisdiction of the courts of England and Wales.

## **8. CONDITIONS PRECEDENT TO THE SETTLEMENT AGREEMENT**

- 8.1. This Settlement Agreement shall enter into force and effect subject to and after the fulfilment of all the following conditions precedent:
- i. the filing by Beta and Biochemtex, by April 23, 2018, of a *concordato preventivo* proposal ("**Concordato Proceeding**") providing for the settlement of the claims of GranBio and Bioflex on the terms set out in this Settlement Agreement which will be attached to the petition of *concordato preventivo* in an executed copy together with an executed copy of the separate settlement agreement referred to under Art. 3.3;
  - ii. the Court of Alessandria:
    - (ii.a) admitting Beta and Biochemtex to the Concordato Proceeding;
    - (ii.b) authorizing Beta and Biochemtex, pursuant to Article 167 of the Italian Bankruptcy Law (or to any other applicable provision of law), to enter into this Settlement Agreement and the separate settlement agreement referred to under Art. 3.3. above with the Insurers and to agree to the making of the Payment under Art. 3 of this Settlement Agreement.
  - iii. Beta, Biochemtex and M&G Fin., on the one side, and Insurers, on the other side signing the separate settlement agreement referred to under Art. 3.3 (which is also subject to and conditional



upon fulfillment of conditions precedent 8.1(i) and 8.1(ii) above);

9. **NOTICES**

- 9.1 Any notice to be given under this Settlement Agreement shall be sent either by certified mail with return receipt requested, or by overnight delivery by commercial or other service which can verify delivery to the following addresses and such notice so sent shall be effective as of the date it is received by the other Party:

**For Beta:**

Beta Renewables S.p.A.  
Strada Ribrocca 11,  
15057 - Tortona (AL) Italy  
Attn.: Dario Giordano

**For Biochemtex:**

Biochemtex S.p.A.  
Strada Ribrocca 11,  
15057 - Tortona (AL) Italy  
Attn.: Giovanni Bolcheni

**For GranBio:**

GranBio LLC  
Atlanta, 3625 Cumberland Boulevard SE Suite 1000,  
GA 30339-6403 – U.S.A.  
Attn.: Bernardo Gradin

**For Bioflex:**

Bioflex Agroindustrial S.A.  
Brigadeiro Faria Lima, 2277 15<sup>th</sup> Floor,  
CEP 01452-000, Sao Paulo, Brazil  
Attn.: Bernardo Gradin

**For GranBio Investimentos:**

GranBio Investimentos S.A.  
Brigadeiro Faria Lima, 2277 15<sup>th</sup> Floor,  
CEP 01452-000, Sao Paulo, Brazil  
Attn.: Bernardo Gradin

**For Beazley**



Beazley Staff Underwriting Ltd for and on behalf of Lloyd's Syndicate 2623 and Beazley Underwriting Ltd for and on behalf of Lloyd's Syndicate 0623      Plantation Place South, 60 Great Tower Street,  
London EC3R 5AD, United Kingdom  
Attn.: Anthony Kerr

**For Markel**

Markel Syndicate Management Limited (in its capacity as managing agent for Lloyd's Syndicate 3000)  
20 Fenchurch Street,  
London EC3M 3AZ, United Kingdom  
Attn.: Jennifer Smith

**For AMTrust**

AMTrust Syndicates Limited (in its capacity as managing agent for Lloyd's Syndicate 1206)  
47 Mark Lane,  
London EC3R 7QQ United Kingdom  
Attn.: Tom Maloney

**10. CONFIDENTIALITY AND ANNOUNCEMENTS**

- 10.1 Subject to clause 10.2, each Party shall, and shall ensure that its respective affiliates, officers, employees, agents and professional and other advisers shall, treat as strictly confidential and not disclose or use the terms of this Settlement Agreement and any information or material received or obtained as a result of entering into this Settlement Agreement (the "Confidential Information").
- 10.2 Clause 10.1 shall not prevent disclosure or use of any Confidential Information where such disclosure or use is:
- a) for purposes of complying with Art. 6.1 above;
  - b) required or requested by law or any competent statutory or regulatory body (including but not limited to the Italian Bankruptcy Court and/or Judicial Commissioners);
  - c) required to implement and enforce any terms of this Settlement Agreement, as far as necessary, including for any judicial proceedings arising out of this Settlement Agreement;
  - d) made to a governmental authority in connection with the tax affairs of the disclosing Party;
  - e) made to the auditors, insurers, reinsurers, professional advisers or any banker of any Party on a need-to-know basis; or

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- f) made to any shareholders of any Party, with the understanding that those shareholders will also observe the confidentiality provisions set for in this clause;
- g) in respect of information which is or becomes publicly available (other than by breach of this Settlement Agreement).

10.3 No Party shall issue any external statement or announcement concerning the existence or subject matter of this Settlement Agreement without the prior written consent of each of the other Parties which either of such other Parties shall be fully entitled to withhold.

10.4 The restriction in Art. 10.3 shall not apply to any announcement which is required to be made by a Party by law or by any applicable regulatory body provided that the Party with an obligation to make an announcement shall consult with each of the other Parties (where practicable) before complying with such obligation.

## 11. MISCELLANEOUS

11.1. This Settlement Agreement shall inure to the benefit of and be binding upon the Parties hereto and their successors and assigns. With the exception of M&G Fin., which is to receive all of the benefits of this Settlement Agreement and be able to enforce its terms as described above, the Parties agree that the terms of this Settlement Agreement are not enforceable by any other third party under the Contracts (Rights of Third Parties) Act 1999.

11.2. The Parties shall take such actions reasonably requested by the other party for the purpose of putting this Settlement Agreement into effect.

11.3. If any provision or part-provision of this Settlement Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted and the Parties shall use their respective reasonable endeavours to procure that any such provision is replaced by a provision which is valid, legal and enforceable and which gives effect to the spirit and intent of this Settlement Agreement. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Settlement Agreement unless it is a term that is fundamental to the operation of this Settlement Agreement. Moreover, if:

- a) the Further License Agreement (Exhibit 8) will expire and/or will be terminated, and/or
- b) the License Agreement (Exhibit 4) will expire pursuant to Art. 21.1. of the License Agreement and/or will be terminated by the Parties;

this would not affect the validity of this Settlement Agreement that will remain in full force.

11.4. No variation of this Settlement Agreement shall be effective unless it is in writing and signed by the

Parties (or their authorised representatives).

11.5. This Settlement Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each Party acknowledges and agrees that in entering into this Settlement Agreement, it does not rely on, and shall have no right or remedy in respect of, any agreement, representation, warranty, statement, assurance or undertaking of any nature whatsoever (other than those expressly set out in this Settlement Agreement) made by or given by any person prior to the date of this Settlement Agreement and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law. Nothing in this clause shall limit or exclude any liability for fraud.

11.6. This Settlement Agreement is entered into in connection with the compromise of the Disputes, the Arbitration and Brazilian Proceedings and in the light of other considerations. The Parties hereby acknowledge and agree that no Party has made any admission as to liability or wrongdoing and that nothing in this Settlement Agreement shall be represented or construed by the Parties as an admission of liability or wrongdoing on the part of any of the Parties to this Settlement Agreement or any other person or entity.

11.7. Each of the signatories to this Settlement Agreement represents and warrants in his capacity as an authorised signatory of such Party and not individually that it has the capacity and has been duly authorised to execute this Settlement Agreement on behalf of the entity so indicated and that no additional authorisation or approval is required

11.8. The following Exhibits form an integral part of this Settlement Agreement:

Exhibit 1: Proesa Technology

Exhibit 2: First Patents

Exhibit 3: Second Patents

Exhibit 4: License Agreement

Exhibit 5: BETS Agreement

Exhibit 6: Supply Agreement

Exhibit 7: GranBio letter

Exhibit 8: New Technical Solutions of the Brazilian Plant

Exhibit 9: Further License Agreement

Exhibit 10: Disposal of the Arbitration - Consent Award;

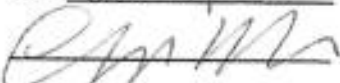
Exhibit 11: Disposal of the Arbitration – Agreed form letter to ICC.

A handwritten signature in dark ink, appearing to be a stylized 'G' or 'J' followed by a flourish, located in the bottom right corner of the page.

11.9. This Settlement Agreement may be signed in any number of counterparts, each of which, when signed, shall be an original and all of which together evidence the same Settlement Agreement.

Beta

Date: 20 Aprile 2018



Dr. Dario Giordano

Legal representative

Biochemtex

Date: \_\_\_\_\_

\_\_\_\_\_

Dr. Giovanni Bolcheni

Legal representative

GranBio

Date: \_\_\_\_\_

\_\_\_\_\_

Dr. Bernardo Gradin

Legal representative

Bioflex

Date: \_\_\_\_\_

\_\_\_\_\_

Dr. Carlos Arruti Rey and João Baptista Emiliano Farah

Legal representative

GranBio Investimentos

Date: \_\_\_\_\_

\_\_\_\_\_  
Dr. Bernardo Gradin

Legal representative

Beazley Staff Underwriting Ltd for and on behalf of Lloyd's Syndicate 2623 and Beazley Underwriting Ltd  
for and on behalf of Lloyd's Syndicate 0623

Date: \_\_\_\_\_

Anthony Kerr

Authorised representative

Markel Syndicate Management Limited (in its capacity as managing agent for Lloyd's Syndicate 3000),

Date: \_\_\_\_\_

\_\_\_\_\_  
Jennifer Smith

Authorised representative

AmTrust Syndicates Limited (in its capacity as managing agent for Lloyd's Syndicate 1206)

Date: \_\_\_\_\_

\_\_\_\_\_  
Dr. Tom Maloney

Authorised representative

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## EXHIBIT 1

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### Annex 2

#### PROCESS DESCRIPTION / PATENT RIGHTS

##### 2. Process

The Plant is designed to produce bioethanol through hydrolysis and fermentation of cellulose and hemicellulose starting from lignocellulosic biomasses (in this case sugarcane bagasse or straw).

The main process steps for ethanol production from lignocellulosic feedstock are:

- Biomass pretreatment to disrupt the lignocellulosic matrix and solubilize C5 and C6 sugars;
- Hydrolysis to reduce the cellulose and hemicellulose into fermentable sugars;
- Fermentation of sugars to ethanol;
- Solid separation, ethanol recovery and dehydration.

The technology development target is to design an energy efficient pretreatment process able to produce pretreated material that facilitates optimal enzymatic and microorganism activity. In particular many efforts have been made in order to limit formation of degradation products that could inhibit enzyme and microorganism performance.

Plant is designed to guarantee flexible operation with different feedstocks and to maximize ethanol yield.

Redundant system is integrated in critical sections of the Plant to guarantee the maximum reliability in all the expected run conditions, during start up and shut-down operations.

The following descriptions of the individual process steps highlight special features of the process design as proposed. The key areas are as follows:

- Area 1200 Biomass pretreatment
- Area 2100 Enzymatic hydrolysis and Viscosity Reduction
- Area 3100 Fermentation
- Area 3200 MO propagation
- Area 4100 Beer column section
- Area 4200 Rectifier column section
- Area 4300 Ethanol dehydration section
- Area 4400 Ethanol daily storage section
- Area 5100 Lignin separation and Lignin Storage
- Area 7600 CIP system
- Area 7700 Chemicals storage

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## 2.1 Process Description

The biomass from the battery limits is conveyed to the pretreatment section where the conversion of the lignocellulosic material to sugars and by-product lignin begins.

### 2.1.1 Area 1200 – Biomass pretreatment

The biomass will be sent to the pretreatment where the cellulose structure is disrupted, the lignin seal is broken, and the hemicellulose is partially removed. This process permits the enzyme access to the cellulose and hemicellulose portions.

Pretreatment is one of the critical steps in the cellulose-to-ethanol process, which offers significant challenges to optimize the subsequent hydrolysis. In general, an effective pretreatment is defined by conditions that avoid degradation of pentose and glucose from the cellulose and the hemicellulose, while simultaneously limiting the formation of by-products that inhibit the growth of microorganisms necessary for the ethanol production via fermentation.

The combination between auto-hydrolysis and steam explosion process is used to minimize the formation of inhibitors, eliminating a significant drawback of the conventional process. This inhibitors reduction increases also the extraction of celluloses and hemicelluloses. The process use saturated steam to cleave the chemical bonds between lignin, cellulose and hemicellulose.

The effective outcome in this section has the benefit to lowering the cost of the entire process and to reduce the amount of enzyme used in the hydrolysis step.

### 2.1.2 Area 2100 – Enzymatic hydrolysis

The streams coming from area 1200 (Biomass Pretreatment) will be mixed together and fed to the enzymatic hydrolysis two steps reactors to efficiently liquefy the pretreated material (viscosity reduction).

This process allows the enzymatic processing of high amount of dry matter providing a complete mixing and adequate retention time for the first enzymatic liquefaction of complex cellulose and hemicellulose, leading to simpler oligomer chains necessary for an efficient downstream conversion to ethanol.

This step will guarantee a constant and continuous flow of the material into the fermenters.

### 2.1.3 Area 3100 – Fermentation

The mash exiting from the hydrolysis reactors will be cooled and then sent to the simultaneous saccharification and fermentation (SSF) section. The simultaneous saccharification of both cellulose (to glucose) and hemicellulose (to pentose) and the co-fermentation of both glucose and pentose will be

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realized by using yeast specifically engineered for this purpose. The SSF offers a potential reduction of the capital costs due to the combination of hydrolysis and fermentation into a single reactor. In the fermentation, sugars will be converted to ethanol and carbon dioxide by the action of the yeasts. The fermentation process employs a system of six tanks, all of equal size to allow the fermentation process to be operated in a batch mode. The fermentation process generates heat, which is removed by circulating the fermenting mash through external heat exchangers. From fermentation, the beer is pumped to the beer well, a holding tank that allows beer to be continuously fed to the distillation sections.

#### 2.1.4 Area 3200 – MO propagation

Two tanks are used for yeast propagation (production) where yeasts are grown rapidly with the addition of air.

#### 2.1.5 Area 4100 – Beer column section

The beer produced during SSF is pumped to a beer stripping column. The bottom stream (stillage) containing water and solids, will be sent to the solid/liquid separation unit while overhead stream is sent to rectification column.

The heat is supplied to the beer column by reboiling the clarified stillage through two indirectly heated reboilers that use exhaust steam coming from pretreatment.

Solid content in clarified stillage could cause fouling issues so that reboiler capacity is oversized in order to allow the column working at reduced duty with only one reboiler while cleaning the other.

#### 2.1.6 Area 4200 – Rectifier column section

The ethanol/water stream from the top of the beer column will be condensed and pumped to rectifier column where it is concentrated to near-azeotropic point. A side draw-off from the rectifier column will separate the heavy alcohols fraction in order to meet purity requirements for the ethanol. The heat is supplied to the rectifier column by an indirectly heated reboiler. The water stream comes from the bottom of the rectifier column is pumped to the process condensation tank and treated to reuse in the process before sending it to the effluent collector tank.

#### 2.1.7 Area 4300 – Ethanol dehydration section

The rectifier top mixture is in azeotropic condition and cannot be further purified using standard distillation. The final removal of water / ethanol mixture to produce fuel grade ethanol is achieved by a molecular sieve dehydration system.

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The molecular sieves work on the principle of selective adsorption in the vapor phase. In this case, water is adsorbed on the sieve bed material while ethanol passes through the bed. The adsorbed water is removed during a regeneration step and is routed back to the distillation system. Fuel ethanol is pumped to the daily / off spec tanks opportunistically sized for the production at design rate.

The production rate of the ethanol from the distillation / dehydration system will be monitored with in-line instruments, while moisture content will be monitored with laboratory equipment.

#### 2.1.8 Area 4400 – Ethanol daily storage section

The ethanol from dehydration section is fed into the ethanol daily tanks / off spec tanks in order to control the quality of the product before sending it into the product storage section.

#### 2.1.9 Area 5100 – Lignin separation

Bottom of beer stripper column containing solids is fed to a filtration system to separate stillage from lignin cake. The purpose of the system is to obtain the solid lignin into pieces with a residual moisture content of up to 44%, from an aqueous suspension that contains about 10- 13% by weight of lignin. The filtration cycle is the following: the slurry is fed to the filtration chambers by slurry pumps. The filtration chambers are provided with a membrane, connected with compressed air and/or pressing water. When the filtration chambers are full of slurry, the filters go in pressing phase and the liquid is removed from the chambers by the squeezing of the membranes. The lignin cakes, in solid state, are discharged into belt conveyors, and the filtrate is collected into a tank and sent back to the process as dilution water, and the excess is sent to an effluent recovery.

#### 2.1.10 Area 7600 – CIP system

In order to keep the process microbiologically clean and to remove residues from heat exchange equipment and tanks, a Clean-In Place (CIP) system will be provided. The cleaning process will use condensate from the process, thereby minimizing fresh water usage. Caustic will be used as a cleaning agent for sanitizing and dissolving most of the residues.

#### 2.1.11 Area 7700 – Chemicals storage

Chemicals (antifoam, caustic soda, potassium hydroxide, urea solution, sulfuric acid, enzymes, etc.) are stored in suitable tanks and dosed to the Plant.

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Patent Rights

Internal Code No.	TITLE	Brazilian Application Identification	Brazil App. No.	Brazil App. Date	Intel. Publication No.	Country of Parent	Priority
MOX 011	HIGHT TEMPERATURE LIGNIN SEPARATION PROCESS	Brazilian National Phase Entry of PCT/IT2009/000102	Filed No. to be Assigned	9 Jul 2010	2011/007369	PCT	PCT/IT2009/000102
MOX 016	PRE-TREATED BIOMASS HAVING ENHANCED ENZYME ACCESSIBILITY	Brazilian National Phase Entry of PCT/IT2009/000410			not yet published	PCT	PCT/IT2009/000410
MOX 018	REGENERATIVE PURIFICATION OF A PRETREATED BIOMASS SYSTEM	Brazilian National Phase Entry of PCT/IT2009/000652			2011/070602	PCT	PCT/IT2009/000652
MOX 022	IMPROVED BIOMASS PRETREATMENT PROCESS	Brazilian National Phase Entry of PCT/IT2010/005142	Filed No. to be Assigned	31-Mar-2010	2012/113120	PCT	PCT/IT2009/000125 PCT/IT2009/000129 PCT/IT2009/000130
MOX 023	AN IMPROVED PROCESS FOR THE RAPID HYDROLYSIS OF HIGH SOLIDS BIOMASS	Brazilian National Phase Entry of PCT/IT2010/005142	PI 10506461	31-Mar-2010	2010/113130	PCT	PCT/IT2009/000124 PCT/IT2009/000127 PCT/IT2009/005736 PCT/IT2009/005737
MOX 025	METHOD TO RECOVER SUGARS OR PRE-TREATED LIGNOCELLULOSIC BIOMASS LIQUIDS	Brazilian National Phase Entry of PCT/IT2010/000411			not yet published	PCT	PCT/IT2010/000411
MOX 026	PROCEDIMENTO MIGLIORATO PER RECUPERARE ZUCCHERI DA UN FLUSSO DI PRETRATTAMEN	Brazilian National Phase Entry of PCT/IT2011/0054203			not yet published	PCT	TO2011/04/00792
MOX 027	PROCEDIMENTO MIGLIORATO PER RECUPERARE ZUCCHERI DA UN FLUSSO DI PRETRATTAMEN	Brazilian National Phase Entry of PCT/IT2011/0054204			not yet published	PCT	TO2011/04/00794

## EXHIBIT 3

## Second Patents - Brazil only

Internal Code No.	Title	Application No.	Publication dt.	Publication No.
MGB.P.042	Improved pre-soaking process for biomass conversion	BR 11 2014 016039 2	04/07/2015	WO 2013/098789
MGB.P.094	Continuous process for treating a lignocellulosic biomass	BR 11 2017 005406-0	24/03/2016	WO 2016/042053
MGB.P.095	Continuous process for treating a lignocellulosic biomass	PCT/EP2015/071278	24/03/2016	WO 2016/042054
MGB.P.105	Pretreatment process of a ligno-cellulosic feedstock	BR 11 2017 15990-2	18/08/2016	WO 2016/128221
MGB.P.110	Process for propagating a yeast capable to ferment glucose and xylose	PCT/EP2017/053735	31/08/2017	WO 2017/144389
MGB.P.111	Process to produce a fermentation product	PCT/EP2017/053734	31/08/2017	WO 2017/144388
MGB.P.112	Process for producing a bio-product	PCT/EP2017/060336	09/11/2017	WO 2017/191091





EXHIBIT 4

LICENSE AGREEMENT

Beta Renewables S.p.A.

and

Graal Bio LLC

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PROESA™ Process Technology

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DATED: May 15, 2012

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- 2 FEES
- 3 PAYMENT AND TERMS OF PAYMENT
- 4 KICK-OFF MEETING
- 5 PDP
- 6 DELIVERY AND TERMS OF DELIVERY OF PDP AND BASIC ENGINEERING DESIGN, PACKING  
AND MARKING
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- 4 DIVISION OF DESIGN AND TECHNICAL DOCUMENTATION
- 5 PERFORMANCE TEST AND GUARANTEE
- 6 PRELIMINARY PROJECT SCHEDULE
- 7 FORM OF PAYMENT GUARANTEE
- 8 FORM OF SUBLICENSEE CONFIDENTIALITY AGREEMENT

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This AGREEMENT is made on the 15<sup>th</sup> day of May, 2012 (the "Signature Date").

**BY AND BETWEEN:**

Graal Bio LLC, a limited liability company organized and existing under the laws of the State of Delaware, USA, having its address at c/o National Corporate Research Ltd., South Dupont Highway, City of Dover, County of Kent, Delaware 19901 (hereinafter referred to as "Recipient");

and

Beta Renewables S.p.A., a company organized and existing under the laws of Italy, having an office at Strada Ribrecca n. 11, 15057 Tortona (AL), Italy (hereinafter referred to herein as "Supplier").

**WHEREAS:**

1. Supplier possesses proprietary PROESA™ Process Technology (as hereinafter defined) to produce fuel grade ethanol starting from Biomass (as hereinafter defined).
2. Recipient's Affiliate in Brazil, BioFlex Agroindustrial Ltda. (hereinafter referred to as "Graal Brazil") wishes to design, engineer, construct and operate a manufacturing facility in Brazil to produce Ethanol (as hereinafter defined), which facility will start with the Biomass as raw materials;
3. Recipient desires to obtain from Supplier, and subject to the terms and conditions set forth herein, Supplier is willing to grant to Recipient, a license to use, and the right to grant Graal Brazil a sublicense to use, the Patent Rights (as hereinafter defined) and Technical Information (as hereinafter defined) relating to the PROESA™ Process Technology and the Licensed Marks (as hereinafter defined) for the purpose of producing in Graal Brazil's manufacturing facility Ethanol (as hereinafter defined) for use and sale anywhere in the world.

NOW THEREFORE, the Parties agree as follows:

**DEFINITIONS**

For the purposes of this Agreement, the following terms shall have the meanings listed below.

<b>Acceptance</b>	means acceptance of the Plant by Recipient in accordance with Article 10.
<b>Affiliate</b>	means with respect to any Person (as defined below), any other Person directly or indirectly Controlling, Controlled by, or under Common Control with, such other Person. Control (and the correlative terms Controlling, Controlled by, and under Common Control with) when used with respect to any Person shall mean: (a) the direct or indirect ownership of fifty (50)

	percent or more of (i) the total outstanding voting securities of all combined voting classes of stock or (ii) other evidences of ownership interest of such Person or (b) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person.
Applicable Law	means with respect to any Person, any transnational, domestic or foreign federal, state or local law (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, order, injunction, judgment, decree, ruling or other similar requirement enacted, adopted, promulgated or applied by a Governmental Authority that is binding upon or applicable to such Person, as amended unless expressly specified otherwise.
Basic Engineering Design	means the package of engineering design information to be prepared by Contractor for the Plant in sufficient detail to enable the Recipient and/or General Contractor to perform Detailed Engineering Design, Procurement and Construction of the Plant.
Basis of Design	means the information set forth in Annex 1 for design of the Plant.
Battery Limits	means the process battery limits as defined in Annex 1.
Biomass	means sugarcane bagasse or straw.
Certificate of Acceptance	means a certificate confirming Acceptance signed by the authorized representatives of the Parties in quadruplicate, two (2) copies for each Party.
Confidential Information	means any non-public, proprietary or other confidential information disclosed by a Party or its Affiliates ("disclosing party") to the other Party ("receiving party") or its Affiliates without the need for any further notice or marking but excluding any information that: (i) the receiving party independently develops without reference to the disclosed information; (ii) the receiving party independently receives on a non-confidential and authorized basis from a source other than the disclosing party; (iii) becomes public knowledge through no fault of the receiving party; (iv) is in the public domain at the time the receiving party receives the disclosed information; or (v) the receiving party already knows at the time the receiving party receives the disclosed information. The Receiving Party shall have the burden of proving the applicability of any of the above exclusions. For the avoidance of doubt, all information licensed hereunder, including the Technical Information and confidential information related to

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the Patent Rights, and all other confidential information relating to the capital and operating costs associated with plants using PROESA™ Process Technology provided by or on behalf of Supplier to Recipient, shall be deemed to constitute Confidential Information for the purposes of this Agreement.

Contractor	means: (i) as requested by Supplier, Chemtex Italia S.p.A., or (ii) such other contractor as may be designated in writing by Supplier and approved by Recipient, to supply services for Basic Engineering Design and supply of Critical Equipment and other services that might be required by Recipient for the "inside Battery Limits" area of the plants for producing Ethanol. For purposes of the Plant, Supplier has selected option (i) (Chemtex Italia S.p.A.) as the Contractor.
Critical Equipment	means the critical items of equipment, as so designated in Annex 3, to be supplied by Contractor for the Plant pursuant to a separate Agreement between Contractor and Recipient.
Date of Start-Up	means the date of first introduction of Biomass into the Plant for the purpose of making Ethanol for commercial sale.
Detailed Engineering Design	means the complete engineering to be performed by the General Contractor (key documents to be reviewed by the Contractor) as necessary to allow procurement, construction, commissioning, Start-Up, and operation of the Plant.
Effective Date	means (A) the date of receipt by Supplier of the first payment made by Recipient as described in Section 3.2(i), (B) the date of receipt by Supplier of the payment guarantee executed in the form specified in Annex 8, and (C) the date of agreement by the Parties on the final yield guarantee figures as set forth in Section 12.3, unless waived by the Parties.
Ethanol	means fuel grade ethanol substantially meeting the specifications set forth in Annex 5.
Extended Period	has the meaning set forth in Article 10.7.
Fee	has the meaning set forth in Article 2.1.
General Contractor	means engineering contractor(s) competent to carry out engineering design services for chemical plants in accordance with good international industry practices, selected and employed by Recipient following consultation with Supplier, to perform Detailed Engineering Design services or engineering

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	design and procurement services for the non-critical equipment or for the "outside Battery Limits" area of the Plant.
<b>Governmental Authority</b>	means any transnational, domestic or foreign federal, provincial, state or local governmental, regulatory or administrative authority, department, court, agency or official, including any political subdivision thereof.
<b>Intellectual Property Rights</b>	means any trademark, service mark, trade dress, logo, domain name, and trade name and all goodwill associated with the foregoing, copyright, mask work, patent, software, database, invention, trade secret, know-how, industrial property right (including any registrations or applications for registration of any of the foregoing) or any other similar type of proprietary intellectual property right.
<b>Kick-off Meeting</b>	means a meeting to be held within twenty-one (21) days of the Effective Date among Supplier, Recipient, and Contractor at which project execution methodologies, schedules and systems utilized shall be agreed, as specified in Article 4.
<b>Mechanical Test</b>	means a test comprising clean out, blow wash, test of electrical equipment, pre-calibration of instruments, test run of both individual machines and machines in group with feed of air, water, nitrogen and steam to be conducted after completion of erection in order to ascertain the mechanical readiness of the Plant prior to Start-Up.
<b>Name Plate Capacity</b>	means the production in the Plant of 65,000 metric tons per year of Ethanol.
<b>Net Present Value Basis</b>	means the USD amount discounted from the date of payment to the Effective Date at a rate of 8.36% per year.
<b>Operating Manual</b>	means a compilation of preliminary procedures for operating the Plant, based on the PDP and which shall include instructions for pre-commissioning, start-up, shutdown and handling of process emergencies, which, in Supplier's reasonable opinion, is sufficient in detail for Recipient to develop final operating procedures following Recipient's completion of the detailed design phase of the project.
<b>Parties</b>	means Supplier and Recipient and "Party" shall mean each or either of them as relevant in the context in which the term is used.
<b>Patent Rights</b>	means any and all patents and patent applications (including any and all divisionals, continuations, continuations-in-part, reissues, renewals, reexaminations, and extensions thereof, utility models, patents of importation/confirmation, supplementary protection certificates, certificates

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of invention, invention disclosures and similar statutory rights and Brazilian equivalents of the foregoing) owned by, licensed to or otherwise controlled by Supplier, filed with or issued by the applicable Governmental Authority in Brazil as of the Effective Date or at anytime thereafter, and that, but for the license granted to Recipient under Article 1, would be infringed by use of the PROESA™ Process Technology, the operation, construction or maintenance of the Plant, the production of Ethanol therein, or the use, sale, offer for sale or distribution of Ethanol therefrom, including the patents and patent applications listed in Annex 2 hereof.

<b>Performance Test</b>	means a ninety (90) hour trial production test to be performed in accordance with Annex 5 and as further described in Section 10.
<b>Person</b>	means any natural person, firm, individual, corporation, partnership, joint venture, business trust, association, trust, company or other organization or entity, whether incorporated or unincorporated, or any Governmental Authority.
<b>Plant</b>	means the commercial manufacturing facility for producing the Name Plate Capacity based upon eight thousand (8,000) operating hours per year of Ethanol to be constructed by Recipient or Gral Brazil in São Miguel dos Campos, in the State of Alagoas, Brazil in accordance with the terms and conditions of this Agreement.
<b>PDP</b>	(Process Design Package) means a package of process design and know-how information which is reasonably required to enable the Contractor to prepare the Basic Engineering Design and the Recipient and/or the General Contractor to start the Detailed Engineering Design, as specified in more detail in Annex 4.
<b>PROESA™ Process Technology</b>	means the proprietary technology and process of Supplier for the production of Ethanol from Biomass as described in Annex 2 and using the Basis of Design as described in Annex 1.
<b>Technical Information</b>	means (i) all technical information and documentation, trade secrets and know-how, in each case related to the PROESA™ Process Technology and which, in Supplier's reasonable opinion, is reasonably required to complete the engineering design, construction and commissioning of the Plant and/or the operation and maintenance of the Plant, including the Operating Manual and safety information and reports relating to safe operation of the Plant and management of potential hazards; and (ii) the PDP.

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## ARTICLE 1

## GRANT OF RIGHTS/TRAINING

- 1.1 Subject to payment by Recipient of the Fee specified in Section 2.1 and the other terms and conditions of this Agreement, Supplier hereby grants to Recipient, as of the Effective Date, a non-exclusive license to use the Technical Information and the Patent Rights solely to design, procure, construct, operate and maintain the Plant, to produce Ethanol at the Plant and to use, sell, offer for sale, export and distribute such Ethanol anywhere in the world. The license granted herein for the Plant is subject to Recipient or Graal Brazil purchasing the Basic Engineering Design and Critical Equipment for the Plant from Contractor. Except as provided in Article 20, the foregoing license is non-transferable and non-assignable and does not include the right to grant sublicenses or to extend the rights granted or the license in any way.
- 1.2 For the avoidance of doubt, Recipient shall not use, and does not have the right under this Agreement to use, the Technical Information and Patent Rights licensed under this Agreement to: (A) design, procure, construct and/or operate a plant other than the Plant, (B) to produce any product other than Ethanol, subject to Section 1.7, or (C) to produce Ethanol using the Patent Rights and Technical Information other than at the Plant.
- 1.3 Notwithstanding anything in this Agreement to the contrary, to the extent any trademarks, service marks, trade names, brand names, certification marks, trade dress and logos owned by, licensed to, or otherwise controlled by Supplier and its Affiliates, including PROESA™ (collectively, the "Licensed Marks"), are included in or otherwise appear on any equipment, specifications, engineering designs, manuals, promotional materials or other materials provided by Supplier or any of its Affiliates to Recipient under this Agreement, Recipient shall have, and Supplier, on behalf of itself and its Affiliates, hereby grants to Recipient, a non-exclusive, non-transferable (except as set forth in Article 20), non-sublicensable (except as set forth in Article 20), royalty free, fully paid-up license to continue to use such Licensed Marks in connection with the construction, operation and maintenance of the Plant and the production of Ethanol therein. Recipient shall use the Licensed Marks, and shall require its permitted assignees and Graal Brazil to use the Licensed Marks in compliance with Supplier's reasonable quality control standards for use of the Licensed Marks. In the event that Supplier determines, in its reasonable discretion, that the use of the Licensed Marks fails to meet Supplier's quality control standards, or Recipient or any of its permitted sublicensees commits a material breach of the foregoing license in respect of the Licensed Marks, then Supplier shall give written notice to Recipient of such failure or breach and unless any such failure or breach is cured within 60 days after receipt by Recipient of such notice, such license shall be suspended for such time until such failure or breach is cured to the reasonable satisfaction of Supplier. Recipient acknowledges and agrees that it has not acquired, and shall not acquire, any right, title or interest in or to the Licensed Marks other than the rights expressly set forth in this Section 1.3. All use of the Licensed Marks by the Recipient and its permitted assignees or sublicensees, and all goodwill associated with such use, shall inure to the benefit of Supplier and/or its Affiliates, as applicable.

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- 1.4 Supplier shall not be required to grant any right with respect to any patent application or patent or furnish information as to which, as a result of granting such rights or furnishing such information, it will be required to pay royalties to a third party, but only to the extent Recipient refuses to pay such royalties to such third party. No information shall be required to be furnished by either Party over a valid, enforceable and binding prohibition issued by a Governmental Authority.
- 1.5 Except where prohibited by Applicable Law and so long as this Agreement shall remain in force and shall not have been terminated, Recipient agrees not to contest, challenge or oppose in any way or cause another party to contest, challenge or oppose in any way, in whole or in part, the validity or enforceability of a patent or patent application (or any claim therein) included in the Patent Rights, other than as a response to a claim of infringement initiated by Supplier or any of its Affiliates. The foregoing obligations of Recipient shall apply to Graal Benzil and any permitted assignees, and Recipient shall cause such parties to comply therewith.
- 1.6 Supplier shall provide a training program for: (A) up to six (6) Recipient's technical personnel for up to eight (8) weeks at an operating cellulosic ethanol plant, which uses the PROESA™ Process Technology, Patent Rights and Technical Information and (B) an additional two (2) week on-site training program to Recipient's technical personnel at the Plant. Recipient shall bear all travel and living expenses for all trainees in connection with such training in accordance with Recipient's travel policies. In addition, if the Recipient and/or General Contractor deem necessary for training purposes further training (other than as set forth in (A) and (B) above, Supplier shall make its technical personnel available for on-site visits at the Plant during the construction, Start-Up and Commissioning, at the Recipient's cost and in accordance with Supplier's travel policies. Trainees shall follow all rules and regulations applicable at the training facility as informed in writing by Supplier or Recipient, as applicable. Trainees shall be technically qualified and shall be able to speak and understand the English language.
- 1.7 Supplier hereby agrees that Recipient may convert the Plant, at a later date, to produce biochemicals, on terms and conditions, including royalty fee amounts to be mutually agreed between the Parties based on industry opportunities.
- 1.8 Within two (2) months after the completion and delivery of the Basic Engineering Design, Supplier and Recipient shall conduct Hazard and Operability ("Hazop") sessions. Within two (2) weeks after this session, the Hazop study shall be issued by Supplier to Recipient.

## ARTICLE 2 FEES

- 2.1 As consideration for the license to use the Patent Rights and the Technical Information (including the PDP) granted by Supplier to Recipient under Section 1.1, Recipient agrees to pay to Supplier a fee (the "Fee") of US\$22,000,000.00 (Twenty Two Million U.S. Dollars) to be paid on a Net Present Value Basis as specified in Article 3. Recipient may, at its discretion, make a prepayment of the Fee as described in Sections 3.2 (iii) and (iv). In the event of a prepayment, the Fee shall be calculated on the same Net Present Value Basis.

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- 2.2 Any services of Supplier's technical personnel for attending the Kick-off Meeting and PDP Review Meeting (as hereinafter defined) or the services of such personnel for consulting with Recipient at site during Commissioning, start-up and Performance Test of the Plant shall be provided pursuant to a separate Agreement between Recipient and Contractor.

### ARTICLE 3

#### PAYMENT AND TERMS OF PAYMENT

- 3.1 (i) All payments either by Recipient to Supplier or by Supplier to Recipient under this Agreement shall be made by electronic transfer of immediately available funds in United States Dollars. Recipient shall arrange for its parent company, Grimal Bio Inversiones S.A., to provide a payment guarantee in favor of Supplier in the form set out in Annex 7.
- (ii) All banking charges and other fees of the bank of the Party receiving the payment shall be borne by the receiving Party, and all other banking charges (except for those relating to the receipt of the payment) and other fees in connection with such payment shall be borne by the Party making the payment.
- (iii) In the event that either Party fails to pay the other Party any amounts due under this Agreement on an applicable due date, then the defaulting Party shall unconditionally pay the relevant sum due on a Net Present Value Basis plus additional interest at a rate corresponding to 0.5% per month calculated from the date the relevant sum became due for payment by the defaulting Party until the date the actual payment is made.
- 3.2 The Fee shall be paid by Recipient to Supplier as follows:
- (i) US\$1,500,000 (One Million Five Hundred Thousand U.S. Dollars) on the Effective Date of this Agreement.
- (ii) US\$500,000 (Five Hundred Thousand U.S. Dollars) after the Effective Date and within ten (10) days after delivery of the PDP is substantially complete, as reasonably determined by Recipient.
- (iii) US\$20,000,000 (Twenty Million U.S. Dollars) on a Net Present Value Basis, amortized over 10 years in 20 (twenty) equal semi-annual installments commencing two (2) months after the Date of Start-Up.

If the first payment, as per Section 3.2(i) of this Agreement, is not made within sixty (60) calendar days from the Signature Date of this Agreement, the Parties shall meet and discuss how to proceed. If an agreement is not reached by the Parties as to how to proceed and the first payment has still not been received by Supplier within ninety (90) calendar days from the Signature Date, then Supplier shall have the right to terminate this Agreement with no further liability or obligation on the part of Supplier.

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If the second payment set forth in Section 3.2(ii) is not received within thirty (30) calendar days from the due date set forth in such clause, Supplier shall have no further obligation in respect of delivering the PDP, and/or any other information to Recipient, and Supplier shall have the right to suspend performance of its obligations under this Agreement, and the license and rights granted under Section 1.1 shall be suspended, until Supplier receives such payment.

- 3.3 All payments by Recipient to Supplier hereunder shall be made by wire transfer at the bank account, which Supplier shall designate, without any deductions (except for the receiving party bank charges referred to in Section 3.1(ii)).
- 3.4 If Supplier shall be liable to pay any liquidated damages and/or compensation to Recipient as stipulated in Article 11, payment shall be made as described in Section 11.3 by offsetting amount of the Fee otherwise due to Supplier as described in Section 3.2(iii). If Supplier is disputing the amount or its liability for such liquidated damages and/or compensation, such dispute shall be resolved in accordance with Article 19 of this Agreement and such amount shall not be due unless and until such dispute is finally resolved.

ARTICLE 4

KICK-OFF MEETING

- 4.1 The Kick-off Meeting will be held within twenty one (21) days of the Effective Date or at such other time after the Effective Date as the Parties shall mutually agree.
- 4.2 The Kick off Meeting shall be held in Supplier's office or at such other venue as the Parties shall mutually agree.
- 4.3 All issues regarding project execution methodologies, schedules and systems utilized and other items needing collaboration and liaison from the beginning of the preparation of the PDP to completion of the Basic Engineering Design, including communication protocols and the method of documentation transfer shall be discussed at the Kick-off Meeting. The preliminary project schedule is set out in Annex 6. An overall project schedule ("Project Schedule") for the contracted scope shall also be discussed, reviewed and agreed upon between the Parties at the Kick-off Meeting.
- 4.4 A protocol of the Kick-off Meeting shall be signed by the authorized representatives of each Party in attendance.

ARTICLE 5

PDP

- 5.1 The PDP to be provided by Supplier shall contain all process design and know-how information which is reasonably required to enable the Contractor to prepare the Basic Engineering Design and, when taken in conjunction with the Basic Engineering Design, to permit the General Contractor to prepare the Detailed Engineering Design, as specified in more detail in Annex 4.

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- 5.2 If shortages, errors, omissions or defects are found in the PDP due to the failure of Supplier to prepare the PDP in accordance with the requirements of this Agreement, Supplier shall, subject to Section 13.1, and as its sole liability (other than any applicable liquidated damages under Section 10.8.1) resulting from or in connection with the PDP, make relevant modifications and supplements at its own cost and shall make best efforts not to affect the overall program of the Plant; provided that if such shortage, error, omission or defect is solely the result of erroneous factual information provided to Supplier by Recipient, then Supplier will make such relevant modifications and supplements at Recipient's cost.
- 5.3 The language, units of measurement and codes and standards to be used in the PDP are detailed in Annexes 2 and 4. The English language shall be used in all sections of the PDP.

#### ARTICLE 6

##### DELIVERY AND TERMS OF DELIVERY OF PDP, BASIC ENGINEERING DESIGN, PACKING AND MARKING

- 6.1 Supplier shall deliver the PDP to Recipient as set out in detail in Annex 4 by (i) electronic uploading of the PDP to Supplier's electronic document management system (the "Document Management System") and providing Recipient with an official transmittal document to be acknowledged as received by Recipient.
- 6.2 Supplier will give Recipient access to the Document Management System and such instruction in its use as may be necessary for Recipient to properly utilize the system. Supplier confirms that no source code will be delivered to Recipient and Supplier represents and warrants that no grant of a license or provision of software to Recipient is required in connection with the aforementioned delivery method or Recipient's use of the Document Management System.
- 6.3 The date of the receipt by Recipient of the transmittal document referenced in Section 6.2 shall be considered as the actual date of delivery of the PDP, provided that the PDP is substantially complete as reasonably determined by Recipient. Recipient shall notify Supplier promptly of its ability to access the PDP in the electronic folder designated by Supplier in the Document Management System.

#### ARTICLE 7

##### PDP REVIEW MEETING

- 7.1 A meeting to review the PDP ("PDP Review Meeting") shall be held in Supplier's office, or at such other place as may be agreed between the Parties, with Recipient's personnel within three (3) weeks of the delivery of the PDP in accordance with the Article 6. A protocol of the meeting shall be signed after an agreement has been reached between both Parties as to the details of the protocol. In lieu of

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the PDP Review Meeting, both Parties' representatives may meet within one (1) month of delivery of the PDP and sign a letter confirming that the PDP Review Meeting is no longer required.

- 7.2 The PDP and the protocol mentioned in Section 7.1 shall be the basis of the Basic Engineering Design to be prepared by Contractor for the Plant and the Detailed Engineering Design to be prepared by Recipient and/or General Contractor. Recipient shall have the right to put forward its opinions, in accordance with the stipulations of this Agreement, and any proposed amendments to the PDP as a result of Recipient's opinions shall be made only to the extent it is agreed between the Parties during the PDP Review Meeting, including agreement on any schedule or cost impact. If Recipient fails to attend the PDP Review Meeting or refuses to sign the protocol without cause, then the PDP Review Meeting shall be deemed to have occurred as of the scheduled date.

#### ARTICLE 8

##### CODES, STANDARDS AND ENGINEERING SPECIFICATIONS

- 8.1 Supplier shall provide Recipient with Engineering Specifications, Codes and Standards set forth in Annex 4. Supplier shall deliver to Recipient the above-mentioned documents in accordance with the Project Schedule to be discussed and agreed during the Kick-Off Meeting and in electronic format utilizing Supplier's Document Management System.
- 8.2 Recipient and Contractor shall make comments and suggestions and agree on the general codes and standards at the Kick-off Meeting. After discussion and agreement reached among Supplier, Recipient and Contractor, these codes and standards (together with the requirements of the PDP) and the Engineering Specifications shall be taken as the basis for design, materials selection, manufacture and inspection of equipment and materials to be purchased for the Plant.

#### ARTICLE 9

##### INSTRUCTIONS AND VARIATIONS

- 9.1 Supplier's scope of work under this Agreement is fixed. Any variation in the scope of work shall be deemed a "Scope Change" and be subject to the provisions of this Article 9, provided that the comments and suggestions made by Recipient and Contractor at the Kick-off Meeting shall not be deemed a Scope Change. No Scope Change shall be valid unless agreed in writing by an authorized representative of Recipient and Supplier.
- 9.2 Recipient may at any time request a Scope Change by written notice to Supplier. Following such request, Supplier shall, not later than five (5) working days after the request, furnish Recipient with a written statement of the increase or decrease to the fees payable to Supplier, or any advance or delay to the completion of the work or changes in the guarantees (if any), which would result from such Scope Change.
- 9.3 Recipient shall within seven (7) days after receipt of Supplier's statement either issue an approval to such statement or withdraw the request.

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- 9.4 Notwithstanding the provisions of Section 9.2, no Scope Change shall result in any increase of the fees and/or any adjustment to the Project Schedule or to any other terms of this Agreement, when any such Scope Change is (i) due to Supplier's acts or omissions, including non-compliance with the terms and conditions of this Agreement; or (ii) necessary to correct Supplier's failure to perform the work in accordance with this Agreement.
- 9.5 Supplier shall not be required to implement any Scope Change prior to agreement being reached with Recipient on resultant changes in fees, schedule, or guarantees (if any). If an agreement is not reached between Supplier and Recipient regarding the fees, schedule or guarantees (if any) resulting from the Scope Change, the Scope Change shall not be implemented.

#### ARTICLE 10

##### START-UP, PERFORMANCE TEST AND ACCEPTANCE

- 10.1 Supplier shall provide Recipient with detailed procedures for the Performance Test at least three (3) months before the expected date for commencing start-up. The Performance Test procedures shall include instrument calibration, recording items, sampling, analysis, calculation and evaluation methods (including permitted allowances), and shall be discussed with and confirmed in writing by Recipient before start-up, such confirmation not to be unreasonably withheld or delayed.
- 10.2 With respect to the Plant, Recipient shall cause:
- (a) the Basic Engineering Design and Critical Equipment for the Plant to be procured from Contractor as requested by Supplier;
  - (b) the Plant to be erected, operated and maintained by competent and suitably trained personnel in accordance with good international engineering practices, Applicable Law and the PDP, including environmental, health and safety legislation or regulations applicable to the Recipient or the Plant;
  - (c) all storage and outlets to secure the regular disposal of PROESA™ Process Technology, waste products and effluents to be available at the Plant and operating correctly;
  - (d) all critical safety software and hardware systems at the Plant to be fully tested and proven;
  - (e) all raw materials, catalysts and auxiliary materials and utilities at the Plant to be available in the required quantity and to the quality specified in Annex 1.

Recipient shall confirm in writing (including electronic mail) its substantial compliance with this Section 10.2 before the scheduled date for the commencement of start-up and the Performance Test.

- 10.3 The Performance Test period commences three (3) months after the Date of Start-Up (or earlier if the

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Parties mutually agree) and shall continue for three (3) months thereafter (the "Performance Test Period"). Within this period, and as soon as stable operation of the Plant has been achieved which in Supplier's reasonable opinion is appropriate for conducting a Performance Test, the Performance Test shall be conducted, and the date of the Performance Test shall be recorded in writing by the Parties.

Within the Performance Test Period, the Performance Test shall be carried out for ninety (90) continuous hours in accordance with the stipulations of Annex 5.

- 10.4 If all guarantee figures specified in Annex 5 of this Agreement are achieved in the Performance Test, a Certificate of Acceptance shall be signed within three (3) business days of such Performance Test; provided that if Recipient delays or fails to sign such certificate within the three (3) business day period, Acceptance shall be deemed to have occurred on the day all the guarantee figures specified in Annex 5 have been achieved on the expiration of the three (3) business day period.
- 10.5 If any of the guarantee figures specified in Annex 5 are not achieved in the Performance Test, the Performance Test may be carried out repeatedly, within the Performance Test Period, until the guarantee figures specified in Annex 5 are achieved. The result of each Performance Test shall be recorded in writing and shall be confirmed and signed by the authorized representatives of the Parties within three (3) business days of each Performance Test.
- 10.6 If any of the guarantee figures specified in Annex 5 are not achieved, wholly or partially, during the Performance Test within the Performance Test Period, the Parties shall jointly conduct an investigation to determine the reason(s) for the guarantee figures not being achieved and the Performance Test Period shall be extended for an additional two (2) months (the "Extended Period"). During the Extended Period, the Performance Test shall be carried out repeatedly, until the guarantee figures specified in Annex 5 are achieved.
- 10.6.1 If it is determined during the joint investigation specified under Section 10.6 that the guarantee figures were not achieved for reasons attributable to the Supplier, then all costs and expenses for the design, modification and installation of equipment (but not the cost of supply of such equipment) at the Plant for making improvements and modifications shall be borne by Supplier, and Recipient shall assist (at Supplier's cost and expense) with the installation of such equipment. Any costs associated with making such modifications shall be limited by the overall limit of liability as per Section 13.1.
- 10.6.2 If it is determined during the joint investigation specified under Section 10.6 that the guarantee figures were not achieved for reasons attributable to Recipient, then Supplier shall not be required to pay for the design, supply and installation of equipment for making improvement and modifications at the Plant.
- 10.7 If all the guarantee figures specified in Annex 5 are achieved in a Performance Test within the Extended Period, a Certificate of Acceptance shall be signed within three (3) business days of such Performance Test; provided that if Recipient delays or fails to sign such certificate within the three (3) business day period, Acceptance shall be deemed to have occurred on the day all the guarantee figures specified in Annex 5 have been achieved on the expiration of the three (3) business day period.

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- 10.8 If all the guarantee figures specified in Annex 5 are not achieved in a Performance Test within the Extended Period, the Parties shall jointly conduct an investigation to determine the reason(s) for the guarantee figures not being achieved and the following shall apply:
- 10.8.1 If it is determined during the joint investigation after the Extended Period that the guarantee figures were not achieved due to reasons attributable to Supplier, Section 11.1 shall apply, subject to the limitations specified in Section 11.6 and 13.1, as Recipient's exclusive remedy arising from such failure to meet the performance guarantees set forth in this Agreement, except with respect to gross negligence and willful misconduct of Supplier.
- 10.8.2 If it is determined during the joint investigation after the Extended Period that guarantee figures were not achieved for reasons attributable to Recipient, then a Certificate of Acceptance shall be signed within three (3) business days of completion of the joint investigation, provided, however, that if Recipient delays or fails to sign such certificate, Acceptance shall be deemed to have occurred on the expiry of the three (3) business day period.
- 10.9 If, for reasons attributable to Recipient, the guarantee figures specified in Annex 5 are not achieved, wholly or partially, in a Performance Test within a period of thirty-six (36) months from the Effective Date, a Certificate of Acceptance shall be signed within three (3) business days of the expiration of such thirty-six (36) month period. In the event a Certificate of Acceptance is not signed by the end of such period, Acceptance shall be deemed to have occurred on the last day of such thirty-six (36) month period.

## ARTICLE 11 GUARANTEES AND PENALTY

### 11.1 Liquidated damages Calculation

In accordance with Section 10.8, if, for reasons attributable to Supplier, the guarantee figures specified in Annex 5 are not achieved in a Performance Test during the Performance Test Period or the Extended Period, Supplier shall, in lieu of any other liability in connection with the performance guarantee figures (except with respect to any liability arising from gross negligence or willful misconduct of Supplier), be liable in accordance with the stipulations as follows, but subject to the limitations of liability specified in Section 11.6 and 13.1:

#### (a) Capacity

If the capacity of the Plant during the Performance Test is less than the guaranteed figure specified in Annex 5, Supplier shall pay, as liquidated damages, the sum of US\$500,000 (Five Hundred Thousand U. S. Dollars) for each 1% by which the average capacity is less than the guaranteed.

#### (b) Consumption of inputs

- (i) Biomass: If the average consumption of Biomass during the Performance Test is greater than

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the guaranteed figure specified in Annex 5, Supplier shall pay, as liquidated damages, the sum of US\$440,000 (Four Hundred and Forty Thousand U. S. Dollars) for each 0.1 ton by which the average consumption of Biomass per ton of Ethanol is more than the guaranteed.

- (ii) **Enzymes:** If the average consumption of enzymes during the Performance Test is greater than the guaranteed figure specified in Annex 5, Supplier shall pay, as liquidated damages, the sum of US\$185,000 (One Hundred and Eighty-Five Thousand U. S. Dollars) for each 1% by which the average consumption of enzymes is more than the guaranteed. (In the event the enzyme supplier introduces an enzyme product of superior performance at comparable cost than the enzyme specified in Annex 1, such enzyme shall be substituted for the one specified during the Performance Test.)
- (iii) **Yeast:** If the average consumption of yeast during the Performance Test is greater than the guaranteed figure specified in Annex 5, Supplier shall pay, as liquidated damages, the sum of US\$20,000 (Twenty Thousand U. S. Dollars) for each 1% by which the average consumption of yeast is more than the guaranteed.

To the extent Supplier's average consumption during the Performance Test of the inputs set forth in any of (i), (ii) and (iii) above (the "**Consumption of Inputs**") is less than the respective guaranteed figures specified in Annex 5, a Supplier credit shall be generated ("**Supplier Credit**"). The Supplier Credit shall be calculated using the same rate as the liquidated damages rate applicable for the particular input involved, and may be used to offset any liquidated damages amount due by Supplier to Recipient resulting from an average Consumption of Inputs that exceeds the guaranteed figure specified in Annex 5. For the avoidance of doubt, this offsetting mechanism shall not, in any circumstance, cause a payment by Recipient to Supplier.

(c) **Quality**

If the average quality of Ethanol during the Performance Test cannot meet the guarantee figures in Annex 5, then Supplier shall pay, as liquidated damages, an amount of US\$2,500,000.00 (Two Million Five Hundred Thousand U. S. Dollars).

- 11.2 In the event that more than one Performance Test is carried out, the liquidated damages payment due under Section 11.1 shall be calculated by reference to the best achieved results for each of the headings specified in Section 11.1.
- 11.3 To the extent that any liquidated damages become due from the Supplier to Recipient in accordance with Section 11.1, Recipient shall deduct such liquidated damages from that portion of the Fee payable to Supplier by Recipient pursuant to Section 3.2(iii) and the remaining portion of the Fee shall be paid on a Net Present Value Basis, in 20 (twenty) equal semi-annual installments as described in Section 3.2(iii).
- 11.4 Deduction of the liquidated damages from the Fee shall be deemed a fulfillment of the guarantees for capacity, quality and consumption and constitute Acceptance of the Plant by Recipient. A Certificate of Acceptance shall be signed within ten (10) days thereafter. In the event a Certificate of Acceptance

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is not signed within such ten (10) day period, Acceptance shall be deemed to have occurred after the expiration of the ten (10) day period. Payment of liquidated damages under Section 11.1 shall constitute full and final settlement of, and Recipient's sole and exclusive remedy under contract, law, tort (including negligence but not gross negligence or willful misconduct) or equity with respect to, any claims that Recipient may have against Supplier in respect of the facts that give rise to the liquidated damages.

- 11.5 As requested by Supplier, Recipient shall purchase all Critical Equipment and materials specified in Annex 3 from Contractor. The purpose of this requirement is to reduce the risk that such specified items of equipment could fail to meet the requirements of the PROESA™ Process Technology. To the extent that Recipient elects to purchase any Critical Equipment specified in Annex 3 from a vendor other than Contractor, then Supplier shall be relieved of any responsibility for any failure or defect of the Plant, including any liabilities or liquidated damages under Article 10, but in each case only to the extent resulting from or in connection with such Critical Equipment.
- 11.6 In no event will any liquidated damages be due under Section 11.1 if the failure to meet the guaranteed levels is due to reasons attributable to Recipient to perform its obligations under this Agreement, including Section 10.2. In no event will Supplier's maximum liability for liquidated damages under this Article 11 exceed the Maximum Liability (as defined in Section 13.1 below).
- 11.7 Supplier will obtain Professional Indemnity Insurance with a limit of US\$20,000,000 (Twenty Million US Dollars) and a deductible of not more than US\$1,000,000 (One Million US Dollars) covering breach of its professional duties. The insurance will be maintained until Acceptance of the Plant.

## ARTICLE 12

### REPRESENTATIONS AND WARRANTIES

- 12.1 Supplier represents and warrants to Recipient that:
- (a) Supplier has the right to disclose the Patent Rights and Technical Information (including the PDP) to Recipient.
  - (b) Supplier has the right to grant Recipient the licenses specified in Articles 1 and 22.
  - (c) Supplier is not bound by any agreements, obligations or restrictions, and shall not assume any obligation or restriction or enter into any other agreement that would interfere with its obligations under this Agreement.
  - (d) Supplier is not aware of any Intellectual Property Rights of any third party which would be infringed, misappropriated or otherwise violated by the use of the PROESA™ Process Technology as provided by Supplier or the use of the PDP for the construction, operation and maintenance of the Plant, including the production of Ethanol therein, and the use, sale, offering for sale and/or distribution of Ethanol produced by Recipient at the Plant using the PROESA™ Process Technology as provided by Supplier.

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- (e) The Patent Rights and Technical Information constitute all of the Intellectual Property Rights owned by, licensed to or otherwise controlled by Supplier and its Affiliates with respect to the PROESA™ Process Technology that are necessary to design, procure, construct, operate and maintain the Plant, produce Ethanol at the Plant, and use, sell, offer for sale and distribute such Ethanol in Brazil as contemplated by this Agreement.
  - (f) There is no pending or threatened litigation against Supplier which could materially impact (i) Supplier's ability to perform its obligations under this Agreement or (ii) Recipient's ability to design, procure, construct, operate and maintain the Plant, produce Ethanol at the Plant, or use, sell, offer for sale or distribute such Ethanol, or the use of the PROESA™ Process Technology as provided by Supplier or the PDP.
- 12.2 Each Party represents and warrants to the other Party that it is a legal Person validly registered and existing in its place of incorporation/registration, and that it has full legal capacity and authority to enter into this Agreement with binding and enforceable effect, and to perform its obligations under this Agreement.
- 12.3 It is a condition precedent to this Agreement that the Parties mutually agree in writing that the results of a feedstock trial are satisfactory.

### ARTICLE 13

#### LIABILITIES

- 13.1 Except for liability arising from the gross negligence or willful misconduct of each Party, and except for Recipient's obligation to pay the Fee to Supplier, the total aggregate liability of each Party under, arising out of, or in connection with this Agreement, including the performance of such Party's obligations under this Agreement and any liability for such Party's breach of any term, condition warranty or guarantee hereof (including without limitation Supplier's payments to Recipient pursuant to Article 11 and loss or damage occasioned by any act or omission of Supplier, Recipient or any of their respective Affiliates or any of their respective employees or agents in or relating to the performance of its or their obligations under this Agreement), whether founded in contract, tort (including negligence, but not gross negligence or willful misconduct), strict liability or any other legal characterization whatsoever, shall be limited to US\$20,000,000 (Twenty Million U.S. Dollars) on a Net Present Value Basis ("Maximum Liability"). The Parties acknowledge and agree that such Maximum Liability applicable to both Parties is fair and reasonable.

Following the Acceptance, Supplier shall have no further obligation or liability to Recipient arising out of or in connection with this Agreement other than with respect to (i) any damages due and owing on the date of Acceptance and (ii) Supplier's liability arising out of or in connection with (a) Supplier's gross negligence or willful misconduct, (b) breach of Supplier's representations and warranties under Article 12, (c) Supplier's indemnification obligations under Article 13, or (d) Supplier's confidentiality obligations under Article 15.

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- 13.2 For the avoidance of doubt, Supplier shall not have any obligation to erect, operate, modify (except if Supplier agrees to a Scope Change undertaking such obligation), replace or maintain the Plant at any stage and no activities that Supplier conducts under this Agreement will be deemed to be interpreted that Supplier has operated, modified, replaced or maintained the Plant (or any equipment of the Plant). Except with respect to claims, damages and expenses for which Supplier shall indemnify Recipient pursuant to this Article 13, or claims, damages and expenses arising from Supplier's gross negligence or willful misconduct, Recipient shall hold harmless and indemnify (subject to the Maximum Liability amount) and defend Supplier and its Affiliates from and against any and all claims of any kind or type, damages and expenses (including death) of any third party (including employees of Recipient) relating to or arising from (i) the erection, modification, replacement, operation or maintenance of the Plant, (ii) the manufacture of any Ethanol or the sale or use of any Ethanol manufactured in the Plant or (iii) any by-products, co-products or wastes generated therefrom, regardless of any actual or alleged negligence or other fault of Supplier.
- 13.3 Nothing in this Agreement shall be construed as implying a duty on the part of Supplier's assigned personnel to direct the project management or start-up of the Plant or the operation thereof, or to perform any executive line-management or operational function in relation to the Plant.
- 13.4 Subject to Sections 13.5 and 13.6, Supplier shall defend Recipient, its Affiliates, and any of their officers, directors, employees, representatives or agents, against any third party threat, suit, proceeding, investigation or other claim, and indemnify and hold each of them harmless from all damages, liabilities, expenses and other losses (including attorneys fees and court costs) based on or arising from (i) any claim that the Recipient's use of the PROESA™ Process Technology in accordance with the terms and conditions of this Agreement infringes, misappropriates or otherwise violates any Intellectual Property Right of any third party ("IP Claims"), and/or (ii) any violation of Applicable Law by Supplier.
- 13.5 Should any claim be made or threatened by any third party asserting that the production or use of Ethanol produced by Recipient directly infringes its valid Intellectual Property Rights, Supplier and Recipient shall meet as soon as possible to review the claim and establish a plan to address the claim which includes, but is not limited to determining whether any non-infringing alternative is available. If the Parties determine that the alleged infringement, misappropriation or other violation under an IP Claim is directly caused by the use of the PROESA™ Process Technology, Patent Rights or Technical Information under this Agreement or if an injunction or court order is issued against the use of the PROESA™ Process Technology, Patent Rights or Technical Information as a result of an IP Claim, or, Supplier may at its option and expense: (i) procure for Recipient the right to continue using and exploiting the infringing PROESA™ Process Technology (the "Infringing Technology") as provided in this Agreement, (ii) replace or modify the Infringing Technology so it becomes non-infringing (with equivalent functionality), or if options (i) and (ii) are not available despite Supplier's commercially reasonable efforts, (iii) terminate the licenses granted hereunder and refund to Recipient the Fee on a Net Present Value Basis.
- 13.6 Supplier's obligations stated in Sections 13.4 and 13.5 above, shall apply only if Recipient (i) notifies

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Supplier in writing within ten (10) days after learning that a claim has been asserted or threatened in writing; provided that the failure to provide such notice shall not relieve Supplier of its indemnification obligations except to the extent that Supplier is adversely prejudiced by such failure; (ii) gives Supplier sole control and conduct of the defense of the claim and all negotiations relating to settlement; provided that (a) Recipient shall be entitled to participate in the defense and settlement negotiations and, at Recipient's expense, retain its own counsel and (b) Supplier shall not settle any claims without the prior written consent of Recipient (with such consent not to be unreasonably withheld) unless such settlement is solely for monetary payment and contains an explicit and unconditional release of Recipient; and (iii) reasonably assists Supplier on a timely basis and does nothing to prevent Supplier from defending the claim or lawsuit in all necessary respects. Supplier shall have no obligation to Recipient or Graal Brazil under Sections 13.4 or 13.5 to the extent any IP Claim is based on use by Recipient or its Affiliates of process technology or information not provided by Supplier.

- 13.7 To the extent permitted by Applicable Law, neither Party shall be liable to the other Party for any indirect, incidental, consequential, special or punitive losses or damages, which shall include loss of profit or business, interruption of business, loss of goodwill, loss of contract and cost of capital, even if such Party has been advised of the possibility of such damages, provided such limitation shall not apply with respect to a breach of the provisions, or default of the obligations, of Sections 1.2, 1.3, and 15.1 and Article 23.
- 13.8 Unless caused, or except to the extent contributed to, by gross negligence or wilful misconduct of Supplier, Recipient releases Supplier and its Affiliates, successors and assigns from any liability for, and shall defend, indemnify, and hold Supplier and its Affiliates, successors and assigns harmless from and against all claims, demands or causes of action based on injury, death or sickness of any employee, subcontractor or agent of Recipient, in connection with, arising out of, or related to Recipient's performance or non-performance of any of its obligations or the exercise of any of its rights under this Agreement.
- 13.9 Unless caused, or except to the extent contributed to, by the gross negligence or wilful misconduct of Recipient, Supplier releases Recipient and its Affiliates, successors and assigns from any liability for, and shall defend, indemnify, and hold Recipient and its Affiliates, successors and assigns harmless from and against all claims, demands or causes of action based on injury, death or sickness of any employee, subcontractor, or agent of Supplier, in connection with, arising out of, or related to Supplier's performance or non-performance of any of its obligations or the exercise of any of its rights under this Agreement.
- 13.10 Each Party shall be responsible for the insurance of its respective liabilities with respect to personnel and property stated.
- 13.11 Each of the foregoing limitations, indemnities and other provisions of this Agreement shall survive any termination, cancellation or expiry of this Agreement.





ARTICLE 14

APPROVALS AND PERMITS

- 14.1 It shall be Recipient or its Affiliates obligation to obtain all approvals, permits and licenses and make all filings necessary in Brazil for any permitted sublicense or assignment of this Agreement, and the ownership, operation and maintenance of the Plant; provided that Supplier shall obtain any and all approvals, permits and licenses and make all filings in Brazil required in connection with the filing or obtaining of any Patent Rights in Brazil as well as approvals, permits and licenses (if necessary) outside of Brazil or the USA.

ARTICLE 15

PROTECTION OF CONFIDENTIAL INFORMATION; IMPROVEMENTS

- 15.1 The receiving party shall hold the Confidential Information in confidence for a period of fifteen (15) years from the later of (i) the Effective Date and (ii) the disclosure of such Confidential Information to the receiving party. The receiving party shall use the Confidential Information of the disclosing party solely for the purposes of the Plant or as otherwise specifically permitted by this Agreement. The receiving party will not directly or indirectly disclose the Confidential Information of the disclosing party to any third party except as permitted by this Agreement, will provide such Confidential Information only to any of its employees, agents, suppliers and independent contractors who need it in connection with this Agreement and are bound by comparable written agreements requiring that they keep it confidential and will be responsible for any disclosure or misuse of the Confidential Information by any such person. The receiving party will take all reasonable measures to protect the confidentiality of the disclosing party's Confidential Information, notify the disclosing party in writing of any unauthorized use or disclosure of such Confidential Information, and take steps to remedy any unauthorized use or disclosure. The receiving party will give prompt notice to the disclosing party of any legal requirement that it disclose the disclosing party's Confidential Information, and will disclose the disclosing party's Confidential Information only to the extent required by Applicable Law; provided that the receiving party shall first give notice to the disclosing Party and reasonably cooperate with the disclosing Party to obtain a protective order or other measures requiring that the information or documents so disclosed be used only for the purposes for which the order was issued or is otherwise required by Applicable Law.
- 15.2 In the event that Supplier makes any improvement with regard to the PROESA™ Process Technology or the Patent Rights or Technical Information licensed hereunder, such improvement shall be the exclusive property of Supplier, but shall be automatically deemed licensed to Recipient under Section 1.1, and as soon as reasonably practicable, Supplier shall provide to Recipient (i) at no cost, detailed information regarding such improvements; and (ii) at Recipient's sole cost and expense, technical instruction to assist Recipient in putting such improvements into use at the Plant.
- 15.3 In the event that Recipient makes any improvement with regard to the process being operated by Recipient in the Plant, such improvement shall be the exclusive property of Recipient, but Recipient

shall provide Supplier free of charge with such detailed information, and grant to Supplier the non-exclusive, non-transferable and non-assignable right to use such information free of charge and restriction, with the right to sublicense with Recipient's prior written consent (such consent not to be unreasonably withheld) such information to third parties.

- 15.4 The Party disclosing the improvement shall not be responsible for use of such improvement by the other Party or their permitted sublicensees.
- 15.5 Supplier takes no responsibility for utilization by Recipient of any improvement made by Recipient. Therefore, Recipient will obtain Supplier's consent, not to be unreasonably withheld, prior to implementation of any improvement in the Plant, failing which any warranties related to (a) the performance of the Plant, or, (b) insofar as such improvement is part of an Infringement Claim, to Intellectual Property Rights shall become void. In addition any use of an unauthorized improvement in the Plant shall void Recipient's right under Section 1.3 to use any Licensed Marks.
- 15.6 As used in Sections 15.4 and 15.5, the term "improvement" shall mean any innovation capable of improving the operability, quality of the Ethanol, or efficiency of the Plant or the PROESA™ Process Technology but shall not apply to any innovation related to any process other than a lignocellulosic based process or to any product other than Ethanol.
- 15.7 The Parties hereby acknowledge that the license granted pursuant to this Section 1.1 is non-exclusive to both Parties and that Supplier may, from time to time, sublicense the Patent Technology and Technological information to third parties and that Recipient may, from time to time, develop or acquire technology from third parties for the production of Ethanol or biochemicals.

#### ARTICLE 16

##### MOST FAVORED NATION

- 16.1 If during the term of this Agreement, Supplier has in effect, places into effect or otherwise negotiates with a third party a license under, or any other right to use, the PROESA™ Process Technology, Patent Rights and/or Technical Information to produce ethanol in Brazil, on economic terms, including a fee/capacity ratio, that is more favorable than provided in this Agreement, then Supplier shall promptly offer Recipient such more favorable terms effective as of the date on which such terms are in effect or otherwise negotiated with such third party. At Recipient's request, not more than once annually, Supplier shall provide to Recipient an annual statement certifying compliance with the most favored nation provision of this Section 16.1.

#### ARTICLE 17

##### FORCE MAJEURE

- 17.1 Should either Party be delayed, hindered or prevented from performing any of its obligations under this Agreement due to the case of events beyond its reasonable control, such as riot, government intervention, change in Applicable Law, import restriction, public disturbance or protest, war, acts of

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terrorism, fire, flood, typhoon, earthquake, storm, explosion, accident of navigation, strikes, lockouts or other labor dispute, the time for implementing this Agreement shall be extended by a period equivalent to the effect of the occurrences. Neither Party shall (i) have right to claim from the other Party any loss or damage caused due to the case of force majeure; (ii) be obligated to settle any demands of, or disputes with, laborers; and (iii) have the right to invoke this Article 17 for any events arising due to its negligence.

- 17.2 The delayed, hindered or prevented Party shall (i) inform the other Party as soon as possible by fax and airmail by registered letter a certificate issued by competent authorities concerned not later than seven (7) days from the occurrence of force majeure for the examination and acknowledgment by the other Party and (ii) use commercially reasonable efforts to correct the failure or delay in its performance as soon as possible.
- 17.3 The delayed, hindered or prevented Party shall inform the other Party as soon as possible by fax of the termination or elimination of the case of force majeure and confirm the information by registered airmail letter. After the termination or elimination of the case of force majeure, both Parties shall respectively continue to implement all the responsibilities stipulated in this Agreement. After termination or elimination of the case of force majeure no compensation will be claimed by either Party as a direct result of the force majeure, and the contract resumes under the original terms.
- 17.4 Should the case of force majeure continue more than ninety (90) consecutive days, both Parties shall discuss the further execution of this Agreement through friendly negotiation as soon as possible.

## ARTICLE 18

### TAXES AND DUTIES

- 18.1 Any and all taxes, customs duties, currency conversion costs, remittance fees and other similar charges levied by the authorities of the United States of America or Brazil or any state, city, agency or subdivision thereof with respect to or in connection with this Agreement and its performance, shall be borne and paid by Recipient so that the amounts stipulated in this Agreement shall be received by the Supplier net of any such taxes or charges, whether levied by federal, state, or municipal governments in the United States of America or Brazil, including withholding tax, as if no such taxes or charges were due. All taxes, customs duties and other similar charges levied by any authorities outside the United States of America or Brazil with respect to or in connection with this Agreement and its performance shall be borne and paid by Supplier.



## ARTICLE 19

### DISPUTE RESOLUTION AND GOVERNING LAW

- 19.1 Consultation to Resolve Disputes. Any dispute, difference, controversy or claim of any kind arising out of or relating to this Agreement (including, but not limited to the breach, termination, construction, execution, operation, effect or invalidity of this Agreement) (a "Dispute") shall be settled through friendly consultation between both Parties. If the Dispute cannot be resolved through consultation within thirty (30) days of the Dispute being first notified to the other Party, the Dispute shall be settled definitively, finally and exclusively by binding arbitration as provided in this Article 19.
- 19.2 Arbitration Notice. If the Parties are unable to resolve a dispute relative to the interpretation of this Agreement through negotiation as provided for in Article 19.1, the matter shall, at the written notice of either Party, be definitively, finally and exclusively determined and settled pursuant to arbitration in accordance with the Arbitration Rules of the International Chamber of Commerce in London, England, by a single arbitrator to be appointed in accordance with such rules. The arbitration shall be conducted in English. Any such arbitration may be initiated by a Party by written notice ("Arbitration Notice") to the other Party specifying the subject of the requested arbitration.
- 19.3 Arbitration Award. The arbitration award shall be final and conclusive and shall receive recognition, and judgment upon such award may be entered and enforced in any court of competent jurisdiction. In the event of any conflict between the Rules of the ICC and the provisions of this Article 19, the provisions of this Article 19 shall govern and control. Any damage awards by the arbitrator shall be promptly paid free of any deduction or offset; and any costs or fees incident to enforcing the award shall to the maximum extent permitted by law be charged against the Party resisting such enforcement. The costs of arbitration shall be borne by the unsuccessful Party or as otherwise allocated by the arbitrator.
- 19.4 Governing Law. This Agreement shall be construed (both as to validity and performance), interpreted, and enforced in accordance with, and governed by the laws of England, excluding any conflict of laws principles, which would apply the laws of a different jurisdiction.
- 19.5 Continued Performance. In the course of arbitration, both Parties shall continue to perform their obligations under this Agreement except the parts under arbitration.

## ARTICLE 20

### TRANSFER OF RIGHTS AND OBLIGATIONS

- 20.1 Recipient may not transfer, assign or sublicense its rights and/or the performance of its obligations under this Agreement to any third party without the prior written consent of Supplier, such consent not

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to be unreasonably withheld; provided that Recipient may without Supplier's consent, transfer, assign or sublicense its rights and/or the performance of its obligations under this Agreement to Graal Brazil or any acquirer of all or substantially all of the stock or assets of Graal Brazil by a stock sale, an asset sale, or a merger or consolidation (it being understood that (i) Recipient shall remain liable for payment on the due date of any sums to be paid to Supplier under this Agreement and (ii) nothing in this Agreement shall be construed as limiting Recipient's right to otherwise freely contract or subcontract, without Supplier's consent, with any third party with respect to the operation of the Plant); and provided further that any such sublicense shall not be broader in scope than the license under which it was granted in Sections 1.1, 1.2, 1.3, 15.2, and 23 and that such sublicense shall include restrictions on disclosure and use of the Confidential Information no less stringent than those contained in this Agreement, including in Article 15. In addition, in the event Recipient wishes to sublicense its rights hereunder to Graal Brazil, it will cause Graal Brazil to enter into a Confidentiality Agreement directly with Supplier in the form set out in Annex 8. No sublicense to Graal Brazil shall be effective until such Confidentiality Agreement has been executed. Recipient shall be solely responsible for obtaining any government approvals in Brazil necessary in connection with any permitted assignment or any sublicense by Recipient to Graal Brazil.

- 20.2 Supplier may not transfer or assign, including by operation of law or otherwise, its rights or the performance of its obligations under this Agreement to any Person without the prior written consent of Recipient, such consent not to be unreasonably withheld.
- 20.3 Notwithstanding anything in this Agreement to the contrary, Recipient may assign its rights under this Agreement as security to financial institutions providing funding to Recipient for the construction of the Plant and/or to any Affiliate of Recipient; provided that such financial institution provides written confirmation that it is aware of and accepts all terms and conditions of this Agreement, and provided further that Recipient shall remain primarily liable to Supplier in the event of any such assignment.
- 20.4 No assignment of this Agreement shall relieve either Party of its obligations to maintain the confidentiality of Confidential Information of the other Party.

## ARTICLE 21

### EFFECTIVE DATE, TERM AND TERMINATION

- 21.1 This Agreement shall come into full force and effect on the Effective Date and, unless earlier terminated by either Party pursuant to the terms and conditions of this Agreement, shall remain in full force and effect until the expiration of the last to expire Patent Right. Notwithstanding the foregoing, the licenses granted to Recipient in Sections 1.1, 1.3 and 23.1 of this Agreement in respect of the Technical Information, Licensed Marks and Copyright Material (and all permitted sublicenses granted thereunder) shall, subject to Section 21.3, survive the expiration or termination of this Agreement in perpetuity). However, any unsettled credit and debt under this Agreement shall not be affected by the termination.
- 21.2 If either Party (the "Defaulting Party") shall default in the due observance and performance of its

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material obligations under this Agreement and fail or be unable to remedy such default within thirty (30) days following written notice from the other Party (the "Non-Defaulting Party"), or go into liquidation, whether voluntary or compulsory (other than for the purposes of solvent amalgamation or reconstruction) or analogous proceedings shall be undertaken or commenced under Applicable Laws, or shall become insolvent or unable to pay its debts as they fall due, then the Non-Defaulting Party may by notice in writing to Defaulting Party forthwith terminate this Agreement.

- 21.4 In event of termination pursuant to Sections 3.2, 13.5, 21.2, 21.3 or 22.2, all rights and licenses to the Patent Rights, Technical Information and Licensed Marks granted to Recipient under this Agreement shall also terminate and be of no further force and effect, and Recipient shall promptly return to Supplier all documents related to the Technical Information and Confidential Information of Supplier.
- 21.5 Except as provided in Section 21.4, the expiry or termination of this Agreement shall not affect the undertakings under Articles 1, 11, 13, 15 and 23. In addition, such expiry or termination shall be without prejudice to the rights of either Party against the other accrued or accruing to the date of such expiry or termination.

## ARTICLE 22

### TRANSFER OF ASSETS, REORGANIZATION, BANKRUPTCY AND GENERAL ASSIGNMENT

- 22.1 Each Party shall give the other Party prompt written notice as soon as is legally permissible of the occurrence of any of the following events affecting it:
- A) The affected Party shall dissolve, transfer, sell, assign, mortgage, encumber, and pledge, or otherwise dispose of, directly or indirect, all or substantially all of its assets (other than an encumbrance solely to secure financing in the ordinary course of business),
  - B) The affected Party shall consolidate with or merge into another corporation or permit one or more other corporations to consolidate with or merge into it; or
  - C) The affected Party shall:
    - (a) be adjudged bankrupt,
    - (b) make a general assignment for the benefit of its creditors, or
    - (c) become insolvent, and a receiver shall therefore be appointed.
  - D) The affected Party shall contemplate or reasonably expect the occurrence of any event referred to in this Article.
- 22.2 If a Party, in its sole discretion, believes that the occurrence affecting the other Party of any of the events described in Article 21.1(C) prior to Acceptance of the Plant by Recipient is adverse to its business interests, the unaffected Party has the right to terminate this Agreement upon thirty (30) days' written notice.



ARTICLE 23

COPYRIGHT MATERIAL

- 23.1 The ownership and copyright in Copyright Material (as hereinafter defined) produced by Supplier or its Affiliates shall remain vested in Supplier and its Affiliates. The ownership and copyright in Copyright Material produced by Contractor and/or General Contractor or their respective subcontractors in connection with the engineering design for the Plant which shall be based on Supplier's Copyright Material shall vest in Supplier, but only to the extent constituting a derivative work of Supplier's Copyright Material. Recipient shall include in any agreements with third Parties relating to the engineering design for the Plant provisions securing ownership of Copyright Material in Supplier as provided for in this Article 23. Supplier hereby grants to Recipient a non-exclusive, non-transferable (except as set forth in Article 20), non-sublicensable (except as set forth in Article 20), royalty free, fully paid-up license to use, reproduce, distribute, publicly perform, display, install, execute and create derivative works of Copyright Material in connection with the design, construction, operation and maintenance of the Plant, production of Ethanol at the Plant, and distribution of such Ethanol worldwide.
- 23.2 For the purpose of this Agreement, "Copyright Material" shall mean all documents, specifications, data sheets, drawings, compilations, records, vendor lists, computer programs, flowsheets, models and designs relating to and directly concerning the PROESA™ Process Technology supplied by or on behalf of Supplier to Recipient at any time or produced by Contractor or General Contractor or their respective subcontractors at any time in the course of work relating to the Plant and the engineering design of the Plant.

ARTICLE 24

PUBLICITY

- 24.1 Neither Party may publish press releases, articles or any other material, or otherwise include any information in its promotional materials or website, that references or otherwise relates to the Plant or this Agreement, in each case without the prior written consent of the other Party.
- 24.2 The Parties agree that, subject to Recipient's prior written consent, Supplier may photograph and/or film the Plant from time to time during construction, during start-up and after start-up for the purpose of generating promotional materials, provided that all publicity materials generated by the Supplier (including photographs and videos) are subject to the Recipient's review and consent prior to the release of such materials. The Recipient may also designate restricted areas of the Plant, where such materials cannot be produced. All such photography and/or filming will be at Supplier's expense, however Recipient agrees to provide reasonable assistance to Supplier.
- 24.3 Copyright in any photographs or films produced under Section 24.2 shall vest in Supplier provided that the Recipient shall have the right to use and reproduce such photographs or films, at the Recipient's expense, for its promotional purposes.

ARTICLE 25

PLANT ACCESS

- 25.1 During the term of this Agreement, Supplier may, subject to Recipient's prior permission, arrange for prospective licensees of Supplier's PROESA™ Process Technology to visit the Plant. Such visits shall be according to the following provisions:
- (1) Visits shall be scheduled for a time and duration that is convenient for Recipient.
  - (2) Visits shall be co-hosted by Supplier at all times.
  - (3) All expenses shall be borne by Supplier and/or the visiting Party.
  - (4) The visiting Party shall be required to maintain confidential any information obtained during any visit by signing a confidentiality agreement in a form acceptable to Recipient.
  - (5) The route and facilities to be visited by the visiting Party shall be agreed by Recipient.

ARTICLE 26

NOTICES

- 26.1 Any notice given pursuant to this Agreement shall be in writing in English and shall be given by sending the same by courier delivery, or facsimile, telegram or other electronic transmission and confirmed by courier service delivered letter, promptly transmitted or addressed to the appropriate Parties. The date of receipt of a notice or communication hereunder shall be deemed to be:
- (6) the same day when the delivery is made in case of special personal delivery or upon receipt when delivered by courier;
  - (7) three (3) working days after dispatch in the case of a facsimile, telegram or other accepted electronic transmission, as shown by the confirmation received for such delivery.

All notices and communications shall be sent to the appropriate address set forth below, until the same is changed by notice given in writing to the other Party or the Parties:

Address for service of Recipient:

Attention: Joana Benjamin  
General Counsel

Address: Graal Bio LLC  
c/o Corporate Research Ltd  
South Dupont Highway, City of Dover  
County of Kent, Delaware 19901

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Tel: +1 800 483.1140  
Fax: +1 800 253.5177  
Email: [joana@graininvest.com](mailto:joana@graininvest.com)

With a copy to:

Attention: Alan Hiltner  
Executive Vice President  
Address: Graal Bio Investimentos S.A.  
Av. Brigadeiro Faria Lima 2277, 15<sup>th</sup> floor  
São Paulo, SP - CEP 01452-000  
Tel: +55 11 2739 0500  
Fax: +55 11 2739 0510  
Email: [alan@graininvest.com](mailto:alan@graininvest.com)

Address for service of Supplier:

Attention: Dario Giordano  
Corporate R&D Director  
Address: Beta Renewables S.p.A.  
Strada Ribrocca n. 11  
15057 Tortona (AL)  
Italy  
Tel: +39 0131 810 302  
Fax: +39 0131 811 759

With a copy to:

Attention: Rogih Yazgi  
General Counsel  
Address: Chemtex International, Inc.  
1979 Eastwood Road  
Wilmington, NC 28403  
Tel: +1 (910) 509-4400  
Fax: +1 (910) 509-4567  
E-mail: [rogih.yazgi@chemtex.com](mailto:rogih.yazgi@chemtex.com)

- 26.2 Either Party may change its address and/or facsimile numbers for service of notices by notifying the other Party of such change in accordance with Section 26.1.

## ARTICLE 27

### SEVERANCE

- 27.1 If any provision of this Agreement is held to be invalid or unenforceable by any court of law or body having authority to so hold, such provision shall to the extent of such invalidity or unenforceability be deemed to have been deleted from this Agreement. All other terms and conditions shall remain in full force and effect unless such deletion cannot be made without destroying the basis of this Agreement in which case this Agreement shall be terminated forthwith at the option of either Party by giving written notice to that effect to the other Party.

## ARTICLE 28

### GENERAL PROVISIONS

- 28.1 The words "hereof", "herein" and "hereunder" and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof. References to Articles, Sections and Annexes are to Articles, Sections and Annexes of this Agreement unless otherwise specified. Any singular term in this Agreement shall be deemed to include the plural, and any plural term the singular. Whenever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation", whether or not they are in fact followed by those words or words of like import. "Writing", "written" and comparable terms refer to printing, typing and other means of reproducing words (including electronic media) in a visible form. References to any agreement or contract are to that agreement or contract as amended, modified or supplemented from time to time in accordance with the terms hereof and thereof. References to any Person include the successors and permitted assigns of that Person. References from or through any date mean, unless otherwise specified, from and including or through and including, respectively. References to "law", "laws" or to a particular statute or law shall be deemed also to include any and all Applicable Law.
- 28.2 Annexes 1 to 8 are integral parts of and shall have the same force as this Agreement itself. However, in the event of any inconsistency between the Annexes and the Definitions and/or Articles 1 to 28, the Definitions and Articles 1 to 28 shall prevail.
- 28.3 Any amendment, supplement and alteration to the terms and conditions of this Agreement shall be made in written form and signed by the authorized representatives of both Parties upon an agreement reached between both Parties through consultation. They shall form integral parts of this Agreement, and shall have the same force as this Agreement itself. However, such amendment, supplement and alteration shall not release either Party from its responsibility and liability stipulated in this Agreement unless otherwise stipulated in such amendment, supplement and alteration.

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- 28.4 No delay or failure by any Party in exercising any right or privilege will be construed as a waiver thereof nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right or privilege. No waiver will be valid against a Party unless written and signed by the Party against whom enforcement is sought.
- 28.5 This Agreement, together with all Annexes hereto, as executed by the authorized representatives of the Parties constitutes the entire understanding between the Parties on the subject matter hereof and supersedes and cancels all previous agreements, understandings, representations and warranties written or oral made by or between the Parties in relation to such subject matter. Each Party acknowledges that in entering into this Agreement it has not relied on any representation, warranty, agreement or statement not set out in this Agreement and it will have no right or remedy arising out of any such representation, warranty, agreement or statement.
- 28.6 Each of the Parties hereby acknowledges and agrees that it has entered into this Agreement freely and of its own volition, that it has been represented by independent counsel of its choice during the negotiation and execution of this Agreement, and that it has executed the same upon the advice of such independent counsel, including, but not by way of limitation, those provisions of the Agreement related to the allocation of liabilities and the limits thereof. Each Party and its counsel cooperated in the drafting and preparation of this Agreement, and any and all drafts relating thereto shall be deemed the joint work product of the Parties and may not be construed against either Party by reason of its preparation. Therefore, the Parties waive the application of any Applicable Law providing that ambiguities in an agreement or other document will be construed against the Party drafting such agreement or document.
- 28.7 Neither Party is or is intended to be the agent of the other for any purpose whatsoever and nothing in this Agreement shall give rise to any relationship in the nature of agency between the Parties and neither Party shall hold itself out as acting as agent for the other Party.
- 28.8 Nothing in this Agreement is intended to or shall give rise to any relationship of partnership or profit sharing in the nature of partnership between the Parties.
- 28.9 This Agreement shall be made in English and in two (2) original copies, one (1) for Recipient and one (1) for Supplier.
- 28.10 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall become effective when each Party shall have received a counterpart hereof signed by the other Party. Until and unless each Party has received a counterpart hereof signed by the other Party, this Agreement shall have no effect and no Party shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication).

*(signature pages to follow)*



EXECUTION COPY

For and on behalf of Graal Bio LLC:

Signed By:

Print Name: Bernardo Gudin

Title: CEO

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EXECUTION COPY

For and on behalf of Beta Renewables S.p.A.:

Signed By: 

Print Name: \_\_\_\_\_ BETA RENEWABLES S.p.A.

Chief Executive Officer

Title: \_\_\_\_\_ Guido Ghisolfi



## BASIS OF DESIGN

Defined terms used but not otherwise defined herein shall have the meaning set forth in the License Agreement.

### 1. Design Basis

The Plant shall be designed to operate on a continuous basis, for 333 days (8000 hours per year).

#### 1.1 Plant Capacity

The Plant will produce 65,000 metric tonnes per year of Ethanol based on about 318 ktpy dry sugarcane bagasse and 340 ktpy dry sugarcane straw (to be determined prior to the Effective Date of the License Agreement) with the respective composition shown in this Annex 1, Section 1.3.

The Ethanol yield from Biomass, based on a Novozymes' commercially available enzyme cocktail, and DSM yeast reference model: RN1016 (or another yeast strain that has a better or more cost efficient yield than RN1016), is shown in Annex 5, Section 1.3.2.

#### 1.2 Product Specification

The product specification can be found in Annex 5, Section 1.

#### 1.3 Feedstock Specification

The plant is designed using the Biomasses with the composition below indicated:

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Biomass composition				
	Sugarcane Bagasse		Sugarcane Straw*	
Water content	% w/w	40,0 %	% w/w	10,9%
Soluble C5 sugars (xylose + xylooligomers)	% w/w dry	0,3 %	% w/w dry	0,5%
Soluble C6 sugars (glucose + glucoligomers)	% w/w dry	0,2 %	% w/w dry	0,5%
Insoluble Glucans	% w/w dry	38,0 %	% w/w dry	33,7%
Insoluble Xylans	% w/w dry	20,0 %	% w/w dry	21,4%
Insoluble Acetyls	% w/w dry	1,9 %	% w/w dry	2,1%
Lignin	% w/w dry	25,6 %	% w/w dry	24,6%
Residues + Ashes	% w/w dry	2,1 %	% w/w dry	4,8%
Others	% w/w dry	11,9 %	% w/w dry	12,4%
Bulk raw material density	Kg/m <sup>3</sup>	80-120	Kg/m <sup>3</sup>	30-60%

\* Biomass composition for sugarcane straw to be defined prior to the Effective Date of the License Agreement.

#### 1.4 Expected Consumptions

##### 1.4.1 Feedstock consumption

Considering the composition in Table 1.3 of this Annex 1, the Plant will produce one metric tonne of Ethanol from 2,883 tonnes of C5 (xylans) plus C6 (glucans) sugars, using Novozymes' CTec3 enzyme cocktail (or another model enzyme that has a better yield than CTec3).

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*[Signature]*

*[Signature]*

#### 1.4.2 Chemical consumption

The table below shows the expected major chemical consumptions related to metric tonnes of Ethanol production

Sulfuric acid (98%)	5 kg/ton EtOH
Urea	28 kg/ton EtOH
Potassium hydroxide	40 kg/ton EtOH
Antifoam	4 kg/ton EtOH
Sodium Hydroxide	2 kg/ton EtOH

#### 1.4.3 Enzyme and Yeast Consumptions

The table below shows the expected enzymes, yeasts and sugar consumption:

Dry yeast (based on the DSM yeast mod.: RN1016, or other better yeast)	0.25 kg/t EtOH
Enzyme Solution (anticipating the use of a Novozymes enzyme cocktail with improved activity compared to CTec3 as well as better cost efficiency)	50 kg/t EtOH
Sugar (dry basis) *	21 kg/t EtOH

\*Sugar used for yeast propagation

#### 1.4.4 Utility Consumptions:

The table below shows the expected utility consumptions for the Inside Battery Limits (ISBL) Plant:

UTILITY	EXPECTED VALUES
Steam (HP steam @ 25 bar g)	3.5 t/t EtOH
Steam (MP steam @ 10 bar g)	4.5 t/t EtOH
Electricity plant consumption (running power)	6.2 MW

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**1.5 Utilities****1.5.1 Utility Specifications**

The following list shows typical requirements for utilities at the Battery Limits under normal operating conditions that are to be supplied by the Recipient at the quantity and quality specified by the Supplier

- |  |  |
|--|--|
| <p>➤ <u><b>Steam:</b></u><br/>Quality: 98%, saturated<br/>High Pressure: 25 barg<br/>Medium Pressure: 10 barg<br/>Low Pressure: 0 barg (exhaust steam output)</p>        | <p>➤ <u><b>Cooling Water:</b></u><br/>Supply Temperature: 30°C<br/>Return Temperature: 37°C<br/>Supply Pressure: 5 barg at grade<br/>pH: 7-9</p> |
| <p>➤ <u><b>Electric Power:</b></u><br/>Usage Voltage: 400 V, 60 Hz, 3 phase<br/>230 V, 60 Hz <math>\pm</math> 3%, 1 phase<br/>Control Voltage: 110 V, 60 Hz, 1 phase</p> | <p>➤ <u><b>Summer Chiller Water:</b></u><br/>Supply Temperature: 20°C<br/>Return Temperature: 30°C<br/>Supply Pressure: 7 barg at grade</p>      |
| <p>➤ <u><b>Process Air:</b></u><br/>Oil Content: None<br/>Low Pressure: 3 barg</p>   | <p>➤ <u><b>Continuous Chiller Water:</b></u><br/>Supply Temperature: 7°C<br/>Return Temperature: 12°C<br/>Supply Pressure: 7 barg at grade</p>   |
| <p>➤ <u><b>Instrument Air:</b></u><br/>Oil Content: None<br/>Supply Pressure: 8 barg<br/>Dew Point: - 20°C</p>   |  |

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## Annex 2

## PROCESS DESCRIPTION / PATENT RIGHTS

## 2. Process

The Plant is designed to produce bioethanol through hydrolysis and fermentation of cellulose and hemicellulose starting from lignocellulosic biomasses (in this case sugarcane bagasse or straw).

The main process steps for ethanol production from lignocellulosic feedstock are:

- Biomass pretreatment to disrupt the lignocellulosic matrix and solubilize C5 and C6 sugars;
- Hydrolysis to reduce the cellulose and hemicellulose into fermentable sugars;
- Fermentation of sugars to ethanol;
- Solid separation, ethanol recovery and dehydration.

The technology development target is to design an energy efficient pretreatment process able to produce pretreated material that facilitates optimal enzymatic and microorganism activity. In particular many efforts have been made in order to limit formation of degradation products that could inhibit enzyme and microorganism performance.

Plant is designed to guarantee flexible operation with different feedstocks and to maximize ethanol yield.

Redundant system is integrated in critical sections of the Plant to guarantee the maximum reliability in all the expected run conditions, during start up and shut-down operations.

The following descriptions of the individual process steps highlight special features of the process design as proposed. The key areas are as follows:

- Area 1200 Biomass pretreatment
- Area 2100 Enzymatic hydrolysis and Viscosity Reduction
- Area 3100 Fermentation
- Area 3200 MO propagation
- Area 4100 Beer column section
- Area 4200 Rectifier column section
- Area 4300 Ethanol dehydration section
- Area 4400 Ethanol daily storage section
- Area 5100 Lignin separation and Lignin Storage
- Area 7600 CIP system
- Area 7700 Chemicals storage

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## 2.1 Process Description

The biomass from the battery limits is conveyed to the pretreatment section where the conversion of the lignocellulosic material to sugars and by-product lignin begins.

### 2.1.1 Area 1200 – Biomass pretreatment

The biomass will be sent to the pretreatment where the cellulose structure is disrupted, the lignin seal is broken, and the hemicellulose is partially removed. This process permits the enzyme access to the cellulose and hemicellulose portions.

Pretreatment is one of the critical steps in the cellulose-to-ethanol process, which offers significant challenges to optimize the subsequent hydrolysis. In general, an effective pretreatment is defined by conditions that avoid degradation of pentose and glucose from the cellulose and the hemicellulose, while simultaneously limiting the formation of by-products that inhibit the growth of microorganisms necessary for the ethanol production via fermentation.

The combination between auto-hydrolysis and steam explosion process is used to minimize the formation of inhibitors, eliminating a significant drawback of the conventional process. This inhibitors reduction increases also the extraction of celluloses and hemicelluloses. The process use saturated steam to cleave the chemical bonds between lignin, cellulose and hemicellulose.

The effective outcome in this section has the benefit to lowering the cost of the entire process and to reduce the amount of enzyme used in the hydrolysis step.

### 2.1.2 Area 2100 – Enzymatic hydrolysis

The streams coming from area 1200 (Biomass Pretreatment) will be mixed together and fed to the enzymatic hydrolysis two steps reactors to efficiently liquefy the pretreated material (viscosity reduction).

This process allows the enzymatic processing of high amount of dry matter providing a complete mixing and adequate retention time for the first enzymatic liquefaction of complex cellulose and hemicellulose, leading to simpler oligomer chains necessary for an efficient downstream conversion to ethanol.

This step will guarantee a constant and continuous flow of the material into the fermenters.

### 2.1.3 Area 3100 – Fermentation

The mash exiting from the hydrolysis reactors will be cooled and then sent to the simultaneous saccharification and fermentation (SSF) section. The simultaneous saccharification of both cellulose (to glucose) and hemicellulose (to pentose) and the co-fermentation of both glucose and pentose will be

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realized by using yeast specifically engineered for this purpose. The SSF offers a potential reduction of the capital costs due to the combination of hydrolysis and fermentation into a single reactor. In the fermentation, sugars will be converted to ethanol and carbon dioxide by the action of the yeasts. The fermentation process employs a system of six tanks, all of equal size to allow the fermentation process to be operated in a batch mode. The fermentation process generates heat, which is removed by circulating the fermenting mash through external heat exchangers. From fermentation, the beer is pumped to the beer well, a holding tank that allows beer to be continuously fed to the distillation sections.

#### 2.1.4 Area 3200 – MO propagation

Two tanks are used for yeast propagation (production) where yeasts are grown rapidly with the addition of air.

#### 2.1.5 Area 4100 – Beer column section

The beer produced during SSF is pumped to a beer stripping column. The bottom stream (stillage) containing water and solids, will be sent to the solid/liquid separation unit while overhead stream is sent to rectification column.

The heat is supplied to the beer column by reboiling the clarified stillage through two indirectly heated reboilers that use exhaust steam coming from pretreatment.

Solid content in clarified stillage could cause fouling issues so that reboilers capacity is oversized in order to allow the column working at reduced duty with only one reboiler while cleaning the other.

#### 2.1.6 Area 4200 – Rectifier column section

The ethanol/water stream from the top of the beer column will be condensed and pumped to rectifier column where it is concentrated to near-azeotropic point. A side draw-off from the rectifier column will separate the heavy alcohols fraction in order to meet purity requirements for the ethanol. The heat is supplied to the rectifier column by an indirectly heated reboiler. The water stream comes from the bottom of the rectifier column is pumped to the process condensation tank and treated to reuse in the process before sending it to the effluent collector tank.

#### 2.1.7 Area 4300 – Ethanol dehydration section

The rectifier top mixture is in azeotrope condition and cannot be further purified using standard distillation. The final removal of water / ethanol mixture to produce fuel grade ethanol is achieved by a molecular sieve dehydration system.

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The molecular sieves work on the principle of selective adsorption in the vapor phase. In this case, water is adsorbed on the sieve bed material while ethanol passes through the bed. The adsorbed water is removed during a regeneration step and is routed back to the distillation system. Fuel ethanol is pumped to the daily / off spec tanks opportunistically sized for the production at design rate.

The production rate of the ethanol from the distillation / dehydration system will be monitored with in-line instruments, while moisture content will be monitored with laboratory equipment.

#### 2.1.8 Area 4400 – Ethanol daily storage section

The ethanol from dehydration section is fed into the ethanol daily tanks / off spec tanks in order to control the quality of the product before sending it into the product storage section.

#### 2.1.9 Area 5100 – Lignin separation

Bottom of beer stripper column containing solids is fed to a filtration system to separate stillage from lignin cake. The purpose of the system is to obtain the solid lignin into pieces with a residual moisture content of up to 44%, from an aqueous suspension that contains about 10- 13% by weight of lignin. The filtration cycle is the following: the slurry is fed to the filtration chambers by slurry pumps. The filtration chambers are provided with a membrane, connected with compressed air and/or pressing water. When the filtration chambers are full of slurry, the filters go in pressing phase and the liquid is removed from the chambers by the squeezing of the membranes. The lignin cakes, in solid state, are discharged into belt conveyors, and the filtrate is collected into a tank and sent back to the process as dilution water, and the excess is sent to an effluent recovery.

#### 2.1.10 Area 7600 – CIP system

In order to keep the process microbiologically clean and to remove residues from heat exchange equipment and tanks, a Clean-In-Place (CIP) system will be provided. The cleaning process will use condensate from the process, thereby minimizing fresh water usage. Caustic will be used as a cleaning agent for sanitizing and dissolving most of the residues.

#### 2.1.11 Area 7700 – Chemicals storage

Chemicals (antifoam, caustic soda, potassium hydroxide, urea solution, sulfuric acid, enzymes, etc.) are stored in suitable tanks and dosed to the Plant.

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Internal Code No.	TITLE	Brazilian Application Identification	Brazil App. No.	Brazil App. Date	Parent Publication No.	Country of Parent	Priority
MGX.011	HIGHT TEMPERATURE LIGNIN SEPARATION PROCESS	Brazilian National Phase Entry of PCT/IT2009/000002	Filed: No. to be Assigned	9-Jul-2010	2011/007369	PCT	PCT/IT2009/000002
MGX.016	PRE-TREATED BIOMASS HAVING ENHANCED ENZYME ACCESSIBILITY	Brazilian National Phase Entry of PCT/IT2009/0000410			not yet published	PCT	PCT/IT2009/0000410
MGX.018	REGENERATIVE PURIFICATION OF A PRETREATED BIOMASS SYSTEM	Brazilian National Phase Entry of PCT/IT2009/0000552			2011/0070602	PCT	PCT/IT2009/0000552
MGX.022	IMPROVED BIOMASS PRETREATMENT PROCESS	Brazilian National Phase Entry of PCT/IT2010/000142	Filed: No. to be Assigned	31-Mar-2010	2012/113129	PCT	PCT/IT2009/000125 PCT/IT2009/000129 PCT/IT2009/000130
MGX.023	AN IMPROVED PROCESS FOR THE RAPID HYDROLYSIS OF HIGH SOLIDS BIOMASS	Brazilian National Phase Entry of PCT/IT2010/000143	FI 10205467	31-Mar-2010	2010/113130	PCT	PCT/IT2009/000124 PCT/IT2009/000127 PCT/IT2009/000129 PCT/IT2009/000130
MGX.025	METHOD TO RECOVER SUGARS OF PRE-TREATED LIGNOCELLULOSE BIOMASS LIQUIDS	Brazilian National Phase Entry of PCT/IT2010/0000411			not yet published	PCT	PCT/IT2010/0000411
MGX.026	PROCEDIMENTO MIGLIORATO PER RECUPERARE ZUCCHERI DA UN FLUSSO DI PRETRATTAMEN	Brazilian National Phase Entry of PCT/IT2011/0054203			not yet published	PCT	TO2010/0000792
MGX.027	PROCEDIMENTO MIGLIORATO PER RECUPERARE ZUCCHERI DA UN FLUSSO DI PRETRATTAMEN	Brazilian National Phase Entry of PCT/IT2011/0054204			not yet published	PCT	TO2010/0000794

CRITICAL EQUIPMENT  
PRETREATMENT SECTION

TAG	NAME
P-1201	REACTOR DISCHARGE PUMP
R-1201	LOW PRESSURE COOKING REACTOR
R-1202	HIGH PRESSURE COOKING REACTOR
Y-1202	BIOMASS FEEDER
Y-1203	ROTO-STEAMER
Y-1205	LIQUID SEPARATION REACTOR
Y-1207	BIOMASS COMPRESSOR
Y-1208	INSTANT DEPRESSION DEVICE
Y-1209	BIOMASS DISCHARGER
Y-2101	BIOMASS COOLER
F-1202	BLOW CYCLONE
F-1203	ATMOSPHERIC START UP CYCLONE
VS-1201	C5 STREAM FLASH DRUM

DISTILLATION - BEER COLUMN SECTION

TAG	NAME
ME-4101	BEER COLUMN TRAYS

DISTILLATION - DEHYDRATION & STORAGE SECTION

TAG	NAME
ME-4301	MOLECULAR SIEVE #1 BED INTERNAL
ME-4302	MOLECULAR SIEVE #2 BED INTERNAL

LIGNIN SEPARATION SECTION

TAG	NAME
Z-5101-A	LIGNIN FILTER #1
Z-5101-B	LIGNIN FILTER #2
Z-5101-C	LIGNIN FILTER #3
Z-5101-D	LIGNIN FILTER #4
Z-5101-E	LIGNIN FILTER #5

VISCOSITY REDUCTION & HYDROLYSIS

TAG	NAME
AG-2101	VISCOSITY REDUCTION TANK AGITATOR

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DIVISION OF DESIGN AND TECHNICAL DOCUMENTATION

The Process Design Package (PDP) to be furnished by the Supplier shall include the following information:

- Design Basis
- Process Flow Diagrams (PFD's)
- Mass / Heat Balance
- Process Description
- Raw Materials, Additives and Chemicals Specification
- Battery Limit Conditions
- Utility Consumption List
- Equipment List
- Process Data Sheets for Equipment
- First issue of plot plan
- First issue of Piping and Instrument diagrams (P&ID's)
- Description of Interlocks (included in the P&ID)
- Effluent summary

Additional document to be furnished by Supplier shall include:

- PROESA™ Operating Manual\*

\*The PROESA™ Operating manual will be delivered no later than four (4) months before Plant Start Up.

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## Scope Matrix

For the purpose of quick reference, the entire work can be classified as follows:

	Chemtex	Beta Renewables	Client
Project management	X		X
Delivery of PDP		X	
Basic Engineering	X		
Detail Design Engineering			X
Review of Detailed Engineering Design (key drawings)	X		
Supply of critical equipment	X		
Supply of other process equipment			X
Supply of instrumentation			X
Supply of process bulk material			X
Supply of MCC			X
Supply of DCS			X
Supply of utilities			X
Supply of bulk material for utilities and interconnecting piping			X
All building and civil work			X
Procurement for critical equipment	X		
Procurement for Recipient equipment			X
Delivery for critical equipment (CIF Macaïó)	X		
Transportation, customs clearance, and storage			X
Erection			X
Erection supervision/support	Optional		X
Precommissioning and commissioning			X
Precommissioning and commissioning support	X		
Training*		X	
Start-up			X
Start-up support	X	X	
Performance test run			X
Performance test support	X		

\* Recipient personnel shall be trained by Supplier at the Crescentino Plant (Italy), the cost of travelling and living of Recipient's personnel is not included in the Fee and shall be borne by Recipient.

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## PERFORMANCE TEST AND GUARANTEE

Defined terms used but not otherwise defined herein shall have the meaning set forth in the License Agreement. In accordance with Section 12.3 of the License Agreement, the mutual agreement of recipient and Supplier of the yields set forth in this Annex 5 is a condition precedent to the effectiveness of the License Agreement.

**1. Performance Guarantees**

The Performance Guarantees offered by the Supplier are as follows:

**1.1 Capacity:**

The ISBL Plant will produce 65,000 metric tonnes per year of fuel grade Ethanol based on 8000 operating hours per year on a continuous basis (equivalent hourly capacity of 8.125 metric tonnes per hour).

**1.2 Product Quality:**

The product, after the molecular sieve section, will contain a minimum ethanol content and a maximum water content as shown in the table below. The applicable test method for determining each of these parameters is also shown.

GUARANTEED VALUES		
Property	Specification	Test method
Ethanol content (including higher saturated alcohols)	99.3 % (min) m/m	EC/2870/2000 – Method I – Appendix II, Method B
Specific Gravity	791.5 kg/m <sup>3</sup> (max)	EN 15489
Total acids (expressed as acetic acid)	30.0 mg/L	EN 15491
Conductivity	350 $\mu$ S/m	ASTM D4052

**1.3 Feedstock Consumption:**

Considering the composition in Table 1.3 of this Annex 1, the Plant will produce one metric tonne of Ethanol from 2,883 tonnes of C5 (xylans) plus C6 (glucans) sugars, using Novozymes' CTec3 enzyme cocktail (or another model enzyme that has a better yield than CTec3).

The Guarantee consumption will need to be verified by a pilot facility trial of representative feedstock provided by the Recipient.

**1.4 Enzyme Consumption:**

The enzyme consumption will not exceed 75 kg enzyme solution per metric tonne of Ethanol and using Novozymes' CTec3 enzyme cocktail, or better or more cost efficient enzyme.

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**1.5 Yeast Consumption:**

The yeast consumption will not exceed 0.28 kg dry yeast per metric tonne of Ethanol and using DSM's no.: RN1016 yeast, or other better yeast or more cost efficient enzyme.

**2. Lists Of Analytical Methods For Routine Plant Operation And Laboratory Analysis**

The following is a comprehensive list of analytical methods that includes analytical methods to be used during the performance test run and/or used during routine plant operation:

Property	Test method for EU specification
Appearance	Visual inspection
Total acids (expressed as acetic acid)	EN 15491
Non volatile residue @ 105 °C	EC/2870/2000 – Method II
Ethanol content	EC/2870/2000 – Method I – Appendix II, Method B
Methanol content	EC/2870/2000 – Method III
Water content	EN 15489
Inorganic Chloride content	EN 15484 or prEN 15492
Copper content as Cu	EN 15488
Sulfur content	EN 15485 or EN 15486
Higher saturated (C3-C5) mono-alcohols content	EC/2870/2000 – method III
Phosphorus content	EN 15487

**Laboratory Analyses**

Supplier shall provide Recipient with the laboratory analyses procedures below.

Determination	Supplier Procedure	Reference
Pretreatment solid samples	MA CTX 001	
Preparation of Samples for hydrolyze and fermentation	MA CTX 002	Technical Report NREL/TP-510-42623.  Determination of Sugars, Byproducts and Degradation Products in Liquid Fraction Process Samples

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Acid Hydrolyze for solid samples	MA CTX 003	Technical Report NREL/TP-510-42618. Determination of Structural Carbohydrates and Lignin in Biomass
Acid Hydrolyze for liquid samples	MA CTX 004	Technical Report NREL/TP-510-42623. Determination of Sugars, Byproducts and Degradation Products in Liquid Fraction Process Samples
Treatment of Raw Material	MA CTX 005	Technical Report NREL/TP-510-42620. Preparation of Samples for Compositional Analysis.
Determination of anions and cations by liquid chromatography	MA CTX 006	METHOD UNI EN ISO 10304-02. Determination of dissolved anions by liquid chromatography of ions
Determination of Lignin	MA CTX 007	Technical Report NREL/TP-510-42618. Determination of Structural Carbohydrates and Lignin in Biomass
Determination of Ash in Biomass	MA CTX 008	Technical Report NREL/TP-510-42618. Determination of Ash in Biomass
Determination of Moisture Content in Biomass	MA CTX 009	Technical Report NREL/TP-510-42621. Determination of Total Solids in Biomass and Total Dissolved Solids in Liquid Process Samples
Determination of Dry Matter	MA CTX 010	Technical Report NREL/TP-510-42621. Determination of Total Solids in Biomass and Total Dissolved Solids in Liquid Process Samples
Determination of Extractives in Biomass	MA CTX 011	Technical Report NREL/TP-510-42619. Determination of Extractives in

		Biomass
Determination of Sugars	MA CTX 012	Technical Report NREL/TP-510-42623.  Determination of Sugars, Byproducts and Degradation Products in Liquid Fraction Process Samples
Determination of trace elements in Biomass	MA CTX 013	European Standard CSN EN 13346
Bulk raw Material Density	MA CTX 014	

### 3. Performance Test

Prior to Performance Test, the Plant production capacity will be determined by the measuring of the flow by the vortex flow transmitter (or mutually agreed equivalent device) after the Ethanol transfer pumps.

The Plant production capacity obtained by a certain flow measured by the vortex flow transmitter will be cross checked against the level control float tape and indicator in the Ethanol daily / off spec tanks.

At the time of the Performance Test this final setting of the pumps will be maintained.

#### 3.1. Performance test protocol



##### 3.1.1. Performance Test

- At Recipient's expense, and within the Performance Test Period as defined in Article 10 of this Agreement, there will be conducted a 90-hour Performance Test to determine whether the performance of the Plant meets the performance guarantees set forth in this Annex 5. The procedures used during the Performance Test shall be those set out herein or as provided by Supplier at least three (3) months before the expected date for commencing start-up as specified in Section 10.1 of this Agreement.

##### 3.1.2. Test preparation

- Prior to the Performance Test, the entire Plant shall have reached mechanical completion, which shall occur after the successful completion of the Mechanical Test. Before commencement of Performance Test, Recipient shall notify the Supplier in writing at least fourteen (14) days prior to planned commencement of the Performance Test that all pre-test conditions have been substantially satisfied, including those set out in Section 10.2 of this Agreement.
- The Plant shall be operated and maintained in accordance with the technical advice and instruction from the Supplier Operations Manual to be provided and delivered to Recipient four (4) months prior to the Date of Start-Up and on-site directives from Supplier, and otherwise within generally accepted practices within the fuel ethanol industry.

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Cleaning (CIP) of the process equipment shall be performed seven (7) days or less before the Performance Test per Supplier direction and standard procedures set out in the Supplier Operations Manual.

- Adequate operation, analytical, and maintenance support shall be scheduled for the Performance Test Period.

### 3.1.3. Coordination

Supplier shall coordinate the Performance Test with Recipient during the 24 hour/day around the clock Performance Test period, which shall be conducted for 90 hours. This coordination of the Performance Test activities will be handled by a Supplier Test Coordinator ("Test Coordinator"). The "Test Coordinator" will work with an individual designated by Recipient to be its representative for the Performance Test to set the test schedule and to coordinate operations during the test period.

- Recipient shall supply, or cause to be supplied, all feedstock, utilities and other supplies and services required to conduct the Performance Test, as specified under Section 1.2 above, throughout the Plant during the Performance Test.
- Recipient shall direct its personnel in the operation of the plant in a manner consistent with the operating parameters provided in the Supplier Operations Manual.

### 3.1.4. Test run procedure

The "Test Coordinator" shall be provided with operating data by Recipient sufficient to verify that the Plant is operating at a condition suitable for initiation of the Performance Test. At the scheduled start time of the Performance Test, the "Test Coordinator" will signal that the test has formally begun and will direct operators to take the initial test measurements. The test will be conducted over a 90 hour period of operation. During the Performance Test period, the Plant shall be operated by Recipient in compliance with the Supplier Operating Manual and instructions provided by Supplier, including, without limitation, adjustments in temperatures, pressures, feedstock rates, steam flow, and other process control inputs, provided these adjustments do not result in unsafe operating conditions. Plant operators will monitor and record operating data according to standard procedures and in addition will record the supplemental data specified in this protocol on data sheets in the form provided by Supplier. Records will be developed from permanent plant equipment that is calibrated immediately prior to test. All test measurements will be reviewed by the "Test Coordinator" (or a designated representative). If the "Test Coordinator" believes that there might be a problem with the measurement method or reading, the reading will be retaken and verified by the "Test Coordinator" and Recipient's representative. Immediately upon the conclusion of the Performance Test, the "Test Coordinator" will meet with representatives of Recipient to review the test results. Supplier and Recipient shall each be given

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a copy of the test results. If the Performance Guarantees set forth in this Annex 5 have been met, then Recipient shall promptly sign the Performance Test certificate of acceptance in accordance with the mechanisms set forth in Section 10.4 of the License Agreement. If the Performance Guarantees have not been met, then Recipient shall issue a written notice to Supplier within three (3) days of completion of the Performance Test indicating in what manner such Performance Guarantees have not been successfully completed.

- If the 90 hours test period is interrupted for any reason within Supplier's control, a new three-day test period will resume after the cause for the interruption has been corrected and the Plant has achieved an acceptable operating capacity at substantially the same rate immediately prior to the interruption. Supplier and Recipient shall stop the Performance Test if it becomes obvious that it cannot be carried to a satisfactory conclusion in the current attempt.

### 3.1.5. Analytical / Calculation Protocols

#### 3.1.5.1. Fuel grade ethanol production rate

- The day tank will be manually measured every eight (8) hours to serve as the principal method of measurement of production volume, along with a final measurement of the day tank before the contents are sent to the main storage tank(s) in the Outside Battery Limits (OSBL). In addition, flow totalizer readings will be taken from product meter or other measuring device mutually agreed upon between Recipient and Supplier at regular intervals as backup verification of the manual measurements. The total volume from the test meters will be converted to the equivalent weight considering the average ethanol density (average calculated considering the average temperature of the liquid).

Divide by the total number of test hours to determine the average rate over the test period.

- The measuring frequency is every two hours and at the end of each day tank batch.

#### 3.1.5.2. Fuel grade ethanol quality

- The method is to analyze samples according to Supplier's laboratories procedures. The last test result before emptying day tank into main storage tank (OSBL) shall determine the quality for the batch. The average of all batch test results over the test period shall be used in determining the quality for the Performance Test. If the fuel Ethanol in the daily tank does not meet the quality specifications of section 1.2 of this Annex, 5 Supplier has the discretion to send it on to the main storage tank (OSBL) on the theory that the blended product in the main storage tank will meet the quality specifications set forth in Section 1.2 of this Annex 5. The average of all batch test results shall be used to establish the blended quality. If the blended ethanol does not meet quality specifications as a result of below quality product measured in one or more day tank batches, the volume of the batch(s) shall not be included in Ethanol production "rate" quantities used in calculating liquidated damages set forth in Article 11 of the License Agreement.

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### 3.1.5.3. Consumption of inputs

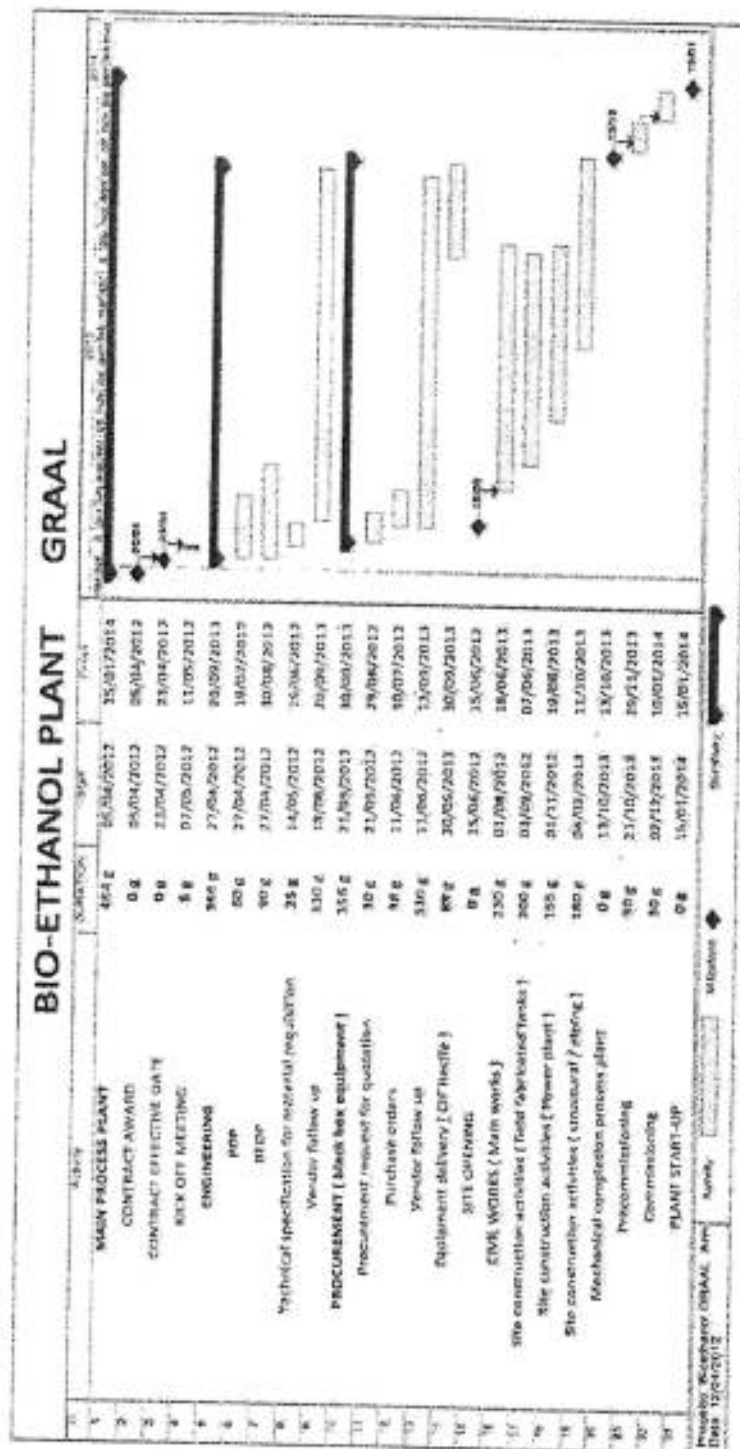
- The method for Biomass consumption is first to record (A) sugarcane bagasse or (B) sugarcane straw, weight and measure the sample moisture, in order for the dry weight to be calculated. Convert total Ethanol produced from volume to weight. Divide the calculated weight of the ethanol by the calculated dry basis weight of Biomass consumed fed over the relevant period to determine yield. The method for calculating the consumption of yeast is similar. For enzymes there is no need to calculate the dry weight equivalent (e.g. as with bagasse or straw) because it is supplied in a solution form. An averaged composition analysis of the actual Biomass used during the test run will be determined and if the content of glucans and xylans are below the figures set forth in the Feedstock Specifications in the table 1.3 in Annex 1 the results must to be adjusted proportionally to the difference to take care of the reduced quantity of available sugars.

### 3.1.6. Calculation protocol

All calculations will be based on actual measured data taken during the Performance Test Period. For any given sample period, the average value during that period will be determined by the average of the measured data points for that sample period. All samples shall be taken in duplicate; Recipient and Supplier shall each retain one sample. Recipient shall analyze one of the duplicates; the second shall be reserved for use in case of a disagreement. Recipient shall cause such analyses to be conducted at the Plant during the Performance test period and in the presence of the "Test Coordinator". In case of disagreement, a referee laboratory shall be selected by agreement between Recipient and Supplier, and the cost of such referee laboratory shall be paid by the party or parties not substantiated by the referee. The findings of this referee laboratory shall be accepted as final.



PRELIMINARY PROJECT SCHEDULE



## FORM OF PAYMENT GUARANTEE

This Guaranty ("Guaranty") is executed as of May 15<sup>th</sup>, 2012, by **GRAAL BIO INVESTIMENTOS, S.A.**, a company organized and existing under the laws of Brazil, having its address at Av. Brigadeiro Faria Lima 2277, 15th Floor, São Paulo, SP, CEP 01452-000, CNPJ 14.191.427/0001.29 (hereinafter referred to as "Guarantor"), in favor of and for the benefit of **BETA RENEWABLES S.P.A.**, a company organized and existing under the laws of Italy, having an office at Strada Ribrocca n. 11, 15057 Tortona (AL), Italy (hereinafter referred to as "Supplier"). In consideration of and as an inducement to Supplier to execute the License Agreement dated as of May 15<sup>th</sup>, 2012 (as such agreement may be amended, supplemented, restated or otherwise modified from time to time, the "Agreement"), by and between Supplier and **GRAAL BIO LLC**, a limited liability company organized and existing under the laws of the State of Delaware, USA, having its address at c/o National Corporate Research Ltd., South Dupont Highway, City of Dover, County of Kent, Delaware 19901 (hereinafter referred to as "Recipient"), Guarantor hereby agrees as follows:

1. Guarantor has read the Agreement in its entirety and acknowledges that the undertakings made by Guarantor below are made and given in partial consideration of, and as a condition to, Supplier's grant of rights to the Recipient as described in the Agreement.
2. Guarantor absolutely, primarily, irrevocably, unconditionally and continually guarantees that all of Recipient's payment obligations under the Agreement will be punctually performed in accordance with the terms and conditions of the Agreement and that all the obligations of Recipient under the Agreement regarding confidentiality and use of technical information will be complied with according to their terms.
3. Upon default by Recipient with respect to any payment obligation under the Agreement and written notice of such default from Supplier to Guarantor, in the event that Recipient does not cure such default within ten (10) days of such notice, Guarantor will itself promptly make each payment due from Recipient under the Agreement. Guarantor hereby expressly agrees that Supplier may extend or modify any indebtedness or obligation of Recipient, without notice to Guarantor and any such action shall not affect the obligations of Guarantor under this Guaranty. Guarantor hereby waives notice of any amendment, supplement, restatement or other modification of the Agreement and notice of demand for payment or performance by Recipient, the only required notice being the notice of default to be provided by Supplier to Guarantor mentioned above. Guarantor's guaranty hereunder shall extend to any extension or renewal of the Agreement.
4. Guarantor hereby agrees that the obligations of Guarantor under this Guaranty shall not be reduced, limited, terminated, discharged, impaired or otherwise affected by the following (whether or not Guarantor receives notice thereof, which notice Guarantor hereby waives): (i) Recipient's failure to pay a fee or provide other consideration to Guarantor in consideration for the issuance of this Guaranty; (ii) any assignment of the Agreement from Supplier to a third party permitted under the Agreement; (iii) any modification or amendment of, or waiver or consent or other action taken with respect to, the Agreement or any other agreement or document delivered in connection therewith, including without limitation any indulgence in or extension of time for the payment of any amounts payable by Recipient under or in connection with the Agreement or for the

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performance of any other obligation of Recipient under the Agreement (any of which modifications, amendments, waivers or consents may be agreed to or granted without the approval or consent of Guarantor); (iv) the voluntary or involuntary liquidation, sale or other disposition of all or any portion of Recipient's assets, or the receivership, insolvency, bankruptcy, reorganization or similar proceedings affecting Recipient or its assets; (v) any change of circumstances, whether or not foreseeable, and whether or not any such change does or might vary the risk of Guarantor hereunder; (vi) Supplier's acceptance of any collateral security, accommodation party, surety or other guarantor, unless such acceptance is accompanied by Supplier's specific, written release of this Guaranty; (vii) Supplier's failure to (a) obtain any accommodation party, surety or other guarantor, (b) obtain any collateral security, (c) properly create or perfect a lien in any collateral security, (d) protect, insure or enforce any collateral security, or (e) prevent any deterioration, waste or loss of any collateral security, or (f) diligently enforce the terms of the Agreement; (viii) Supplier's agreement to release, modify, substitute or discharge any collateral security; (ix) Supplier's extension of credit or other financial accommodation from time-to-time to Recipient; or (x) Supplier's full or partial release of, settlement with or agreement not to sue Recipient for any obligation or debt owed to Supplier; provided that, notwithstanding anything in this Guaranty to the contrary, in no event shall the obligations of Guarantor under this Guaranty exceed or otherwise expand the obligations of or debt owed by Recipient under the Agreement. No failure of Supplier to exercise any power or right hereunder, or to insist upon compliance by Guarantor with any term hereof shall constitute a waiver of Supplier's right thereafter to demand full compliance with any term in this Guaranty.

5. Supplier may resort to Guarantor for payment of Recipient's financial obligations under the Agreement in accordance with the terms and conditions of this Guaranty, whether Supplier has proceeded against Recipient with respect to such obligations.

6. This Guaranty constitutes a guaranty of payment and performance and not of collection. Guarantor agrees that this Guaranty shall continue to be effective or be reinstated as the case may be, if at any time payment of any of the obligations guaranteed herein is rescinded or must otherwise be refunded or returned by Supplier upon the insolvency, bankruptcy or reorganization of Recipient or Guarantor, all as though such payment has not been made.

7. Except as otherwise expressly set forth in this Guaranty, all notices, requests, demands, statements and other communications required or permitted to be given hereunder shall be in writing in English and shall be given by sending the same by courier delivery, or facsimile, telegram or other electronic transmission and confirmed by courier service delivered letter, promptly transmitted or addressed to the appropriate party. The date of receipt of a notice or communication hereunder shall be deemed to be:

- (1) the same day when the delivery is made in case of special personal delivery or upon receipt when delivered by courier;
- (2) three (3) business days after dispatch in the case of a facsimile, telegram or other accepted electronic transmission, as shown by the confirmation received for such delivery.

All notices and communications shall be sent to the appropriate address set forth below, until the same is changed by notice given in writing to the other party:

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**Address for service of Guarantor:**

Attention: Alan Hiltner  
Executive Vice President

Address: Av. Brigadeiro Faria Lima 2277, 15th Floor  
São Paulo, SP, CEP 01452-000

Tel: +55 11 2739 0500  
Fax: +55 11 2739 0510

**Address for service of Supplier:**

Attention: Pablo Aubert  
Chief Financial Officer

Address: Beta Renewables S.p.A.  
Strada Ribrocca n. 11  
15057 Tortona (AL)  
Italy

Tel: +39 0131 810 407  
Fax: +39 0131 811 759

8. If any provision of this Guaranty is held to be invalid or unenforceable by any court of law or body having authority to so hold, such provision shall to the extent of such invalidity or unenforceability be deemed to have been deleted from this Guaranty.

9. This Guaranty may be amended only by a written instrument signed by a duly authorized representative of each of Guarantor and Supplier.

10. Guarantor hereby unconditionally and irrevocably waives notice of acceptance of this Guaranty, presentment, demand, diligence, protest and notice of dishonor or nonpayment of any obligation or debt owed to Supplier, except for the notice of default described in Section 3 of this Guaranty.

11. Guarantor agrees to pay Supplier all expenses, including attorneys' fees and court costs, incurred by Supplier, its subsidiaries, affiliates, or any of their respective successors and assigns, to remedy any defaults of or enforce any rights under this Guaranty, effect termination of this Guaranty, or to collect any amounts due under this Guaranty.

12. Any capitalized terms used by not defined in this Guaranty shall have the meaning set forth in the Agreement. This Guaranty may be amended only by a written instrument signed by a duly authorized representative of each of the Guarantor and Supplier.

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13. If any controversy, dispute, claim, question or difference ("Dispute") arises with respect to this Guaranty, the Parties shall use their reasonable endeavors to settle the Dispute. To this end, any of the Parties may notify the other Parties of its intention to proceed to arbitration as contemplated in this Clause, following which the Parties shall consult and negotiate with each other, in good faith to reach a just and equitable solution satisfactory to all Parties. Except as otherwise stated herein, if the Parties do not find a solution, within 30 (thirty) Business Days counted from (and excluding) the date of notification of the intention to proceed to arbitration, the Dispute shall be settled by arbitration, as follows.

a. The arbitration proceedings shall be held in the City of São Paulo, State of São Paulo, at the Arbitration and Mediation Center of the Brazil-Canada Chamber of Commerce, in compliance with the rules of the Chamber as of the moment of the arbitration ("Rules of the Chamber"), taking into consideration eventual modification done to such rules through mutual agreement of the Parties.

b. The arbitration procedure shall be conducted in English by three arbitrators chosen from the arbitrator's panel of the Brazil-Canada Chamber of Commerce. The claiming Party shall designate one arbitrator in its arbitration request ("Arbitration Request") and the defending Party shall indicate one arbitrator in its response ("Response"). If any of the Parties fails to indicate its respective arbitrator, such appointment shall be made by the Brazil-Canada Chamber of Commerce. The arbitrators appointed by the Parties shall choose the third arbitrator (i) within 15 (fifteen) Business Days after (and excluding) the date of the defending Party's notification to the claiming Party with respect to the designation to the arbitrator, or (ii) if the defending Party does not indicate an arbitrator within 15 (fifteen) Business Days after (and excluding) the date of notification by the Brazil-Canada Chamber of Commerce to the arbitrators parties indicated by it to represent the defending party. If the first two arbitrators do not designate a third arbitrator within the periods indicated above, the Brazil-Canada Chamber of Commerce shall indicate the third arbitrator. The third arbitrator shall preside over the Arbitration Tribunal.

c. The Parties recognize that any of them may need preliminary orders to avoid damages or risk of damages to their rights. Thus, the requirement of preliminary injunction or other preliminary judicial orders to the courts, before or after the proceedings have been initiated pursuant to the Rules of the Chamber, shall not be considered incompatible or as a waiver of any of the provisions set forth in this Clause 13. For this purpose the Parties elect the courts of the City of São Paulo, State of São Paulo to have exclusive jurisdiction, with the exclusion of any other however privileged it may be. Beyond the authority of the arbitration tribunal granted by the Rules of the Chamber, the arbitration tribunal shall also have the authority to issue precautionary injunctions or anticipatory injunctions, when deemed fair and equitable.

d. The arbitral award shall be expressed in writing and will be final and binding on the Parties, as well as enforceable pursuant to its terms. The arbitrators shall decide based on the Brazilian applicable law, not being valid *contra legem* decisions. The Parties acknowledge and agree that the arbitral award shall be considered the final solution to the Dispute, and they shall accept it as the true expression of their own will with respect to the Dispute. The arbitration tribunal may grant any provision available and appropriate under the law

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that regulates this Guaranty, including specific performance. The decision may include the distribution of the costs, including attorneys' fees and reasonable disbursements, and each party shall bear its respective costs with the arbitration proceeding or, when it is not possible to identify whose obligation it is to bear a cost, it shall be borne equally.

(Signature Page Follows)

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IN WITNESS WHEREOF, the undersigned has executed this Guaranty, as of the date first above written.

For and on behalf of Guarantor:

For and on behalf of Supplier:

Signed By: \_\_\_\_\_

Signed By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Place of Signature: \_\_\_\_\_

Place of Signature: \_\_\_\_\_

Acknowledged for and on behalf of Recipient:

Signed By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Place of Signature: \_\_\_\_\_

Witnesses:

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Passport No.: \_\_\_\_\_

Passport No.: \_\_\_\_\_

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## Annex 8

## FORM OF SUBLICENSEE CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (the "Agreement"), dated as of this 15<sup>th</sup> day of May, 2012 (the "Effective Date"), is made by and between **BETA RENEWABLES S.P.A.**, a company organized and existing under the laws of Italy, having an office at Strada Ribrocca 11, 15057 Tortona (AL), Italy, herein duly represented by its authorized officers (hereinafter referred to as "**BETA RENEWABLES**"), and **BIOFLEX AGROINDUSTRIAL LTDA.**, a company organized and existing under the laws of Brazil, having its address at Av. Brigadeiro Faria Lima 2277, 15<sup>th</sup> Floor, São Paulo, SP. CEP 01452-000; CNPJ 13.808.130/0001-05, hereby represented by its authorized officers (hereinafter referred to as "**BIOFLEX**"). As used herein, each of **BETA RENEWABLES** and **BIOFLEX** may be referred to as a "**Party**" and, collectively, as the "**Parties**."

RECITALS

A. **BETA RENEWABLES** possesses certain proprietary and confidential technical information related to the PROESA™ Process Technology, which is used to produce fuel grade ethanol starting from biomasses such as bagasse or straw.

B. **BETA RENEWABLES** and **GRAAL BIO LLC**, a limited liability company organized and existing under the laws of the State of Delaware, USA, having its address at c/o National Corporate Research Ltd., South Dupont Highway, City of Dover, County of Kent, Delaware 19901 (hereinafter referred to as "**GRAAL BIO LLC**"), executed the License Agreement dated as of May 15, 2012 (as such agreement may be amended, supplemented, restated or otherwise modified from time to time, the "License Agreement"), under which **GRAAL BIO LLC** has been granted a license to use the PROESA™ Process Technology and the right to sublicense it to **BIOFLEX**.

C. **GRAAL BIO LLC** and **BIOFLEX** shall execute a sublicense agreement (as such agreement may be amended, supplemented, restated or otherwise modified from time to time, the "Sublicense Agreement"), under which **BIOFLEX** shall agree to be bound by the same obligations (including the confidentiality obligation) undertaken by **GRAAL BIO LLC** under the License Agreement.

D. Without prejudice to the obligations assumed by **BIOFLEX** under the Sublicense Agreement, the parties wish to formalize, reiterate and confirm, under this Agreement, **BIOFLEX's** confidentiality obligations regarding any and all confidential information related to the PROESA™ Process Technology received by **BIOFLEX** from or on behalf of **BETA RENEWABLES** and/or **GRAAL BIO LLC**.

NOW, THEREFORE, the Parties hereby agree as follows:

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1. **BIOFLEX** acknowledges that it will receive certain confidential and proprietary information regarding the **PROESA™** Process Technology that has been created, discovered, developed or acquired by **BETA RENEWABLES**, which shall only be used by **BIOFLEX** for the purposes of designing, procuring, constructing, operating and maintaining a plant having a name plate capacity of 65,000 tons per year of Ethanol in São Miguel dos Campos, in the State of Alagoas, Brazil (the "Plant"), as well as to produce Ethanol at the Plant and to use, sell, offer for sale and distribute such Ethanol, per the terms of the License Agreement and the Sublicense Agreement.

2. For the purposes of this Agreement, the term "Confidential Information" means any non-public, proprietary or other confidential information disclosed by **BETA RENEWABLES** and/or **GRAAL BIO LLC** to **BIOFLEX**, regardless of whether identified or marked as "Proprietary" or "Confidential", but excluding any information that: (i) **BIOFLEX** or **GRAAL BIO LLC** independently develops without reference to the disclosed information; (ii) **BIOFLEX** or **GRAAL BIO LLC** independently receives on a non-confidential and authorized basis from a source other than **BETA RENEWABLES** and/or **GRAAL BIO LLC**; (iii) becomes public knowledge through no fault of **BIOFLEX** or **GRAAL BIO LLC**; (iv) is in the public domain at the time that **BIOFLEX** or **GRAAL BIO LLC** receives the disclosed information or (v) **BIOFLEX** or **GRAAL BIO LLC** already knows at the time it receives the disclosed information. **BIOFLEX** shall have the burden of proving the applicability of any of the above exclusions. For the avoidance of doubt, all information licensed and/or disclosed under License Agreement and the Sublicense Agreement shall be deemed to constitute Confidential Information for the purposes of this Agreement, unless it falls within one of the above exceptions.

3. **BIOFLEX** recognizes and agrees that the Confidential Information has commercial value that is difficult to measure monetarily and that irreparable damages to **BETA RENEWABLES**'s financial condition and financial prospects could result to **BETA RENEWABLES** if such Confidential Information is disclosed in violation of this Agreement.

4. **BIOFLEX** shall keep the Confidential Information confidential and neither **BIOFLEX** nor any of its employees, agents, suppliers, representatives or advisors shall, disclose the Confidential Information, in any manner whatsoever, in whole or in part, except as permitted by this Agreement, and the Confidential Information shall not be used by **BIOFLEX** or its employees, agents, suppliers, representatives or advisors other than in connection with **BIOFLEX**'s activities described in item 1 above, as contemplated by the License Agreement and the Sublicense Agreement. Moreover, **BIOFLEX** agrees to transmit the Confidential Information only to its employees, agents, suppliers, representatives or advisors who need to know the Confidential Information and who shall have first agreed in writing to be bound by the terms and conditions of this Agreement and the Sublicense Agreement and to use it only as permitted by this Agreement. **BIOFLEX** will be responsible for any disclosure or misuse of the Confidential Information by any such person.

5. **BIOFLEX** will take all reasonable measures to protect the confidentiality of the Confidential Information, notify **BETA RENEWABLES** in writing of any unauthorized use or disclosure of such Confidential Information, and take steps to remedy any unauthorized use or disclosure. **BIOFLEX** will give

prompt notice to **BETA RENEWABLES** of any legal requirement for the disclosure of the Confidential Information, and will disclose the Confidential Information only to the extent legally required by Applicable Law; provided that **BIOFLEX** shall first give notice to **BETA RENEWABLES** and reasonably cooperate with **BETA RENEWABLES** to obtain a protective order or other measures requiring that the information or documents so disclosed be used only for the purposes for which the order was issued or is otherwise legally required.

6. The term of this Agreement shall commence on the Effective Date and shall continue in full force and effect until (i) the termination of the License Agreement; (ii) the termination of the Sublicense Agreement; or (iii) ten (10) years as from Effective Date, whichever comes first.

7. Notwithstanding the terms of paragraph 6 above, even in the event of termination or expiration of this Agreement, the License Agreement and/or the Sublicense Agreement, for any reason, the confidentiality obligations undertaken by **BIOFLEX** hereunder shall remain in full force and effect from the Effective Date until fifteen (15) years from the later of (i) the Effective Date and (ii) the disclosure of each Confidential Information to **BIOFLEX**.

8. In the event of any breach of this Agreement, or termination of the License Agreement and/or the Sublicense Agreement due to breach by, **BIOFLEX** and/or **GRAAL BIO LLC** and/or their employees, agents, suppliers, representatives or advisors, **BIOFLEX** shall return to **BETA RENEWABLES**, at **BETA RENEWABLES** request, all of the Confidential Information, including, without limitation, all copies, summaries, and extracts, except for one set of documentation held by the general counsel for record keeping purposes.

9. This Agreement, constitutes the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, commitments and understandings pertaining to the subject matter hereof. Any modifications of or changes to this Agreement shall be in writing and signed by both parties.

10. Any capitalized terms used by not defined in this Agreement shall have the meaning set forth in the License Agreement.

11. If any controversy, dispute, claim, question or difference ("Dispute") arises with respect to this Agreement, the Parties shall use their reasonable endeavors to settle the Dispute. To this end, any of the Parties may notify the other Parties of its intention to proceed to arbitration as contemplated in this Clause, following which the Parties shall consult and negotiate with each other, in good faith to reach a just and equitable solution satisfactory to all Parties. Except as otherwise stated herein, if the Parties do not find a solution, within 30 (thirty) Business Days counted from (and excluding) the date of notification of the intention to proceed to arbitration, the Dispute shall be settled by arbitration, as follows.

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a. The arbitration proceedings shall be held in the City of São Paulo, State of São Paulo, at the Arbitration and Mediation Center of the Brazil-Canada Chamber of Commerce, in compliance with the rules of the Chamber as of the moment of the arbitration ("Rules of the Chamber"), taking into consideration eventual modification done to such rules through mutual agreement of the Parties.

b. The arbitration procedure shall be conducted in English by three arbitrators chosen from the arbitrator's panel of the Brazil-Canada Chamber of Commerce. The claiming Party shall designate one arbitrator in its arbitration request ("Arbitration Request") and the defending Party shall indicate one arbitrator in its response ("Response"). If any of the Parties fails to indicate its respective arbitrator, such appointment shall be made by the Brazil-Canada Chamber of Commerce. The arbitrators appointed by the Parties shall choose the third arbitrator (i) within 15 (fifteen) Business Days after (and excluding) the date of the defending Party's notification to the claiming Party with respect to the designation to the arbitrator, or (ii) if the defending Party does not indicate an arbitrator within 15 (fifteen) Business Days after (and excluding) the date of notification by the Brazil-Canada Chamber of Commerce to the arbitrators parties indicated by it to represent the defending party. If the first two arbitrators do not designate a third arbitrator within the periods indicated above, the Brazil-Canada Chamber of Commerce shall indicate the third arbitrator. The third arbitrator shall preside over the Arbitration Tribunal.

c. The Parties recognize that any of them may need preliminary orders to avoid damages or risk of damages to their rights. Thus, the requirement of preliminary injunction or other preliminary judicial orders to the courts, before or after the proceedings have been initiated pursuant to the Rules of the Chamber, shall not be considered incompatible or as a waiver of any of the provisions set forth in this Clause 11. For this purpose the Parties elect the courts of the City of São Paulo, State of São Paulo to have exclusive jurisdiction, with the exclusion of any other however privileged it may be. Beyond the authority of the arbitration tribunal granted by the Rules of the Chamber, the arbitration tribunal shall also have the authority to issue precautionary injunctions or anticipatory injunctions, when deemed fair and equitable.

d. The arbitral award shall be expressed in writing and will be final and binding on the Parties, as well as enforceable pursuant to its terms. The arbitrators shall decide based on the Brazilian applicable law, not being valid *contra legem* decisions. The Parties acknowledge and agree that the arbitral award shall be considered the final solution to the Dispute, and they shall accept it as the true expression of their own will with respect to the Dispute. The arbitration tribunal may grant any provision available and appropriate under the law that regulates this Agreement, including specific performance. The decision may include the distribution of the costs, including attorneys' fees and reasonable disbursements, and each party shall bear its respective costs with the arbitration proceeding or, when it is not possible to identify whose obligation it is to bear a cost, it shall be borne equally.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

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For and on behalf of  
Beta Renewables S.p.A.:

Signed By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Place of Signature: \_\_\_\_\_

Witnesses:

Print Name: \_\_\_\_\_

Passport No.: \_\_\_\_\_

For and on behalf of  
BioFlex Agroindustrial Ltda.:

Signed By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Place of Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Passport No.: \_\_\_\_\_

  
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**BASIC ENGINEERING AND TECHNICAL  
SERVICES AGREEMENT**

between

**BIOFLEX AGROINDUSTRIAL LTDA.**

**and**

**CHEMTEX ITALIA S.P.A.**

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THIS AGREEMENT (this "Agreement") made on this 15<sup>th</sup> day of May, 2012, by and between:

Chemtex Italia S.p.A., a corporation organized and existing under the laws of Italy, and having a place of business at Strada Ribrocca n. 11, 15057 Tortona (AL) Italy ("Supplier");

and

BioFlex Agroindustrial Ltda., a corporation organized and existing under the laws of Brazil, enrolled with CNPJ under No. 13.808.130/0001-05 and having a place of business at Av. Brigadeiro Faria Lima, 2277, 15<sup>th</sup> floor, CEP 01452-000, São Paulo, SP, Brazil ("Recipient");

**WITNESSETH, THAT:**

Whereas Recipient desires to establish a cellulosic ethanol plant in Brazil; and

Whereas Supplier is experienced in design and engineering of chemicals plants and wishes to supply the basic engineering, and certain technical services to Recipient; and

Whereas Recipient has agreed to purchase from Supplier and Supplier has agreed to sell to Recipient such basic engineering and technical services for the Plant on the terms set out herein.

NOW, THEREFORE, the Parties mutually agree as follows:

**ARTICLE 1**

**DEFINITIONS**

**Affiliate**

means with respect to any Person (as defined below), any other Person directly or indirectly Controlling, Controlled by, or under Common Control with, such other Person. Control (and the correlative terms Controlling, Controlled by, and under Common Control with) when used with respect to any Person shall mean: (a) the direct or indirect ownership of fifty (50) percent or more of (i) the total outstanding voting securities of all combined voting classes of stock or (ii) other evidences of ownership interest of such Person or (b) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person.

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**Applicable Law**

means with respect to any Person, any transnational, domestic or foreign federal, state or local law (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, order, injunction, judgment, decree, ruling or other similar requirement enacted, adopted, promulgated or applied by a Governmental Authority that is binding upon or applicable to such Person, as amended unless expressly specified otherwise.

**Basic Engineering Package**

or "BEP" means basic design, and engineering information for the Plant (as defined below) within the Battery Limits to be supplied by Supplier to Recipient as set out in detail in Annex 2 hereto in sufficient detail to enable the Recipient and/or General Contractor to perform Detailed Engineering Design (as defined below), procurement and construction of the Plant.

**Basis of Design**

means the information set forth in Annex 1 for design of the Plant.

**Battery Limits**

means the engineering battery limits as defined in Annex 1.

**Confidential Information**

means any non-public, proprietary or other confidential information disclosed by a Party or its Affiliates ("**disclosing party**") to the other Party ("**receiving party**") or its Affiliates without the need for any further notice or marking but excluding any information that: (i) the receiving party independently develops without reference to the disclosed information; (ii) the receiving party independently receives on ~~a non-confidential and authorized basis from a source other~~ than the disclosing party; (iii) becomes public knowledge through no fault of the receiving party; (iv) is in the public domain at the time the receiving party receives the disclosed information; or (v) the receiving party already knows at the time the receiving party receives the disclosed information. The Receiving Party shall have the burden of proving the applicability of any of the above exclusions. For the avoidance of doubt, all information supplied hereunder, including the Basic Engineering Package and confidential information related to the BEP to Recipient, any of its Affiliates, or to General Contractor shall be deemed to constitute Confidential Information for the purposes of this Agreement.

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<b>Date of Start-Up</b>	means the date of first introduction of raw materials into the Plant.
<b>Detailed Engineering Design</b>	means the complete engineering to be performed by the General Contractor (key documents to be reviewed by the Supplier) as necessary to allow procurement, construction, commissioning, Start-Up, and operation of the Plant.
<b>Effective Date</b>	means the date of receipt by Supplier of the first payment made by Recipient as described in Section 4.2(a).
<b>Ethanol</b>	means fuel grade ethanol.
<b>General Contractor</b>	means engineering contractor(s) competent to carry out engineering design services for chemical plants in accordance with good international industry practices, selected and employed by Recipient following consultation with Supplier, to perform Detailed Engineering Design services or engineering design and procurement services for the "outside Battery Limits" area of the Plant.
<b>Governmental Authority</b>	means any transnational, domestic or foreign federal, provincial, state or local governmental, regulatory or administrative authority, department, court, agency or official, including any political subdivision thereof.
<b>Intellectual Property Rights</b>	means any trademark, service mark, trade dress, logo, domain name, and trade name and all goodwill associated with the foregoing, copyright, mask work, patent, software, database, invention, trade secret, know-how, industrial property right (including any registrations or applications for registration of any of the foregoing) or any other similar type of proprietary intellectual property right.
<b>Kick-off Meeting</b>	means a meeting to be held within twenty-one (21) days of the Effective Date at which project execution methodologies, schedules and systems utilized shall be agreed, as specified in Article 4.

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<b>Parties</b>	means Supplier and Recipient and "Party" shall mean each or either of them as relevant in the context in which the term is used.
<b>Person</b>	means any natural person, firm, individual, corporation, partnership, joint venture, business trust, association, trust, company or other organization or entity, whether incorporated or unincorporated, or any Governmental Authority.
<b>Plant</b>	means the commercial manufacturing facility for producing 65,000 per year of ethanol to be constructed by Recipient Brazil.

## ARTICLE 2

### DUTIES OF SUPPLIER

- 2.1 Supplier shall deliver to Recipient the Basic Engineering Package as per Annex 2, in English and in accordance with the standards, codes set out in Annex 3, and as described in more detail in Article 7.
- 2.2 Supplier shall provide the services of its specialists to advise and consult with Recipient during the erection, commissioning start-up and test run of the Plant. Supplier's services are described in more detail in Article 9 hereof.

## ARTICLE 3

### DUTIES OF RECIPIENT

- 3.1 Recipient shall supply Supplier with such reasonable information, with respect to the Plant site, available sources of water supply, raw materials and utilities, facilities for effluent disposal, and other reasonable information, which Supplier may reasonably request from time to time for the satisfactory performance by Supplier of its obligations in accordance with this Agreement. Such information will be supplied on a timely basis, allowing Recipient reasonable notice to respond to such requests.
- 3.2 Recipient shall supply, or cause to be supplied, the Detailed Engineering Design for the Plant (which excludes the design and engineering to be supplied by Supplier hereunder); *provided* that Supplier shall review such Detailed Engineering Design and reasonably cooperate with Recipient in connection with all of the foregoing.
- 3.3 Recipient shall obtain and keep in force all authorizations, approvals, licenses, permits and other documents as may be required with respect to the Plant from any governmental agency, department, office, bureau or other authority having

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jurisdiction, including, but not by way of limitation, environmental and building permits.

#### ARTICLE 4

##### PRICE AND PAYMENT CONDITIONS

- 4.1 The price for Supplier's total scope of supply pursuant to this Agreement, inclusive of the Basic Engineering Package and up to 11.5 months of technical services pursuant to Section 2.2 hereof and Article 9 to be supplied by Supplier to Recipient is €1,968,000.00 (one million, nine hundred and sixty eight thousand Euros), net of all taxes or duties within Brazil, which, if applicable, shall be borne and paid by Recipient. The price is broken down as follows:

a) Basic Engineering	€1,500,000.00 (one million and five hundred thousand Euros)
b) Technical Services	€468,000.00 (four hundred and sixty eight thousand Euros)

- 4.2 Recipient shall pay the above price according to the following schedule:

- a) The Price of the Basic Engineering set out in Section 4.1 a) as follows:

Fr 135/12 • 50% or €750,000.00 (seven hundred and fifty thousand Euros), as a downpayment, by TT remittance to Supplier' designated bank account in Section 4.4, within 30 days from the date hereof, against Supplier's invoice.

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50% or €750,000.00 (seven hundred and fifty thousand Euros) by TT remittance to Supplier' designated bank account in Section 4.4 upon completion of delivery of the Basic Engineering Package as reasonably determined by Recipient.

The Price of the Technical Services set out in Section 4.1 b) as follows:

- 50% or €234,000.00 (two hundred and thirty four thousand Euros), as a downpayment, by TT remittance to Supplier' designated bank account in Section 4.4, on commencement of installation work at the Plant, against Supplier's invoice.

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- 50% or €234,000.00 (two hundred and thirty four thousand Euros) by TT remittance to Supplier' designated bank account in Section 4.4 upon acceptance of the Plant, against Supplier's invoice.

If the first payment, as per Section 4.2 a), is not made within ninety (90) calendar days from the date hereof, the Parties shall meet and discuss how to proceed. If no agreement is reached between the Parties as to how to proceed and the first payment has still not been received by Supplier within one hundred twenty (120) calendar days from the date hereof, then Supplier shall have the right to terminate this Agreement with no further liability or obligation on the part of Supplier.

- 4.3 In the event that, for reasons attributable to Recipient, the amount of the technical services of Supplier's personnel as described in Section 2.3 and Article 9 exceeds the 11.5 man months allotted in Section 4.1, Recipient shall pay for the excess services at the rate specified in Annex 4 and bear the cost for travel (business class) of the specialists between their normal place of employment and the site, and living expenses as described in Article 9 and Annex 4. Payment for such excess services, and for overtime, if applicable, shall be made within 30 (thirty) days after receipt of Supplier's periodic invoices therefore.
- 4.4 Unless otherwise specified, payments to be made by Recipient pursuant to this Article 4, are to be made at the following bank:

BANCA INTESA, Milano.

ABI: 03069  
CAB: 10420  
CIN Y  
SWIFT CODE: BCITITMM

~~IBAN code: IT09403069104201000000000395~~

- 4.5 All banking charges and other fees of the bank of the Party receiving the payment shall be borne by the receiving Party, and all other banking charges (except for those relating to the receipt of the payment) and other fees in connection with such payment shall be borne by the Party making the payment.
- 4.6 In the event that either Party fails to pay the other Party any amounts due under this Agreement on an applicable due date, then the defaulting Party shall unconditionally pay the relevant sum due plus interest at a rate of 1.2% per month from the date the relevant sum became due for payment by the defaulting Party until the date the actual payment is made.

- 4.7 If Supplier shall be liable to pay any liquidated damages and/or compensation to Recipient as stipulated in Article 5, payment shall be made by Supplier by wire transfer to a bank account of Recipient's designation, failing which Recipient may offset such damages or compensation against any amount due to Supplier pursuant to this Article 4.

## ARTICLE 5

### GUARANTEES AND LIQUIDATED DAMAGES

#### 5.1 Guarantees

Supplier hereby guarantees that the Basic Engineering Package shall be provided based on the process design package made available by Recipient in a manner that satisfies all the engineering requirements of such process design package and is in accordance with the standards of care and diligence normally practiced by recognized firms in providing services of a similar nature. Supplier makes no implied warranties, including, but not by way of limitation, any implied warranties of merchantability or fitness for a particular purpose.

#### 5.2 Liability

- 5.2.1 If shortages, errors, omissions or defects are found in the BEP due to the failure of Supplier to prepare the BEP in accordance with the requirements of this Agreement, Supplier shall make relevant modifications and supplements at its own cost; provided that if such shortage, error, omission or defect is the result of erroneous factual information provided to Supplier by Recipient, then Supplier will make such relevant modifications and supplements at Recipient's cost.

- 5.2.2 Supplier's liability with respect to its scope of work and supply under this Agreement ~~and the maximum aggregate liability is set forth in Article 11 hereof.~~

## ARTICLE 6

### KICK-OFF MEETING

- 6.1 The Kick-off Meeting will be held within twenty one (21) days of the Effective Date or at such other time after the Effective Date as the Parties shall mutually agree in writing.
- 6.2 The Kick-off Meeting shall be held in Supplier's office or at such other venue as the Parties shall mutually agree in writing.
- 6.3 All issues regarding project execution methodologies, schedules and systems utilized and other items needing collaboration and liaison, including communication protocols

and the method of documentation transfer shall be discussed at the Kick-off Meeting. An overall project schedule ("**Project Schedule**") for the contracted scope shall be discussed, reviewed and agreed upon between the Parties at the Kick-off Meeting.

- 6.4 A protocol of the Kick-off Meeting shall be signed by the authorized representatives of each Party in attendance.

## ARTICLE 7

### DELIVERY OF THE BASIC ENGINEERING PACKAGE

- 7.1 Supplier shall deliver the BEP to Recipient as set out in detail in Annex 2 by electronic uploading of the BEP to Supplier's electronic document management system (the "**Document Management System**") and providing Recipient with an official transmittal document to be acknowledged as received by Recipient.

In addition, Supplier will deliver 2 hard copies and an electronic copy of the BEP, in a CD.

- 7.2 Supplier will give Recipient access to the Document Management System and such instruction in its use as may be necessary for Recipient to properly utilize the system. Supplier confirms that no source code will be delivered to Recipient and Supplier represents and warrants that no grant of a license or provision of software to Recipient is required in connection with the aforementioned delivery method or Recipient's use of the Document Management System.

- 7.3 The date of the receipt by Recipient of the transmittal document referenced in Section 7.1 shall be considered as the actual date of delivery of the BEP. Recipient shall notify Supplier promptly of its ability to access the BEP in the electronic folder designated by Supplier in the Document Management System.

- 7.4 The codes and standards to be used in the BEP are detailed in Annex 3. The English language shall be used in all sections of the BEP.

## ARTICLE 8

### INSTRUCTIONS AND VARIATIONS

- 8.1 Supplier's scope of work under this Agreement is fixed. Any variation in the scope of work shall be deemed a "**Scope Change**" and be subject to the provisions of this Article 8. No Scope Change shall be valid unless agreed in writing by an authorized representative of Recipient and Supplier.



- 8.2 Recipient may at any time request a Scope Change by written notice to Supplier. Following such request, Supplier shall, not later than five (5) working days after the request, furnish Recipient with a written statement of the increase or decrease to the fees payable to Supplier, or any advance or delay to the completion of the work or changes in the guarantees (if any), which would result from such Scope Change.
- 8.3 Recipient shall within seven (7) days after receipt of Supplier's statement either issue an approval to such statement or withdraw the request.
- 8.4 Notwithstanding the provisions of Section 8.2, no Scope Change shall result in any increase of the fees and/or any adjustment to the Project Schedule or to any other terms of this Agreement, when any such Scope Change is (i) due to Supplier's acts or omissions, including non-compliance with the terms and conditions of this Agreement; or (ii) necessary to correct Supplier's failure to perform the work in accordance with this Agreement.
- 8.5 Supplier shall not be required to implement any Scope Change prior to agreement being reached with Recipient on resultant changes in fees, schedule, or guarantees.

## ARTICLE 9

### TECHNICAL SERVICES AT SITE

#### 9.1 Technical Services

The price set out in Section 4.1 includes 11.5 man/months of the services of its specialists, collaborators and vendors ("Supplier Personnel") to assist in supervision of erection, commissioning, start-up and testing of the Plant. The price set out in Section 4.1 includes the travelling expenses, board and lodging of Supplier's supervisors; local transportation from/to the airport and from/to the accommodation place to/from the Plant shall be arranged and paid by the Recipient. The calculation of the man days provided shall be based on the actual days spent by the deputed personnel at site plus travelling days to and from the Plant but shall not exceed the amount specified above without the approval of Recipient.

Should additional supervision be provided, upon Recipient's request and prior approval, including with respect to man days and hours, Supplier will provide such services on a per diem plus expenses basis as described in Section 4.3.

Man hours in excess of 40 hours per week or 8 hours per day or man hours expended on Saturday or Sunday, shall be considered overtime. Supplier Personnel shall not be permitted to work overtime without the prior written approval of Recipient. Fees

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payable by Recipient to Supplier, including fees for overtime hours shall be paid in accordance with Section 4.3.

## 9.2 Conditions of Supplier Personnel at Site

Recipient will bear the reasonable expenses and provide the facilities described in Annex 4 hereof.

Supplier reserves the right to replace its personnel at any time with other personnel upon consultation with Recipient. If Recipient requests replacement of any Supplier Personnel, Supplier shall make all reasonable efforts to comply with the request within the terms agreed by the Parties.

Supplier shall provide insurance for Supplier Personnel, to cover illness, disease or accident for their working period at the Plant. Recipient shall have adequate first-aid facilities available at the Plant.

Recipient shall take reasonable measures intended to ensure the safety of Supplier Personnel at the Plant.

Supplier Personnel shall fully observe Recipient's safety instructions and any rules in effect at the Plant, which shall be communicated to Supplier in writing.

Notwithstanding anything in this Agreement to the contrary, in no event will any Supplier Personnel be considered employees of Recipient, and the Parties shall take all reasonable acts to ensure that no Supplier Personnel are considered employees of Recipient.

## ARTICLE 10

### REPRESENTATIONS AND WARRANTIES

#### 10.1 Supplier represents and warrants to Recipient that:

- (a) Supplier has the right to disclose the BEP to Recipient.
- (b) Supplier is not bound by any agreements, obligations or restrictions, and shall not assume any obligation or restriction or enter into any other agreement that would interfere with its obligations under this Agreement.
- (c) There is no pending or threatened litigation against Supplier which could materially impact (i) Supplier's ability to perform its obligations under this Agreement or (ii) Recipient's ability to design, procure, construct, operate and maintain the Plant in accordance with the BEP.



- 10.2 Each Party represents and warrants to the other Party that it is a legal Person validly registered and existing in its place of incorporation/registration, and that it has full legal capacity and authority to enter into this Agreement with binding and enforceable effect, and to perform its obligations under this Agreement.

## ARTICLE 11

### LIABILITIES

- 11.1 Supplier shall in no event be liable for indirect or consequential damages such as loss of profits, finished products, opportunity or use, and in no event shall Supplier's total liability with respect to the scope of work and supply under this Agreement exceed 10% of the price set out in Article 4.1, except for the Supplier's obligation to make relevant modifications and supplements to the BEP resulting from its shortages, errors, omissions or defects set forth in Section 5.2.1, where the applicable limit shall be 90% of the price set out in Article 4.1. Supplier's liabilities and Recipient's remedies expressly set forth in Article 5 are the sole liabilities and remedies with respect to the scope of work and supply under this Agreement are in lieu of any others available at law or otherwise. Except for liability arising from the gross negligence or wilful misconduct of each Party or liability for breach of the obligations set out in Article 12, the total aggregate liability of each Party under, arising out of, or in connection with this Agreement, including the performance of such Party's obligations under this Agreement and any liability for such Party's breach of any term, condition warranty or guarantee hereof, Supplier's payments to Recipient pursuant to Article 5, and loss or damage occasioned by any act or omission of Supplier or any of its Affiliates or any of their employees, servants, or agents in or relating to the performance of its or their obligations under this Agreement, whether founded in contract, tort (including negligence, but not gross negligence or wilful misconduct), strict liability or any other legal characterization whatsoever, shall be limited to 100% of the price set out in Article 4.1 (the "**Maximum Liability**"). The Parties acknowledge and agree that such Maximum Liability is fair and reasonable.
- 11.3 Supplier shall not have any obligation to erect, operate, modify, replace or maintain the Plant at any stage and no activities that Supplier conducts under this Agreement will be deemed to be interpreted that Supplier has operated, modified, replaced or maintained the Plant. Except with respect to claims, damages and expenses for which Supplier shall indemnify Recipient pursuant to this Article 11, or claims, damages and expenses arising from Supplier's gross negligence or wilful misconduct, or breach by Supplier of Article 12 hereof, Recipient shall hold harmless and indemnify and defend Supplier and its Affiliates from and against any and all claims of any kind or type, damages and expenses (including death) of any third party (including

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employees of Recipient) relating to or arising from (i) the erection, modification, replacement, operation or maintenance of the Plant, (ii) the manufacture of any Ethanol or the sale or use of any Ethanol manufactured in the Plant or (iii) any by-products, co-products or wastes generated therefrom, regardless of any actual or alleged negligence or other fault of Supplier.

- 11.4 Nothing in this Agreement shall be construed as implying a duty on the part of Supplier Personnel to direct the project management or start-up of the Plant or the operation thereof, or to perform any executive line-management or operational function in relation to the Plant.
- 11.5 Subject to Sections 11.6 and 11.7, Supplier shall defend Recipient, its Affiliates, and any of their officers, directors, employees, representatives or agents, against any third party threat, suit, proceeding, investigation or other claim, and indemnify and hold each of them harmless from all damages, liabilities, expenses and other losses (including attorneys fees and court costs) based on or arising from (i) any claim that the Recipient's use of the BEP in accordance with the terms and conditions of this Agreement infringes, misappropriates or otherwise violates any Intellectual Property Right of any third party ("**IP Claims**"), and/or (ii) any violation of Applicable Law by Supplier.
- 11.6 Should any claim be made or threatened by any third party asserting that the use of the BEP directly infringes its valid Intellectual Property Rights, Supplier and Recipient shall meet as soon as possible to review the claim and establish a plan to address the claim which includes, but is not limited to determining whether any non-infringing alternative is available. If the Parties determine that the alleged infringement, misappropriation or other violation under an IP Claim is directly caused by the use of the BEP under this Agreement or if an injunction or court order is issued against the use of the BEP as a result of an IP Claim, or, Supplier may at its option and expense: (i) procure for Recipient the right to continue using and exploiting the infringing BEP (the "**Infringing BEP**") as provided in this Agreement, (ii) replace or modify the Infringing BEP so it becomes non-infringing (with equivalent functionality), or if options (i) and (ii) are not available despite Supplier's commercially reasonable efforts, (iii) refund to Recipient the cost of the Infringing BEP on a net present value basis.
- 11.7 Supplier's obligations stated in Sections 11.5 and 11.6 above shall apply only if Recipient (i) notifies Supplier in writing within ten (10) days after learning that a claim has been asserted or threatened in writing; provided that the failure to provide such notice shall not relieve Supplier of its indemnification obligations except to the extent that Supplier is adversely prejudiced by such failure; (ii) gives Supplier sole control and conduct of the defense of the claim and all negotiations relating to settlement; provided that (a) Recipient shall be entitled to participate in the defense

and settlement negotiations and, at Recipient's expense, retain its own counsel and (b) Supplier shall not settle any claims without the prior written consent of Recipient (with such consent not to be unreasonably withheld) unless such settlement is solely for monetary payment and contains an explicit and unconditional release of Recipient; and (iii) reasonably assists Supplier on a timely basis and does nothing to prevent Supplier from defending the claim or lawsuit in all necessary respects.

- 11.8 To the extent permitted by Applicable Law, neither Party shall be liable to the other Party for any indirect, incidental, consequential, special or punitive losses or damages, which shall include loss of profit or business, interruption of business, loss of goodwill, loss of contract and cost of capital, even if such Party has been advised of the possibility of such damages, provided such limitation shall not apply with respect to a breach of the provisions, or default of the obligations, of Article 12 of this Agreement.
- 11.9 Unless caused, or except to the extent contributed to, by gross negligence or wilful misconduct of Supplier, Recipient releases Supplier from any liability for, and shall defend, indemnify, and hold Supplier, its Affiliates, successors and assigns harmless from and against all claims, demands or causes of action based on injury, death or sickness of any employee, subcontractor or agent of Recipient, in connection with, arising out of, or related to Recipient's performance or non-performance of any of its obligations or the exercise of any of its rights under this Agreement.
- 11.10 Unless caused, or except to the extent contributed to, by the gross negligence or wilful misconduct of Recipient, Supplier releases Recipient from any liability for, and shall defend, indemnify, and hold Recipient harmless from and against all claims, demands or causes of action based on injury, death or sickness of any employee, subcontractor, or agent of Supplier, in connection with, arising out of, or related to Supplier's performance or non-performance of any of its obligations or the exercise of any of its rights under this Agreement.
- 11.11 Each Party shall be responsible for the insurance of its respective liabilities with respect to personnel and property stated.
- 11.12 Each of the foregoing limitations, indemnities and other provisions of this Agreement shall survive any termination, cancellation or expiry of this Agreement.

## ARTICLE 12

### PROTECTION OF CONFIDENTIAL INFORMATION

The receiving party shall hold the Confidential Information in confidence for a period of fifteen (15) years from the later of (i) the Effective Date and (ii) the disclosure of such

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Confidential Information to the receiving party. The receiving party shall use the Confidential Information of the disclosing party solely for the purposes of the Plant or as otherwise specifically permitted by this Agreement. The receiving party will not directly or indirectly disclose the Confidential Information of the disclosing party to any third party except as permitted by this Agreement, will provide such Confidential Information only to any of its employees, agents, suppliers and independent contractors who need it in connection with this Agreement and are bound by comparable written agreements requiring that they keep it confidential and will be responsible for any disclosure or misuse of the Confidential Information by any such person. The receiving party will take all reasonable measures to protect the confidentiality of the disclosing party's Confidential Information, notify the disclosing party in writing of any unauthorized use or disclosure of such Confidential Information, and take steps to remedy any unauthorized use or disclosure. The receiving party will give prompt notice to the disclosing party of any legal requirement that it disclose the disclosing party's Confidential Information, and will disclose the disclosing party's Confidential Information only to the extent required by Applicable Law; provided that the receiving party shall first give notice to the disclosing Party and reasonably cooperate with the disclosing Party to obtain a protective order or other measures requiring that the information or documents so disclosed be used only for the purposes for which the order was issued or is otherwise required by Applicable Law.

### ARTICLE 13

#### FORCE MAJEURE

- 13.1 Should either Party be delayed, hindered or prevented from performing any of its obligations under this Agreement due to the case of events beyond its reasonable control, such as riot, government intervention, change in Applicable Law, import restriction, public disturbance or protest, war, acts of terrorism, fire, flood, typhoon, ~~earthquake, storm, explosion, accident of navigation, strikes, lockouts or other labor~~ dispute, the time for implementing this Agreement shall be extended by a period equivalent to the effect of the occurrences. Neither Party shall (i) have right to claim from the other Party any loss or damage caused due to the case of force majeure; (ii) be obligated to settle any demands of, or disputes with, laborers; and (iii) have the right to invoke this Article 13 for any events arising due to its negligence.
- 13.2 The delayed, hindered or prevented Party shall (i) inform the other Party as soon as possible by fax and airmail by registered letter a certificate issued by competent authorities concerned not later than seven (7) days from the occurrence of force majeure for the examination and acknowledgment by the other Party and (ii) use commercially reasonable efforts to correct the failure or delay in its performance as soon as possible.

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- 13.3 The delayed, hindered or prevented Party shall inform the other Party as soon as possible by fax of the termination or elimination of the case of force majeure and confirm the information by registered airmail letter. After the termination or elimination of the case of force majeure, both Parties shall respectively continue to implement all the responsibilities stipulated in this Agreement. After termination or elimination of the case of force majeure no compensation will be claimed by either Party as a direct result of the force majeure, and the contract resumes under the original terms.
- 13.4 Should the case of force majeure continue more than ninety (90) consecutive days, both Parties shall discuss the further execution of this Agreement through friendly negotiation as soon as possible.

## ARTICLE 14

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## ARTICLE 15

## DISPUTE RESOLUTION AND GOVERNING LAW

- 15.1 **Consultation to Resolve Disputes.** Any dispute, difference, controversy or claim of any kind arising out of or relating to this Agreement (including, but not limited to the breach, termination, construction, execution, operation, effect or invalidity of this Agreement) (a "Dispute") shall be settled through friendly consultation between both Parties. If the Dispute cannot be resolved through consultation within thirty (30) days of the Dispute being first notified to the other Party, the Dispute shall be settled definitively, finally and exclusively by binding arbitration as provided in this Article

- 15.2 **Arbitration Notice.** If the Parties are unable to resolve a dispute relative to the interpretation of this Agreement through negotiation as provided for in Article 15.1, the matter shall, at the written notice of either Party, be definitively, finally and exclusively determined and settled pursuant to arbitration in accordance with the Arbitration Rules of the International Chamber of Commerce in London, England, by a single arbitrator to be appointed in accordance with such rules. The arbitration shall be conducted in English. Any such arbitration may be initiated by a Party by written notice ("Arbitration Notice") to the other Party specifying the subject of the requested arbitration.







- 15.3 **Arbitration Award.** The arbitration award shall be final and conclusive and shall receive recognition, and judgment upon such award may be entered and enforced in any court of competent jurisdiction. In the event of any conflict between the Rules of the ICC and the provisions of this Article 15, the provisions of this Article 15 shall govern and control. Any damage awards by the arbitrator shall be promptly paid free of any deduction or offset; and any costs or fees incident to enforcing the award shall to the maximum extent permitted by law be charged against the Party resisting such enforcement. The costs of arbitration shall be borne by the unsuccessful Party or as otherwise allocated by the arbitrator.
- 15.4 **Governing Law.** This Agreement shall be construed (both as to validity and performance), interpreted, and enforced in accordance with, and governed by the laws of England, excluding any conflict of laws principles, which would apply the laws of a different jurisdiction.
- 15.5 **Continued Performance.** In the course of arbitration, both Parties shall continue to perform their obligations under this Agreement except the parts under arbitration.

## ARTICLE 16

### TRANSFER OF RIGHTS AND OBLIGATIONS

- 16.1 Recipient may not transfer, assign or sublicense its rights and/or the performance of its obligations under this Agreement to any third party without the prior written consent of Supplier, such consent not to be unreasonably withheld; provided that Recipient may without Supplier's consent, transfer or assign its rights and/or the performance of its obligations under this Agreement to its parent company or any acquiror of all or substantially all of the stock or assets of its parent company by (i) a stock sale, (ii) an asset sale, or (iii) a merger or consolidation (it being understood that ~~(x) Recipient shall remain liable for payment on the due date of any sums to be paid to Supplier under this Agreement and (y) nothing in this Agreement shall be construed as limiting Recipient's right to otherwise freely contract or subcontract, without Supplier's consent, with any third party with respect to the operation of the Plant).~~
- 16.2 Supplier may not transfer or assign, including by operation of law or otherwise, its rights or the performance of its obligations under this Agreement to any Person without the prior written consent of Recipient, such consent not to be unreasonably withheld; provided that nothing in this Agreement shall be construed as limiting Supplier's right to otherwise freely contract or subcontract, without Recipient's consent, with any third party with respect to the performance of its scope of work.

- 16.3 Notwithstanding anything in this Agreement to the contrary, Recipient may assign its rights under this Agreement as security to financial institutions providing funding to Recipient for the construction of the Plant and/or to any Affiliate of Recipient; provided that such financial institution provides written confirmation that it is aware of and accepts all terms and conditions of this Agreement, and provided further that Recipient shall remain primarily liable to Supplier in the event of any such assignment.
- 16.4 No assignment of this Agreement shall relieve either Party of its obligations to maintain the confidentiality of Confidential Information of the other Party.

## ARTICLE 17

## EFFECTIVE DATE, TERM AND TERMINATION

- 17.1 This Agreement shall come into full force and effect on the Effective Date and, unless earlier terminated by either Party pursuant to the terms and conditions of this Agreement, shall remain in full force and effect until 5 (five) years from the Effective Date. Notwithstanding the foregoing, Articles 5, 11 and 12 of this Agreement shall survive the expiration or termination of this Agreement.) However, any unsettled credit and debt under this Agreement shall not be affected by the termination.
- 17.2 If either Party (the "**Defaulting Party**") shall default in the due observance and performance of its material obligations under this Agreement and fail or be unable to remedy such default within thirty (30) days following written notice from the other Party (the "**Non-Defaulting Party**"), or go into liquidation, whether voluntary or compulsory (other than for the purposes of solvent amalgamation or reconstruction) or analogous proceedings shall be undertaken or commenced under Applicable Laws, or shall become insolvent or unable to pay its debts as they fall due, then the Non-Defaulting Party may by notice in writing to Defaulting Party forthwith terminate this Agreement.
- 17.3 The expiry or termination of this Agreement shall not affect the undertakings under Articles 5, 11 and 12. In addition, such expiry or termination shall be without prejudice to the rights of either Party against the other accrued or accruing to the date of such expiry or termination.

**ARTICLE 18**

**TRANSFER OF ASSETS, REORGANIZATION, BANKRUPTCY AND GENERAL  
ASSIGNMENT**

- 18.1 Each Party shall give the other Party prompt written notice as soon as is legally permissible of the occurrence of any of the following events affecting it:
- A) The affected Party shall dissolve, transfer, sell, assign, mortgage, encumber, and pledge, or otherwise dispose of, directly or indirect, all or substantially all of its assets (other than an encumbrance solely to secure financing in the ordinary course of business),
  - B) The affected Party shall consolidate with or merge into another corporation or permit one or more other corporations to consolidate with or merge into it; or
  - C) The affected Party shall:
    - (a) be adjudged bankrupt,
    - (b) make a general assignment for the benefit of its creditors, or
    - (c) become insolvent, and a receiver shall therefore be appointed.
  - D) The affected Party shall contemplate or reasonably expect the occurrence of any event referred to in this Article.
- 18.2 If a Party, in its sole discretion, believes that the occurrence affecting the other Party of any of the events described in Section 18.1(C) prior to acceptance of the Plant by Recipient is adverse to its business interests, the unaffected Party has the right to terminate this Agreement upon thirty (30) days' written notice.

**ARTICLE 19**

**PUBLICITY**

- 19.1 Neither Party may publish press releases, articles or any other material, or otherwise include any information in its promotional materials or website, that references or otherwise relates to the Plant or this Agreement, in each case without the prior written consent of the other Party.
- 19.2 The Parties agree that, subject to Recipient's prior written consent, Supplier may photograph and/or film the Plant from time to time during construction, during Start-Up and after Start-Up for the purpose of generating promotional materials, provided



that all publicity materials generated by the Supplier (including photographs and videos) are subject to the Recipient's review and consent prior to the release of such materials. The Recipient may also designate restricted areas of the Plant, where such materials cannot be produced. All such photography and/or filming will be at Supplier's expense, however Recipient agrees to provide reasonable assistance to Supplier.

- 19.3 Copyright in any photographs or films produced under Section 19.2 shall vest in Supplier provided that the Recipient shall have the right to use and reproduce such photographs or films, at the Recipient's expense, for its promotional purposes.

## ARTICLE 20

### HAZARDOUS WASTE AND TOXIC SUBSTANCES

Recipient shall be responsible for all pre-existing contamination, hazardous waste and toxic substances, including, without limitation, asbestos, which may be found during construction of the Plant and Recipient agrees to indemnify Supplier from and against all claims, damages, costs and expenses which may arise out of the existence of such hazardous materials at the Plant site.

## ARTICLE 21

### INSURANCE

- 21.1 Each party shall, at its sole cost, obtain and maintain in force insurance, including workers compensation and commercial general liability (or the Brazilian equivalent thereof) in commercially reasonable amounts for companies of its size and industry. In addition, the Recipient shall obtain contractors all risk insurance (or the Brazilian equivalent thereof), in commercially reasonable amounts.

## ARTICLE 22

### NOTICES

- 22.1 Any notice given pursuant to this Agreement shall be in writing in English and shall be given by sending the same by courier delivery, or facsimile, telegram or other electronic transmission and confirmed by courier service delivered letter, promptly transmitted or addressed to the appropriate Parties. The date of receipt of a notice or communication hereunder shall be deemed to be:



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- (1) the same day when the delivery is made in case of special personal delivery or upon receipt when delivered by courier;
- (2) three (3) working days after dispatch in the case of a facsimile, telegram or other accepted electronic transmission, as shown by the confirmation received for such delivery.

All notices and communications shall be sent to the appropriate address set forth below, until the same is changed by notice given in writing to the other Party or the Parties:

**Address for service of Recipient:**

Attention: Alan Hiltner  
Executive Vice President  
Address: Av. Brigadeiro Faria Lima 2277, 15<sup>th</sup> floor  
São Paulo, SP – CEP 01452-000

Tel: +55 11 2739 0500

Fax: +55 11 2739 0510

**Address for service of Supplier:**

Attention: Mauro Osella  
Address: Chemtex Italia S.p.A.  
Strada Ribrocca n. 11  
15057 Tortona (AL)  
Italy

Tel: +39 0131-810-1

Fax: +39 0131-811759

- 22.2 Either Party may change its address and/or facsimile numbers for service of notices by notifying the other Party of such change in accordance with Section 22.1.

**ARTICLE 23**

**SEVERANCE**

If any provision of this Agreement is held to be invalid or unenforceable by any court of law

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or body having authority to so hold, such provision shall to the extent of such invalidity or unenforceability be deemed to have been deleted from this Agreement. All other terms and conditions shall remain in full force and effect unless such deletion cannot be made without destroying the basis of this Agreement in which case this Agreement shall be terminated forthwith at the option of either Party by giving written notice to that effect to the other Party.

## ARTICLE 24

### GENERAL PROVISIONS

- 24.1 The words "hereof", "herein" and "hereunder" and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof. References to Articles, Sections and Annexes are to Articles, Sections and Annexes of this Agreement unless otherwise specified. Any singular term in this Agreement shall be deemed to include the plural, and any plural term the singular. Whenever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation", whether or not they are in fact followed by those words or words of like import. "Writing", "written" and comparable terms refer to printing, typing and other means of reproducing words (including electronic media) in a visible form. References to any agreement or contract are to that agreement or contract as amended, modified or supplemented from time to time in accordance with the terms hereof and thereof. References to any Person include the successors and permitted assigns of that Person. References from or through any date mean, unless otherwise specified, from and including or through and including, respectively. References to "law", "laws" or to a particular statute or law shall be deemed also to include any and all Applicable Law.
- 24.2 Annexes 1 to 4 are integral parts of and shall have the same force as this Agreement itself. However, in the event of any inconsistency between the Annexes and the Definitions and/or Articles 1 to 24, the Definitions and Articles 1 to 24 shall prevail.
- 24.3 Any amendment, supplement and alteration to the terms and conditions of this Agreement shall be made in written form and signed by the authorized representatives of both Parties upon an agreement reached between both Parties through consultation. They shall form integral parts of this Agreement, and shall have the same force as this Agreement itself. However, such amendment, supplement and alteration shall not release either Party from its responsibility and liability stipulated in this Agreement unless otherwise stipulated in such amendment, supplement and alteration.

- 24.4 No delay or failure by any Party in exercising any right or privilege will be construed as a waiver thereof nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right or privilege. No waiver will be valid against a Party unless written and signed by the Party against whom enforcement is sought.
- 24.5 This Agreement, together with all Annexes hereto, as executed by the authorized representatives of the Parties constitutes the entire understanding between the Parties on the subject matter hereof and supersedes and cancels all previous agreements, understandings, representations and warranties written or oral made by or between the Parties in relation to such subject matter. Each Party acknowledges that in entering into this Agreement it has not relied on any representation, warranty, agreement or statement not set out in this Agreement and it will have no right or remedy arising out of any such representation, warranty, agreement or statement.
- 24.6 Each of the Parties hereby acknowledges and agrees that it has entered into this Agreement freely and of its own volition, that it has been represented by independent counsel of its choice during the negotiation and execution of this Agreement, and that it has executed the same upon the advice of such independent counsel, including, but not by way of limitation, those provisions of the Agreement related to the allocation of liabilities and the limits thereof. Each Party and its counsel cooperated in the drafting and preparation of this Agreement, and any and all drafts relating thereto shall be deemed the joint work product of the Parties and may not be construed against either Party by reason of its preparation. Therefore, the Parties waive the application of any Applicable Law providing that ambiguities in an agreement or other document will be construed against the Party drafting such agreement or document.
- 24.7 Neither Party is or is intended to be the agent of the other for any purpose whatsoever and nothing in this Agreement shall give rise to any relationship in the nature of agency between the Parties and neither Party shall hold itself out as acting as agent for the other Party.
- 24.8 Nothing in this Agreement is intended to or shall give rise to any relationship of partnership or profit sharing in the nature of partnership between the Parties.
- 24.9 This Agreement shall be made in English and in two (2) original copies, one (1) for Recipient and one (1) for Supplier.
- 24.10 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall become effective when each Party shall have received a counterpart hereof signed by the other Party. Until and unless each Party

EXECUTION COPY

has received a counterpart hereof signed by the other Party, this Agreement shall have no effect and no Party shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication).

*(signature pages to follow)*



EXECUTION COPY

For and on behalf of BioFlex  
Agroindustrial Ltda.:

Signed By: 

Print Name: Bernardo Grabin

Title: President

Witness: 

Print Name: Joana Benjamin

Passport No.: CX6610810

Witness: 


Print Name: Alan Hiltner

Passport No.: U4774091



EXECUTION COPY

For and on behalf of Chemtex  
Italia S.p.A.:

Signed By: 

Print Name: Guido Ghisolfi

Title: President



## ANNEX 1

1. **Plant Capacity.** The Plant shall be designed to operate on a continuous basis, for 333 days (8000 hours per year) at a capacity of 65,000 metric tonnes per year of ethanol.
2. **Feedstock consumption.** With the contemplated feedstock consumption, the Plant will produce one metric tonne of Ethanol from 2,8665 tonnes of C5 (xylans) plus C6 (glucans) sugars, using Novozymes' CTec3 enzyme cocktail (or another model enzyme that has a better yield than CTec3).
3. **Chemical consumption** The table below shows the expected major chemical consumptions related to metric tonnes of Ethanol production:

Sulfuric acid (98%)	5 kg/ton EtOH
Urea	28 kg/ton EtOH
Potassium hydroxide	40 kg/ton EtOH
Antifoam	4 kg/ton EtOH
Sodium Hydroxide	2 kg/ton EtOH

4. **Enzyme and Yeast Consumptions:** The table below shows the expected enzymes, yeasts and sugar consumption:

Dry yeast (based on the DSM yeast mod.: RN1016, or other better yeast)	0.25 kg/t EtOH
Enzyme Solution (anticipating the use of a Novozymes enzyme cocktail with improved activity compared to CTec3 as well as better cost efficiency)	50 kg/t EtOH
Sugar (dry basis) *	21 kg/t EtOH

\*Sugar used for yeast propagation

5. **Utility Consumptions:** The table below shows the expected utility consumptions for the Inside Battery Limits (ISBL) Plant:

UTILITY	EXPECTED VALUES
Steam (HP steam @ 25 bar g)	3.5 t/t EtOH



Steam (MP steam @ 10 bar g)

4.5 t/a EtOH

Electricity plant consumption (running power)

6.2 MW

## 6. Utilities

## Utility Specifications

The following list shows typical requirements for utilities at the Battery Limits under normal operating conditions that are to be supplied by the Recipient at the quantity and quality specified by the Supplier

- |  |   |
|--|---|
| <p>➤ <u>Steam:</u></p> <p>Quality: 98%, saturated</p> <p>High Pressure: 25 barg</p> <p>Medium Pressure: 10 barg</p> <p>Low Pressure: 0 barg (exhaust steam output)</p> | <p>➤ <u>Cooling Water:</u></p> <p>Supply Temperature: 30°C</p> <p>Return Temperature: 37°C</p> <p>Supply Pressure: 5 barg at grade</p> <p>pH: 7-9</p> |
| <p>➤ <u>Electric Power:</u></p> <p>Usage Voltage: 400 V, 60 Hz, 3 phase</p> <p>230 V, 60 Hz + 3%, 1 phase</p> <p>Control Voltage: 110 V, 60 Hz, 1 phase</p>            | <p>➤ <u>Summer Chiller Water:</u></p> <p>Supply Temperature: 20°C</p> <p>Return Temperature: 30°C</p> <p>Supply Pressure: 7 barg at grade</p>         |
| <p>➤ <u>Process Air:</u></p> <p>Oil Content: None</p> <p>Low Pressure: 3 barg</p>  | <p>➤ <u>Continuous Chiller Water:</u></p> <p>Supply Temperature: 7°C</p> <p>Return Temperature: 12°C</p> <p>Supply Pressure: 7 barg at grade</p>      |
- 
- Instrument Air:
- Oil Content: None
- Supply Pressure: 8 barg
- Dew Point: - 20°C

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## ANNEX 2

## Basic Engineering Package

The Basic Engineering package shall include the following information:

- Process Flow Diagrams (PFD's)
- Mass / Heat Balance
- Process Description
- Raw Materials, Additives and Chemicals Specification
- Battery Limit Conditions
- Utility Summary and utilities specification
- Equipment List
- Instrument list
- Line List
- Equipment Data Sheets
- Instruments data sheet
- Piping and Instrument diagrams (P&ID's)
- DCS Logic, interlocks specification
- Piping Engineering Specification
- Plot Plan
- Effluent Summary
- Preliminary Electrical Load List
- Single line diagram
- Product & Service Index
- Process Building Equipment layout
- MSDS

## ANNEX 3

## Codes and Standards

In general the proprietary equipment shall be designed as per the technology supplier's standards and norms. Imported commercial equipment shall be designed per internationally acceptable codes such as:

- ASME: American Society of Mechanical Engineers Code for Design of Pressure Vessels
- ANSI: American National Standards Institute for Piping
- ATEX: Atmosphere explosive
- API: American Petroleum Institute
- AWS: American Welding Society
- TEMA: Tubular Exchanger Manufacturers Association of USA
- ISA: Instrument Society of America
- IEC: International Electro-technical Commission

Local norms shall be followed for building design, firefighting, boiler regulations and noise level.

- Equipment shall be the most advanced and best quality of its type and its design and materials shall be in accordance with the requirements of the process and long periods of operation.
- Generally, equipment and materials made in a third country will be in accordance with codes and standards of that country.

In principle, equipment shall be supplied in the metric system. Proprietary equipment shall be supplied per the technology supplier's standards.

**ANNEX 4**  
**Field Service Breakdown and Expenses**

**I. BREAKDOWN**

<u>Personnel</u>	<u>No.</u>	<u>Aggregate Man-days</u>	<u>Rate per Day (Euro)</u>	<u>Total (Euro)</u>
Start up Manager (Senior Process Engineer)	1	60	1500	90,000
Senior Process Engineer	2	120	1500	180,000
Process Engineer	1	60	1200	72,000
Mechanical Engineer	1	75	1200	90,000
Process Control Supervisor (Instrumentation Engineer)	1	30	1200	36,000
<b>TOTAL</b>		<b>345</b>		<b><u>468,000</u></b>

**II. EXPENSES**

**A. AIR TRAVEL FROM RESIDENCE OF SPECIALIST**

1. For any air travel required by the Specialist's assignment, Supplier shall arrange transportation from the residence of the Specialist of any travel as a requirement of his assignment. Recipient shall arrange pre-paid tickets or reimburse Supplier for such air travel, at a rate equivalent to the cost of confirmed airlines tickets from the point of residence and return on regularly scheduled first class airline or airlines, business class or equivalent.

**B. OTHER EXPENSES**

- Recipient shall provide the following items for any personnel deputed by Supplier to the Site in connection with work hereunder; however, if Recipient does not provide them, Recipient shall reimburse Supplier the cost thereof.
1. Any surface transportation between the residence of the Specialist and the work site required in addition to the air travel specified in Section A hereof to complete the

- trip.
2. Suitable transport, air conditioned, if available, from the place of temporary residence in Brazil to the work site and back.
  3. First class lodging (air-conditioned) and meals.
  4. Transportation for personal use, if available, including weekends and off-hours.
  5. Emergency medical and dental services. In case of prolonged hospitalization, medical services will apply for a period not to exceed fourteen (14) days.
  6. Work-connected travel within Brazil by air or rail transportation, best available class, or chauffeur-driven private car, as appropriate.
  7. Laundry and miscellaneous expenses in an amount to be agreed upon between the parties.
  8. Clerical and secretarial assistance.
  9. Internet connection and access, Business and telephone communications, including reasonable personal phone calls home.
  11. Private office facilities, when required.

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May 29, 2012

Guido Ghisolfi  
Chemtex Italia S.p.A.  
Strada Ribrocca n.11  
15057 Tortona (AL)  
Italy

12/06/2012

FOTOCOPIA CON AUTENTICA  
FIRMA GG.

ORIGINALE A JOANA CON DHL.

Dear Guido,

Enclosed please find the original document "*Basic Engineering and Technical Services Agreement*" (the "Agreement") entered into between Chemtex Italia S.p.A. and Bioflex Agroindustrial Ltda., a subsidiary of Graal Bio Investimentos S.A. This Agreement will be filed with the Brazilian Patent Registration Office (INPI) in order for the disbursements to be made to Chemtex in connection with the Basic Engineering Package and Technical Services. Per Rogih's instruction, I am sending this Agreement to you and kindly request that someone from your team can coordinate to have the document notarized and consularized (at the Brazilian consulate in Italy). Once this step has been completed, please have the Agreement sent to me by mail (address below) in order for us to proceed with the INPI filing.

Thank you in advance for your cooperation.

Best regards,

Joana Benjamin

Cc: Rogih Yazgi

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EXHIBIT B

**EQUIPMENT SUPPLY AGREEMENT**

**between**

**BIOFLEX AGROINDUSTRIAL LTDA.**

**and**

**CHEMTEX ITALIA S.P.A.**

date 15<sup>th</sup> May 2012

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### ANNEXES

- ANNEX 1 CRITICAL EQUIPMENT
- ANNEX 2 SPECIMEN WORDING OF LETTER OF GUARANTEE

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THIS AGREEMENT (this "Agreement") made on this 15<sup>th</sup> day of May, 2012, by and between:

Chemtex Italia S.p.A., a corporation organized and existing under the laws of Italy, and having a place of business at Strada Ribrocca n. 11, 15057 Tortona (AL) Italy ("Supplier");  
and

BioFlex Agroindustrial Ltda., a corporation organized and existing under the laws of Brazil, enrolled with CNPJ under No. 13.808.130/0001-05 and having a place of business at Av. Brigadeiro Faria Lima, 2277, 15<sup>th</sup> floor, CEP 01452-000, São Paulo, SP, Brazil ("Recipient");

**WITNESSETH, THAT:**

Whereas Supplier is experienced in design, engineering and procurement of chemicals plants and wishes to supply certain imported equipment to Recipient; and

WHEREAS Recipient has agreed to purchase from Supplier and Supplier has agreed to sell to Recipient said such equipment on the terms set out herein.

NOW, THEREFORE, the Parties mutually agree as follows:

**ARTICLE 1**

**DEFINITIONS**

**Affiliate** means with respect to any Person (as defined below), any other Person directly or indirectly Controlling, Controlled by, or under Common Control with, such other Person. Control (and the correlative terms Controlling, Controlled by, and under Common Control with) when used with respect to any Person shall mean: (a) the direct or indirect ownership of fifty (50) percent or more of (i) the total outstanding voting securities of all combined voting classes of stock or (ii) other evidences of ownership interest of such Person or (b) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person.

**Applicable Law** means with respect to any Person, any transnational, domestic or foreign federal, state or local law (statutory, common or

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otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, order, injunction, judgment, decree, ruling or other similar requirement enacted, adopted, promulgated or applied by a Governmental Authority that is binding upon or applicable to such Person, as amended unless expressly specified otherwise.

**Confidential  
Information**

means any non-public, proprietary or other confidential information disclosed by a Party or its Affiliates ("**disclosing party**") to the other Party ("**receiving party**") or its Affiliates without the need for any further notice or marking but excluding any information that: (i) the receiving party independently develops without reference to the disclosed information; (ii) the receiving party independently receives on a non-confidential and authorized basis from a source other than the disclosing party; (iii) becomes public knowledge through no fault of the receiving party; (iv) is in the public domain at the time the receiving party receives the disclosed information; or (v) the receiving party already knows at the time the receiving party receives the disclosed information. The Receiving Party shall have the burden of proving the applicability of any of the above exclusions.

**Critical Equipment**

means the equipment which is supplied by Supplier pursuant to this Agreement as described in Annex 1.

**Date of Start-Up**

means the date of first introduction of raw materials into the Plant.

**Effective Date**

means the date of receipt by Supplier of (A) the first payment made by Recipient as described in Section 4.2(a) and (B) the Payment Guarantee executed in the form specified in Annex 2.

**Governmental Authority**

means any transnational, domestic or foreign federal, provincial, state or local governmental, regulatory or administrative authority, department, court, agency or official, including any political subdivision thereof.

**Intellectual Property  
Rights**

means any trademark, service mark, trade dress, logo, domain name, and trade name and all goodwill associated with the foregoing, copyright, mask work, patent, software, database, invention, trade secret, know-how, industrial property right

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	(including any registrations or applications for registration of any of the foregoing) or any other similar type of proprietary intellectual property right.
<b>Parties</b>	means Supplier and Recipient and "Party" shall mean each or either of them as relevant in the context in which the term is used.
<b>Person</b>	means any natural person, firm, individual, corporation, partnership, joint venture, business trust, association, trust, company or other organization or entity, whether incorporated or unincorporated, or any Governmental Authority.
<b>Plant</b>	means the commercial cellulosic ethanol manufacturing facility to be constructed by Recipient in the State of Alagoas, Brazil and incorporating the Critical Equipment.

## ARTICLE 2

### DUTIES OF SUPPLIER / CRITICAL EQUIPMENT DELIVERIES

- 2.1 Supplier shall supply and deliver to Recipient the Critical Equipment as listed in Annex 1. Without limitation of the provisions in Article 5, the Critical Equipment shall be shipped within 16 months from Effective Date. Early delivery and partial shipments are permitted.

2.2 Packing and marking

Without limitation of the provisions in Article 5, the Critical Equipment shall be shipped in a packing suitable for the type of transportation chosen for the delivery, so that the quality and integrity of the Critical Equipment are assured under typical transport conditions.

Prior to the shipment of Critical Equipment (including early delivery and partial shipment), Supplier shall provide Recipient information regarding the shipment, including the items to be shipped, estimated number of containers/boxes and estimated gross weight.

Recipient shall notify as soon as possible, but in any case not later than 1 (one) month from the Effective Date any special requirement about the information to be marked on the cases. If such designation is not made in due time, Supplier will apply the methods deemed most suitable.

### 2.3. Inspection Procedures

The Recipient shall be entitled to have the Critical Equipment inspected and checked by its authorised representatives and at its own expense. Such inspection and checking shall be carried out at the Supplier's place of manufacture during normal working hours after agreement with Supplier as to date and time, such agreement not to be unreasonably withheld by Supplier, and in a manner that will not materially interfere with Supplier's ordinary course of business. If, as a result of such inspection and checking, any materials or parts are determined to be defective, or not be in accordance with the specifications of this Agreement, the Recipient shall state in writing its objections and the reasons therefor and the Supplier shall give full consideration to these opinions and shall take necessary measures to remove the defects and address any failure to conform to the specifications of this Agreement.

Upon arrival of the Critical Equipment at the Plant, Recipient shall be entitled to conduct an open-package inspection of such Critical Equipment. Recipient shall give Supplier at least 10 days written notice of such open box inspection. Should any damage, defect, or shortage be found during such inspection, reasonably detailed records shall be made and signed by the Parties, or, if Supplier does not attend the inspection, by the Recipient's inspectors, and such records shall, absent sufficient evidence provided by Supplier to the contrary, be taken as effective evidence either for a claim under the insurance policy, in case of carrier's responsibility, or for a claim for replacements, repairs or supplements from the Supplier, in case of Supplier's responsibility.

### 2.4 Transfer of Risk and Title

Title to and all risks of loss or damage to the Critical Equipment shall pass from Supplier to the Recipient upon loading of the Critical Equipment on the vessel as per Incoterms.

### 2.5 Design Documentation

On a date to be defined at the kick-off meeting, Recipient shall receive a set of equipment documentation required for purposes of civil design, installation, and maintenance of the equipment (including, but not limited to, process and mechanical data sheets, assembly instructions and installation drawings) of the Critical Equipment.

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### ARTICLE 3

#### DUTIES OF RECIPIENT

- 3.1 Recipient shall supply Supplier with such reasonable information, with respect to the Plant site, available sources of water supply, raw materials and utilities, facilities for effluent disposal, and other reasonable information, which Supplier may reasonably request from time to time for the satisfactory performance by Supplier of its obligations in accordance with the Agreement. Such information will be supplied on a timely basis, allowing Recipient reasonable notice to respond to such requests.
- 3.2 Recipient shall procure all equipment and materials required for the Plant (except for the Critical Equipment to be supplied by Supplier hereunder) and supply, or cause to be supplied, construction, and installation of all equipment and materials in the Plant; *provided* that Supplier shall reasonably cooperate with Recipient in connection with all of the foregoing. Recipient shall be responsible for customs clearance of the Critical Equipment and transport and insurance of the Critical Equipment from the port of Maceió to the storage facility at the Plant site, *provided* that Supplier shall reasonably cooperate with Recipient in connection with the foregoing.
- 3.3 Recipient shall obtain and keep in force all authorizations, approvals, licenses, permits and other documents as may be required with respect to the Plant from any Brazilian governmental agency, department, office, bureau or other authority having jurisdiction, including, but not by way of limitation, environmental and building permits.

### ARTICLE 4

#### PRICE AND PAYMENT CONDITIONS

- 4.1 The price for Supplier's total scope of supply pursuant to this Agreement, inclusive of delivery of the Critical Equipment CIF port of Maceió as per INCOTERMS 2010, to be supplied by Supplier to Recipient is €34,250,000.00 (thirty four million, two hundred and fifty thousand Euros).

The above price is exclusive of all Brazilian taxes or duties, which shall be borne and paid by Recipient.

- 4.2 Recipient shall pay the above price according to the following schedule:
- a) 20% of the Price set out in Section 4.1, or €6,850,000.00 (six million, eight hundred and fifty thousand Euros), as a downpayment, by TT remittance to Supplier' designated bank account in Section 4.4, within 30 days from the date hereof, against Supplier's invoice. At the same time Recipient shall deliver to

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Supplier a payment guarantee of its parent company in favor of Supplier in the form set out in Annex 2.

- b) 20% of the Price set out in Section 4.1, or €6,850,000.00 (six million, eight hundred and fifty thousand Euros), as a progress payment, by TT remittance to Supplier's designated bank account in Section 4.3, within 4 months from the date hereof, against invoice and Supplier's certificate that it has placed the major purchase orders for the Critical Equipment; and
- c) 60% of the total price, or €20,550,000.00 (twenty million, five hundred and fifty thousand Euros) shall be paid to Supplier on a cash against documents basis, through Supplier's bank, pro rata as Critical Equipment is shipped to Recipient and within five (5) days after submission of invoice, insurance certificate, packing list, and full set, original, clean on-board bill of lading or other transport document. Supplier will at the same time as submitted to the bank, fax or e-mail a copy of such documents to Recipient for its review. At the time of the last shipment, Supplier shall at its expense open at a first class bank an irrevocable stand-by letter of credit in favor of Recipient in the amount of 10% of the price set out in Section 4.1, valid for 12 months and covering the mechanical functioning of the Critical Equipment.

If the first payment, as per Section 4.2 a), is not made within sixty (60) calendar days from the date hereof, the Parties shall meet and discuss how to proceed. If no agreement is reached by the Parties as to how to proceed and the first payment has still not been received by Supplier within ninety (90) calendar days from the date hereof, then Supplier shall have the right to terminate this Agreement with no further liability or obligation on the part of Supplier.

- 4.3 Unless otherwise specified, payments to be made by Recipient pursuant to this Article 4, are to be made at the following bank:

BANCA INTESA, Milano.

ABI:	03069
CAB:	10420
CIN	Y
SWIFT CODE:	BCITITMM
IBAN code:	IT09Y0306910420100000000395

- 4.4 All banking charges and other fees of the bank of the Party receiving the payment shall be borne by the receiving Party, and all other banking charges (except for those

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relating to the receipt of the payment) and other fees in connection with such payment shall be borne by the Party making the payment.

- 4.5 In the event that either Party fails to pay the other Party any amounts due under this Agreement on an applicable due date, then the defaulting Party shall unconditionally pay the relevant sum due plus interest at a rate corresponding to 1.2% per month calculated from the date the relevant sum became due for payment by the defaulting Party until the date the actual payment is made.
- 4.6 If Supplier shall be liable to pay any liquidated damages and/or compensation to Recipient as stipulated in Article 5, payment shall be made by Supplier by wire transfer to a bank account of Recipient's designation, failing which Recipient may offset such damages or compensation against any amount due to Supplier pursuant to this Article 4.

## ARTICLE 5

### GUARANTEES AND LIABILITY

#### 5.1 Guarantees

Supplier hereby guarantees:

- a) Shipment of the Critical Equipment will be completed within sixteen (16) months from the Effective Date. The shipping date shall be deemed to be the date of the bill of lading.
- b) The Critical Equipment shall be new and free from defects, of good quality and workmanship and shall meet all applicable standards and specifications. The aforesaid mechanical guarantee for the Critical Equipment shall be valid until the earlier of 24 months from the Date of delivery of the Critical Equipment or 12 months after the Date of Start-Up. This guarantee does not cover normal wear and tear or damage due to improper storage or misoperation and will cease if any modification or repair of the Critical Equipment is made by Recipient or third parties without Supplier's approval.
- c) Supplier makes no implied warranties, including, but not by way of limitation, any implied warranties of merchantability or fitness for a particular purpose

## 5.2 Liability

## a) Delivery

If any items of Critical Equipment are not shipped to Recipient within the period set forth in Section 5.1 a), then, for each such item, Supplier shall pay to Recipient liquidated damages at the following rates:

first 2 weeks of delay:	0.5% of the value of the delayed items for each week of delay
next 2 weeks of delay:	0.75% of the value of the delayed items for each week of delay
subsequent weeks of delay:	1.0% of the value of the delayed items for each week of delay.

## b) Quality

If any items of Critical Equipment fail to satisfy the guarantee set forth in Section 5.1 b), then, Supplier shall, at its own expense, as soon as possible, provide from its vendors an urgent delivery or emergency repair or replacement. Any replacement items shall be delivered CIF port of Maceió.

## c) Maximum Aggregate Liability

Supplier shall in no event be liable for indirect or consequential damages such as loss of profits, finished products, opportunity or use, and in no event shall Supplier's total liability under this Agreement exceed 10% of the price set out in Article 4.1, except for the cost of repair or replacement of Critical Equipment which fail to satisfy the guarantee set forth in Section 5.1 b), where the applicable limit shall be 90% of the price set out in Article 4.1. Supplier's liabilities and Recipient's remedies expressly set forth in this Article 5 are the sole liabilities and remedies with respect to the scope of work and supply under this Agreement are in lieu of any others available at law or otherwise.

## ARTICLE 6

## INSTRUCTIONS AND VARIATIONS

- 6.1 Supplier's scope of work under this Agreement is fixed. Any variation in the scope of work shall be deemed a "Scope Change" and be subject to the provisions of this Article 6. No Scope Change shall be valid unless agreed in writing by an authorized representative of Recipient and Supplier.

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- 6.2 Recipient may at any time request a Scope Change by written notice to Supplier. Following such request, Supplier shall, not later than five (5) working days after the request, furnish Recipient with a written statement of the increase or decrease to the fees payable to Supplier, or any advance or delay to the completion of the work or changes in the guarantees (if any), which would result from such Scope Change.
- 6.3 Recipient shall within seven (7) days after receipt of Supplier's statement either issue an approval to such statement or withdraw the request.
- 6.4 Notwithstanding the provisions of Section 6.2, no Scope Change shall result in any increase of the fees and/or any adjustment to the Project Schedule or to any other terms of this Agreement, when any such Scope Change is (i) due to Supplier's acts or omissions, including non-compliance with the terms and conditions of this Agreement; or (ii) necessary to correct Supplier's failure to perform the work in accordance with this Agreement.
- 6.5 Supplier shall not be required to implement any Scope Change prior to agreement being reached with Recipient on resultant changes in fees, schedule, or guarantees.

## ARTICLE 7

### REPRESENTATIONS AND WARRANTIES

- 7.1 Supplier represents and warrants to Recipient that:
- (a) Supplier has the right to supply the Critical Equipment to Recipient.
  - (b) Supplier is not bound by any agreements, obligations or restrictions, and shall not assume any obligation or restriction or enter into any other agreement that would interfere with its obligations under this Agreement.
  - (c) There is no pending or threatened litigation against Supplier, which could materially impact Supplier's ability to perform its obligations under this Agreement.
- 7.2 Each Party represents and warrants to the other Party that it is a legal Person validly registered and existing in its place of incorporation/registration, and that it has full legal capacity and authority to enter into this Agreement with binding and enforceable effect, and to perform its obligations under this Agreement.

## ARTICLE 8

### LIABILITIES

- 8.1 Supplier's liabilities with respect to its performance and delivery of its scope of work and maximum aggregate liability are as set out in Article 5.
- 8.2 Supplier shall not have any obligation to erect, operate, modify, replace or maintain the Plant at any stage and no activities that Supplier conducts under this Agreement will be deemed to be interpreted that Supplier has operated, modified, replaced or maintained the Plant (or any equipment of the Plant). Except with respect to claims, damages and expenses for which Supplier shall indemnify Recipient pursuant to this Article 8, or claims, damages and expenses arising from Supplier's gross negligence or willful misconduct, Recipient shall hold harmless and indemnify and defend Supplier and its Affiliates from and against any and all claims of any kind or type, damages and expenses (including death) of any third party (including employees of Recipient) relating to or arising from (i) the erection, modification, replacement, operation or maintenance of the Plant, (ii) the manufacture of any ethanol or the sale or use of any ethanol manufactured in the Plant or (iii) any by-products, co-products or wastes generated therefrom, regardless of any actual or alleged negligence or other fault of Supplier.
- 8.3 Nothing in this Agreement shall be construed as implying a duty on the part of Supplier personnel to direct the project management or start-up of the Plant or the operation thereof, or to perform any executive line-management or operational function in relation to the Plant.
- 8.4 Subject to Sections 8.5 and 8.6, Supplier shall defend Recipient, its Affiliates, and any of their officers, directors, employees, representatives or agents, against any third party threat, suit, proceeding, investigation or other claim, and indemnify and hold each of them harmless from all damages, liabilities, expenses and other losses (including attorneys fees and court costs) based on or arising from (i) any claim that the Recipient's use of the Critical Equipment in accordance with the terms and conditions of this Agreement infringes, misappropriates or otherwise violates any Intellectual Property Right of any third party ("IP Claims"), and/or (ii) any violation of Applicable Law by Supplier.
- 8.5 Should any claim be made or threatened by any third party asserting that the use of the Critical Equipment directly infringes its valid Intellectual Property Rights, Supplier and Recipient shall meet as soon as possible to review the claim and establish a plan to address the claim which includes, but is not limited to determining whether any non-infringing alternative is available. If the Parties determine that the alleged infringement, misappropriation or other violation under an IP Claim is directly caused by the use of the Critical Equipment under this Agreement or if an

injunction or court order is issued against the use of the Critical Equipment as a result of an IP Claim, or, Supplier may at its option and expense: (i) procure for Recipient the right to continue using and exploiting the infringing Critical Equipment (the "Infringing Equipment") as provided in this Agreement, (ii) replace or modify the Infringing Equipment so it becomes non-infringing (with equivalent functionality), or if options (i) and (ii) are not available despite Supplier's commercially reasonable efforts, (iii) refund to Recipient the cost of the Infringing Equipment on a Net Present Value Basis.

- 8.6 Supplier's obligations stated in Sections 8.4 and 8.5 above shall apply only if Recipient (i) notifies Supplier in writing within ten (10) days after learning that a claim has been asserted or threatened in writing; provided that the failure to provide such notice shall not relieve Supplier of its indemnification obligations except to the extent that Supplier is adversely prejudiced by such failure; (ii) gives Supplier sole control and conduct of the defense of the claim and all negotiations relating to settlement; provided that (a) Recipient shall be entitled to participate in the defense and settlement negotiations and, at Recipient's expense, retain its own counsel and (b) Supplier shall not settle any claims without the prior written consent of Recipient (with such consent not to be unreasonably withheld) unless such settlement is solely for monetary payment and contains an explicit and unconditional release of Recipient; and (iii) reasonably assists Supplier on a timely basis and does nothing to prevent Supplier from defending the claim or lawsuit in all necessary respects. Supplier shall have no obligation to Recipient under Sections 8.4 or 8.5 to the extent any IP Claim is based on use by Recipient or its Affiliates of equipment not provided by Supplier.
- 8.7 To the extent permitted by Applicable Law, neither Party shall be liable to the other Party for any indirect, incidental, consequential, special or punitive losses or damages, which shall include loss of profit or business, interruption of business, loss of goodwill, loss of contract and cost of capital, even if such Party has been advised of the possibility of such damages, provided such limitation shall not apply with respect to a breach of the provisions, or default of the obligations, of Article 9 of this Agreement.
- 8.8 Unless caused, or except to the extent contributed to, by gross negligence or wilful misconduct of Supplier, Recipient releases Supplier from any liability for, and shall defend, indemnify, and hold Supplier, its Affiliates, successors and assigns harmless from and against all claims, demands or causes of action based on injury, death or sickness of any employee, subcontractor or agent of Recipient, in connection with, arising out of, or related to Recipient's performance or non-performance of any of its obligations or the exercise of any of its rights under this Agreement.
- 8.9 Unless caused, or except to the extent contributed to, by the gross negligence or

wilful misconduct of Recipient, Supplier releases Recipient from any liability for, and shall defend, indemnify, and hold Recipient harmless from and against all claims, demands or causes of action based on injury, death or sickness of any employee, subcontractor, or agent of Supplier, in connection with, arising out of, or related to Supplier's performance or non-performance of any of its obligations or the exercise of any of its rights under this Agreement.

- 8.10 Each Party shall be responsible for the insurance of its respective liabilities with respect to personnel and property stated.
- 8.11 Each of the foregoing limitations, indemnities and other provisions of this Agreement shall survive any termination, cancellation or expiry of this Agreement.

## ARTICLE 9

### PROTECTION OF CONFIDENTIAL INFORMATION

- 9.1 The receiving party shall hold the Confidential Information in confidence for a period of fifteen (15) years from the later of (i) the Effective Date and (ii) the disclosure of such Confidential Information to the receiving party. The receiving party shall use the Confidential Information of the disclosing party solely for the purposes of the Plant or as otherwise specifically permitted by this Agreement. The receiving party will not directly or indirectly disclose the Confidential Information of the disclosing party to any third party except as permitted by this Agreement, will provide such Confidential Information only to any of its employees, agents, suppliers and independent contractors who need it in connection with this Agreement and are bound by comparable written agreements requiring that they keep it confidential and will be responsible for any disclosure or misuse of the Confidential Information by any such person. The receiving party will take all reasonable measures to protect the confidentiality of the disclosing party's Confidential Information, notify the disclosing party in writing of any unauthorized use or disclosure of such Confidential Information, and take steps to remedy any unauthorized use or disclosure. The receiving party will give prompt notice to the disclosing party of any legal requirement that it disclose the disclosing party's Confidential Information, and will disclose the disclosing party's Confidential Information only to the extent required by Applicable Law, provided that the receiving party shall first give notice to the disclosing Party and reasonably cooperate with the disclosing Party to obtain a protective order or other measures requiring that the information or documents so disclosed be used only for the purposes for which the order was issued or is otherwise required by Applicable Law.

## ARTICLE 10

### FORCE MAJEURE

- 10.1 Should either Party be delayed, hindered or prevented from performing any of its obligations under this Agreement due to the case of events beyond its reasonable control, such as riot, government intervention, change in Applicable Law, import restriction, public disturbance or protest, war, acts of terrorism, fire, flood, typhoon, earthquake, storm, explosion, accident of navigation, strikes, lockouts or other labor dispute, the time for implementing this Agreement shall be extended by a period equivalent to the effect of the occurrences. Neither Party shall (i) have right to claim from the other Party any loss or damage caused due to the case of force majeure; (ii) be obligated to settle any demands of, or disputes with, laborers; and (iii) have the right to invoke this Article 10 for any events arising due to its negligence.
- 10.2 The delayed, hindered or prevented Party shall (i) inform the other Party as soon as possible by fax and airmail by registered letter a certificate issued by competent authorities concerned not later than seven (7) days from the occurrence of force majeure for the examination and acknowledgment by the other Party and (ii) use commercially reasonable efforts to correct the failure or delay in its performance as soon as possible.
- 10.3 The delayed, hindered or prevented Party shall inform the other Party as soon as possible by fax of the termination or elimination of the case of force majeure and confirm the information by registered airmail letter. After the termination or elimination of the case of force majeure, both Parties shall respectively continue to implement all the responsibilities stipulated in this Agreement. After termination or elimination of the case of force majeure no compensation will be claimed by either Party as a direct result of the force majeure, and the contract resumes under the original terms.
- 10.4 Should the case of force majeure continue more than ninety (90) consecutive days, both Parties shall discuss the further execution of this Agreement through friendly negotiation as soon as possible.

## ARTICLE 11

### TAXES AND DUTIES

Any and all taxes, customs duties, currency conversion costs, remittance fees and other similar charges levied by the authorities of Brazil or any state, city, agency or subdivision thereof with respect to or in connection with this Agreement and its performance, shall be borne and paid by Recipient so that the amounts stipulated in this Agreement shall be

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received by the Supplier net of any such taxes or charges, whether levied by federal, state, or municipal governments in Brazil, including withholding tax, as if no such taxes or charges were due. All taxes, customs duties and other similar charges levied by any authorities outside Brazil with respect to or in connection with this Agreement and its performance shall be borne and paid by Supplier.

## ARTICLE 12

### DISPUTE RESOLUTION AND GOVERNING LAW

- 12.1 **Consultation to Resolve Disputes.** Any dispute, difference, controversy or claim of any kind arising out of or relating to this Agreement (including, but not limited to the breach, termination, construction, execution, operation, effect or invalidity of this Agreement) (a "Dispute") shall be settled through friendly consultation between both Parties. If the Dispute cannot be resolved through consultation within thirty (30) days of the Dispute being first notified to the other Party, the Dispute shall be settled definitively, finally and exclusively by binding arbitration as provided in this Article 12.
- 12.2 **Arbitration Notice.** If the Parties are unable to resolve a dispute relative to the interpretation of this Agreement through negotiation as provided for in Article 12.1, the matter shall, at the written notice of either Party, be definitively, finally and exclusively determined and settled pursuant to arbitration in accordance with the Arbitration Rules of the International Chamber of Commerce in London, England, by a single arbitrator to be appointed in accordance with such rules. The arbitration shall be conducted in English. Any such arbitration may be initiated by a Party by written notice ("Arbitration Notice") to the other Party specifying the subject of the requested arbitration.
- 12.3 **Arbitration Award.** The arbitration award shall be final and conclusive and shall receive recognition, and judgment upon such award may be entered and enforced in any court of competent jurisdiction. In the event of any conflict between the Rules of the ICC and the provisions of this Article 12, the provisions of this Article 12 shall govern and control. Any damage awards by the arbitrator shall be promptly paid free of any deduction or offset; and any costs or fees incident to enforcing the award shall to the maximum extent permitted by law be charged against the Party resisting such enforcement. The costs of arbitration shall be borne by the unsuccessful Party or as otherwise allocated by the arbitrator.
- 12.4 **Governing Law.** This Agreement shall be construed (both as to validity and performance), interpreted, and enforced in accordance with, and governed by the laws

of England, excluding any conflict of laws principles, which would apply the laws of a different jurisdiction.

- 12.5 **Continued Performance.** In the course of arbitration, both Parties shall continue to perform their obligations under this Agreement except the parts under arbitration.

### ARTICLE 13

#### TRANSFER OF RIGHTS AND OBLIGATIONS

- 13.1 Recipient may not transfer, assign or sublicense its rights and/or the performance of its obligations under this Agreement to any third party without the prior written consent of Supplier, such consent not to be unreasonably withheld; provided that Recipient may without Supplier's consent, transfer or assign its rights and/or the performance of its obligations under this Agreement to its parent company or any acquiror of all or substantially all of the stock or assets of its parent company by (i) a stock sale, (ii) an asset sale, or (iii) a merger or consolidation (it being understood that (x) Recipient shall remain liable for payment on the due date of any sums to be paid to Supplier under this Agreement and (y) nothing in this Agreement shall be construed as limiting Recipient's right to otherwise freely contract or subcontract, without Supplier's consent, with any third party with respect to the operation of the Plant).
- 13.2 Supplier may not transfer or assign, including by operation of law or otherwise, its rights or the performance of its obligations under this Agreement to any Person without the prior written consent of Recipient, such consent not to be unreasonably withheld; provided that nothing in this Agreement shall be construed as limiting Supplier's right to otherwise freely contract or subcontract, without Recipient's consent, with any third party with respect to the performance of its scope of work.
- 13.3 Notwithstanding anything in this Agreement to the contrary, Recipient may assign its rights under this Agreement as security to financial institutions providing funding to Recipient for the construction of the Plant and/or to any Affiliate of Recipient; provided that such financial institution provides written confirmation that it is aware of and accepts all terms and conditions of this Agreement, and provided further that Recipient shall remain primarily liable to Supplier in the event of any such assignment.
- 13.4 No assignment of this Agreement shall relieve either Party of its obligations to maintain the confidentiality of Confidential Information of the other Party.

## ARTICLE 14

### EFFECTIVE DATE, TERM AND TERMINATION

- 14.1 This Agreement shall come into full force and effect on the Effective Date and, unless earlier terminated by either Party pursuant to the terms and conditions of this Agreement, shall remain in full force and effect until 5 (five) years from the Effective Date. Notwithstanding the foregoing, Articles 5, 8 and 9 of this Agreement shall survive the expiration or termination of this Agreement.) However, any unsettled credit and debt under this Agreement shall not be affected by the termination.
- 14.2 If either Party (the "Defaulting Party") shall default in the due observance and performance of its material obligations under this Agreement and fail or be unable to remedy such default within thirty (30) days following written notice from the other Party (the "Non-Defaulting Party"), or go into liquidation, whether voluntary or compulsory (other than for the purposes of solvent amalgamation or reconstruction) or analogous proceedings shall be undertaken or commenced under Applicable Laws, or shall become insolvent or unable to pay its debts as they fall due, then the Non-Defaulting Party may by notice in writing to Defaulting Party forthwith terminate this Agreement.
- 14.3 The expiry or termination of this Agreement shall not affect the undertakings under Articles 5, 8 and 9. In addition, such expiry or termination shall be without prejudice to the rights of either Party against the other accrued or accruing to the date of such expiry or termination.

## ARTICLE 15

### TRANSFER OF ASSETS, REORGANIZATION, BANKRUPTCY AND GENERAL ASSIGNMENT

- 15.1 Each Party shall give the other Party prompt written notice as soon as is legally permissible of the occurrence of any of the following events affecting it:
- A) The affected Party shall dissolve, transfer, sell, assign, mortgage, encumber, and pledge, or otherwise dispose of, directly or indirect, all or substantially all of its assets (other than an encumbrance solely to secure financing in the ordinary course of business),
  - B) The affected Party shall consolidate with or merge into another corporation or permit one or more other corporations to consolidate with or merge into it; or
  - C) The affected Party shall:



- (a) be adjudged bankrupt,
  - (b) make a general assignment for the benefit of its creditors, or
  - (c) become insolvent, and a receiver shall therefore be appointed.
- D) The affected Party shall contemplate or reasonably expect the occurrence of any event referred to in this Article.
- 15.2 If a Party, in its sole discretion, believes that the occurrence affecting the other Party of any of the events described in Section 15.1(C) prior to acceptance of the Plant by Recipient is adverse to its business interests, the unaffected Party has the right to terminate this Agreement upon thirty (30) days' written notice.

## ARTICLE 16

### PUBLICITY

- 16.1 Neither Party may publish press releases, articles or any other material, or otherwise include any information in its promotional materials or website, that references or otherwise relates to the Plant or this Agreement, in each case without the prior written consent of the other Party.
- 16.2 The Parties agree that, subject to Recipient's prior written consent, Supplier may photograph and/or film the Plant from time to time during construction, during Start-Up and after Start-Up for the purpose of generating promotional materials, provided that all publicity materials generated by the Supplier (including photographs and videos) are subject to the Recipient's review and consent prior to the release of such materials. The Recipient may also designate restricted areas of the Plant, where such materials cannot be produced. All such photography and/or filming will be at Supplier's expense; however, Recipient agrees to provide reasonable assistance to Supplier.
- 16.3 Copyright in any photographs or films produced under Section 16.2 shall vest in Supplier provided that the Recipient shall have the right to use and reproduce such photographs or films, at the Recipient's expense, for its promotional purposes.

## ARTICLE 17

### HAZARDOUS WASTE AND TOXIC SUBSTANCES

Recipient shall be solely responsible for all pre-existing contamination, hazardous waste and toxic substances, including, without limitation, asbestos, which may be found during

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construction of the Plant and Recipient agrees to indemnify Supplier from and against all claims, damages, costs and expenses which may arise out of the existence of such hazardous materials at the Plant site.

#### ARTICLE 18

##### INSURANCE

- 18.1 Each party shall, at its sole cost, obtain and maintain in force insurance, including workers compensation and commercial general liability (or the Brazilian equivalent thereof) in commercially reasonable amounts for companies of its size and industry. In addition, the Recipient shall obtain contractors all risk insurance (or the Brazilian equivalent thereof), in commercially reasonable amounts.

#### ARTICLE 19

##### NOTICES

- 19.1 Any notice given pursuant to this Agreement shall be in writing in English and shall be given by sending the same by courier delivery, or facsimile, telegram or other electronic transmission and confirmed by courier service delivered letter, promptly transmitted or addressed to the appropriate Parties. The date of receipt of a notice or communication hereunder shall be deemed to be:
- (1) the same day when the delivery is made in case of special personal delivery or upon receipt when delivered by courier;
  - (2) three (3) working days after dispatch in the case of a facsimile, telegram or other accepted electronic transmission, as shown by the confirmation received for such delivery.

All notices and communications shall be sent to the appropriate address set forth below, until the same is changed by notice given in writing to the other Party or the Parties:

**Address for service of Recipient:**

Attention: Alan Hiltner  
Executive Vice President  
Address: Av. Brigadeiro Faria Lima 2277, 15<sup>th</sup> floor  
São Paulo, SP – CEP 01452-000

Tel: +55 11 2739 0500

Fax: +55 11 2739 0510

**Address for service of Supplier:**

Attention: Mauro Osella

Address: Chemtex Italia S.p.A.  
Strada Ribrocca n. 11  
15057 Tortona (AL)  
Italy

Tel: +39 0131-810-1

Fax: +39 0131-811759

- 19.2 Either Party may change its address and/or facsimile numbers for service of notices by notifying the other Party of such change in accordance with Section 19.1.

**ARTICLE 20**

**SEVERANCE**

If any provision of this Agreement is held to be invalid or unenforceable by any court of law or body having authority to so hold, such provision shall to the extent of such invalidity or unenforceability be deemed to have been deleted from this Agreement. All other terms and conditions shall remain in full force and effect unless such deletion cannot be made without destroying the basis of this Agreement in which case this Agreement shall be terminated forthwith at the option of either Party by giving written notice to that effect to the other Party.

**ARTICLE 21**

**GENERAL PROVISIONS**

- 21.1 The words "hereof", "herein" and "hereunder" and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof. References to Articles, Sections and Annexes are to Articles, Sections and Annexes of this Agreement unless otherwise specified. Any singular term in this Agreement shall be deemed to include the plural, and any plural term the singular. Whenever the

words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation", whether or not they are in fact followed by those words or words of like import. "Writing", "written" and comparable terms refer to printing, typing and other means of reproducing words (including electronic media) in a visible form. References to any agreement or contract are to that agreement or contract as amended, modified or supplemented from time to time in accordance with the terms hereof and thereof. References to any Person include the successors and permitted assigns of that Person. References from or through any date mean, unless otherwise specified, from and including or through and including, respectively. References to "law", "laws" or to a particular statute or law shall be deemed also to include any and all Applicable Law.

- 21.2 Annexes 1 and 2 are integral parts of and shall have the same force as this Agreement itself. However, in the event of any inconsistency between the Annexes and the Definitions and/or Articles 1 to 21, the Definitions and Articles 1 to 21 shall prevail.
- 21.3 Any amendment, supplement and alteration to the terms and conditions of this Agreement shall be made in written form and signed by the authorized representatives of both Parties upon an agreement reached between both Parties through consultation. They shall form integral parts of this Agreement, and shall have the same force as this Agreement itself. However, such amendment, supplement and alteration shall not release either Party from its responsibility and liability stipulated in this Agreement unless otherwise stipulated in such amendment, supplement and alteration.
- 21.4 No delay or failure by any Party in exercising any right or privilege will be construed as a waiver thereof nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right or privilege. No waiver will be valid against a Party unless written and signed by the Party against whom enforcement is sought.
- 21.5 This Agreement, together with all Annexes hereto, as executed by the authorized representatives of the Parties constitutes the entire understanding between the Parties on the subject matter hereof and supersedes and cancels all previous agreements, understandings, representations and warranties written or oral made by or between the Parties in relation to such subject matter. Each Party acknowledges that in entering into this Agreement it has not relied on any representation, warranty, agreement or statement not set out in this Agreement and it will have no right or remedy arising out of any such representation, warranty, agreement or statement.
- 21.6 Each of the Parties hereby acknowledges and agrees that it has entered into this Agreement freely and of its own volition, that it has been represented by independent counsel of its choice during the negotiation and execution of this Agreement, and that

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it has executed the same upon the advice of such independent counsel, including, but not by way of limitation, those provisions of the Agreement related to the allocation of liabilities and the limits thereof. Each Party and its counsel cooperated in the drafting and preparation of this Agreement, and any and all drafts relating thereto shall be deemed the joint work product of the Parties and may not be construed against either Party by reason of its preparation. Therefore, the Parties waive the application of any Applicable Law providing that ambiguities in an agreement or other document will be construed against the Party drafting such agreement or document.

- 21.7 Neither Party is or is intended to be the agent of the other for any purpose whatsoever and nothing in this Agreement shall give rise to any relationship in the nature of agency between the Parties and neither Party shall hold itself out as acting as agent for the other Party.
- 21.8 Nothing in this Agreement is intended to or shall give rise to any relationship of partnership or profit sharing in the nature of partnership between the Parties.
- 21.9 This Agreement shall be made in English and in two (2) original copies, one (1) for Recipient and one (1) for Supplier.
- 21.10 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall become effective when each Party shall have received a counterpart hereof signed by the other Party. Until and unless each Party has received a counterpart hereof signed by the other Party, this Agreement shall have no effect and no Party shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication).

*(signature pages to follow)*

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EXECUTION COPY

For and on behalf of Chemtex  
Italia S.p.A.:

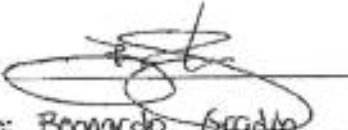
Signed By: 

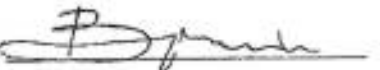
Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Chemtex Italia S.p.A. con socio unico  
Società soggetta a direzione e coordinamento  
da parte di M&G Finanziaria S.r.l.  
Il Presidente  
Guido Ghisolfi

For and on behalf of BioFlex  
Agroindustrial Ltda.:

Signed By:   
Print Name: Bernardo Guedes  
Title: President

Witness:   
Print Name: Joana Benjamin  
Passport No.: CX 661086

Witness: \_\_\_\_\_  
Print Name: Alan Hilmer  
Passport No.: CY 774091

EXHIBIT 7

Sao Paulo, 28 March 2018.

To

**Beta Renewables S.p.A.**  
Strada Ribrocca n.11,  
15057 Tortona (AL), Italy  
Att. Mr. Giovanni Bolcheni

Copy to:  
**Biochemtex S.p.A.**  
Strada Ribrocca n.11,  
15057 Tortona (AL), Italy

**M&G Finanziaria S.p.A.**  
Strada Ribrocca n.11,  
15057 Tortona (AL), Italy

**Re. Proesa Technology vs. GranBio/BioFlex Technology**

Dear Mr. Bolcheni,

We refer to the ongoing negotiation carried out by our companies, GranBio LLC, Bioflex Agroindustrial S.A. and GranBio Investimentos S.A., with your companies Beta Renewables S.p.A., BioChemtex S.p.A. and M&G Finanziaria S.p.A., for a potential settlement agreement to terminate the disputes between the parties.

As discussed, please find attached the following documents:

- Annex 1: a brief description of the main differences between Proesa Technology and GranBio/BioFlex Technology; and
- Annex 2: a comparative chart with the list of patents of Proesa Technology and the process adopted by GranBio/BioFlex Technology.

Regards,

**GranBio Investimentos S.A.**  
Bernardo Gradin  
*President Director*





## Annex 1

### PROESA TECHNOLOGY x GRANBIO/BIOFLEX TECHNOLOGY

#### 1. PROESA Technology background

System Design Specification stated that the technology would offer the following performance concepts:

*PROESA™ Technology offers the following benefits:*

- \_ Unique and proprietary technology without addition of chemicals, that allows high recovery of C5 and C6 sugars (high yield), low sugar degradation and therefore low inhibitor generation;*
- \_ Low residence time in the enzymatic hydrolysis step, thanks to a unique and proprietary, patent pending viscosity reduction step;*
- \_ Highly efficient use of enzyme cocktails, applied to a high solid content stream;*
- \_ Simultaneous fermentation of C5 and C6 sugars;*
- \_ Low CAPEX and OPEX thanks to simple, compact process design, low residence times, and no auxiliary chemicals (i.e. no special metallurgy required);*
- \_ Performance guarantee for quantity of fermentable sugars.*

SYSTEM DESIGN SPECIFICATION - BIOFLEX 1 Project – EIT.E012.023-042-SDS-00001-02

#### 2. PROESA TECHNOLOGY PERFORMANCE DELIVERED AT BIOFLEX PLANT

##### 2.1. PRETREATMENT (PT)

PROESA

- The PROESA PT technology was designed with a two-stage process: the first low pressure cooking stage, at 9 bar, aiming to provide a quite complete C5 sugars solubilization; and a second stage for C6 fibers pretreatment at 22 bar with steam explosion;
- The Low Pressure Cooking Reactor - LPCR (Y-1201) had a process limitation due to mechanical document inconsistency between the pair work pressure and temperature of the vessel;
- The LPCR had never operated in the design temperature due to both the above mentioned problem and new BioChemtex guidelines during startup;
- This process approach has never operated in Bioflex: it was not achieved relevant C5 sugar solubilization in the LPCR;
- Bioflex PT operated with high instability due to biomass feeding machine plugged and blowbacks;
- Liquid Separation Reactor (Y-1205) was the key equipment for allowing the operation of the PROESA two-stage process, once it was mandatory to dewater the biomass fed to the High Pressure stage. In Bioflex, the Liquid Separation Reactor has never run due to severe fouling;
- The stop and go operation of Liquid Separation Reactor caused instable and risky operation of the Biomass Compressor (Y-1207) due to occurrence of "water hammer" phenomenon. Beyond that, further process assessment confirmed that the biomass compressor design has been undersized;
- The blow lines design did not function due to mechanical failures, pluggage, erosion and eventually leakage.

## GRANBIO/BIOFLEX

- The new proprietary Granbio PT technology was based in a Liquid Hot Water cooking concept with an extra mechanical pretreatment step. As result, all the PROESA high pressure stage was definitively bypassed. In order to minimize Capex in Bioflex, the new Liquid Hot Water Pretreatment was implemented modifying some of BioChemtex equipment: the biomass feeding machines, the LPCR, the Blow Cyclone and the Discharger. A new single blow line was designed for this new technology;
- In Bioflex it will be added an alternative steam explosion line designed by 1<sup>st</sup> tier equipment supplier. This will give a flexibility to the plant to operate either Liquid Hot Water process or Steam Explosion proprietary process in the pretreatment stage.

## 2.2. HYDROLYSIS

### PROESA

- The PROESA Hydrolysis basis of design was defined on unattained targets: (i) Dry matter content of 25%; (ii) Enzymatic residence time of 19 hours; (iii) Total enzyme cost of US\$150/t ethanol;
- The first two Proesa targets above led to undersize the required volume of the hydrolysis tanks. Beyond that, the downstream fermentation/distillation units were also designed based on lower input flow rates. Therefore, the whole unit capacity was severely compromised;
- One of the major problems of the PROESA hydrolysis process was the clogging and limitations of the plate & frame type heat exchangers, used for cooling down of the hydrolysis streams. In order to keep the hydrolysis tanks temperature within the acceptable range for the enzymatic treatment, it was always necessary to inject huge amount of cold water. The consequence for this was the reduction of the Dry Matter content and increased flows, consequently decrease of operation capacity;
- The PROESA Cellic enzyme cocktail consumption of 75 kg/t ethanol has never been achieved, and even with a much higher enzyme consumption, it was not possible to approach to the expected PROESA biomass yield.

### GRANBIO/BIOFLEX

- To reestablish the proper hydrolysis performance, the new Bioflex hydrolysis approach was developed based on a Dry Matter content range of 13-19% and residence time higher than 80 hours. New hydrolysis tanks configuration was designed;
- It was designed a new concept of heat exchanger that could handle the process condition;
- It was developed a new customized enzyme cocktail.

## 2.3. Fermentation / Yeast Propagation

### PROESA

- DSM-Nedalco RM-1016 yeast did not work consistently and did not survive infection;
- Actual yeast consumption much higher than design yeast consumption of 0.28 kg/t ethanol;
- Actual Fermentation cycle time much higher than design fermentation time = 55 hours;

- Plate & Frame heat exchangers did not cool down the mash in the proper time impacting fermenters unavailability;
- Fermentation yields much lower than design target;
- Lifetime of pumps internals are only several months;
- Chemical cost of \$ 206/t ethanol, higher than target of \$ 31/t ethanol.

#### GRANBIO/BIOFLEX

- New proprietary yeast;
- Low fermentation cycle below 40 hours;
- Higher fermentation yield > 90%;
- New proprietary yeast propagation system with low sugar consumption and no ethanol co-production;
- New pump design with higher reliability;
- Lower chemical (other than Proesa) consumption of \$ 68/t ethanol.

#### 2.4. Other Downstream Units

##### PROESA

- Original heat integration did not work, affecting negatively the steam consumption;
- The reboilers of the Beer column should use stillage as a hot stream, but due to a severe fouling the hot stream was replaced by process water, increasing water consumption;
- Very tight operation Dry Matter range of the lignin filters. The very low Dry Matter content in Bioflex process impacted strongly the lignin filters efficiency, requiring more filtration cycles. This may limit the plant capacity, but the equipment has never been subjected to a stress test;
- PROESA technology promised a "zero effluent" concept, which means no other effluent stream would be generated in the plant but stillage. The plant operation proved that the original concept was wrong.

##### GRANBIO/BIOFLEX

- Design modification of the heat integration;
- Solved problem of the reboilers fouling;
- Filter operation to be improved in a higher Dry Matter in the plant;
- GranBio designed a complete new system to treat and pump the effluents to a proper disposal system.

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# Annex 2

Patents Rights				
Internal Code No.	TITLE	PATENT CLAIM	GRAMBIO TECHNOLOGY	
MGX.011	HIGHT TEMPERATURE LIGNIN SEPARATION PROCESS USA: Abandoned Europe: Granted Brazil: No patent filed	Patent claims that the lignin separation is significantly improved if it is heated above the glass transition temperature. The glass transition temperature could be reached by different processes including the distillation process. The separation downstream could be by different processes including filtration.	In Bioflex technology, the lignin is filtered after the distillation process. If the glass transition temperature is reached at stripper bottom, severe fouling will occur.	
MGX.016	PRE-TREATED BIOMASS HAVING ENHANCED ENZYME ACCESSIBILITY USA: Granted Europe: Rejected Brazil: Pending	Patent claims a two-stage pretreatment, with C5 sugar stream separation at the first stage followed by a "steam explosion" as second stage. This configuration provides a substrate with a better accessibility to enzymatic reactions.	Bioflex technology adopted a one-stage hydrothermal pretreatment solution, with an additional mechanical treatment.	
MGX.018	REGENERATIVE PURIFICATION OF A PRETREATED BIOMASS SYSTEM USA: Granted Europe: Granted Brazil: Pending	Patent claims a process comprising an inhibitors separation from the hydrolyzed stream.	This technology is not included in Bioflex configuration.	
MGX.022	IMPROVED BIOMASS PRETREATMENT PROCESS USA: Granted Europe: Pending Brazil: Pending	Patent claims a pretreatment process with three-stages, including soaking, solid/liquid separation and "steam explosion". These stages may include intermediate liquid and/or solid purification, and/or solid wash. In the liquid purification step, it may be used an active carbon and, in the solid wash, it may be used chemical product. After these steps, the solid and the liquid streams are mixed.	Bioflex technology adopted a one-stage hydrothermal technology, with an additional mechanical treatment and no separation and wash steps.	
MGX.023	AN IMPROVED PROCESS FOR THE RAPID HYDROLYSIS OF HIGH SOLIDS BIOMASS USA: Granted Europe: Pending Brazil: Pending	Patent claims that the direct contact of a portion of the hydrolyzed material with the biomass enhances the enzymatic hydrolysis process and allows the increase of dry matter content above 15%, without the need to increase the residence time above 72 hours.	Bioflex technology requires more than 80 hours of residence time in hydrolysis section.	

## Annex 2

MGX.025	METHOD TO RECOVER SUGARS OF PRE-TREATED LIGNOCELLULOSIC BIOMASS LIQUIDS USA: Abandoned Europe: Abandoned Brazil: Abandoned	Patent claims an increase in hydrolysis and fermentation yields by use of a separation process with solid precipitation, with use of chemicals (floculants) upstream the fermentation section.	This technology is not included in Bioflex configuration
MGX.026	PROCEDIMENTO MIGLIORATO PER RECUPERARE ZUCCHERI DA UN FLUSSO DI PRETRATTAMEN USA: Granted Europe: Granted Brazil: Pending	Patent claims a pretreatment process with three stages, including soaking, solid wash and "steam explosion".	Bioflex technology adopted a one-stage hydrothermal technology, with an additional mechanical treatment and no separation and wash steps.
MGX.027	PROCEDIMENTO MIGLIORATO PER RECUPERARE ZUCCHERI DA UN FLUSSO DI PRETRATTAMEN USA: Granted Europe: Rejected (Andritz lawsuit) Brazil: No patent filed	Patent claims a three stage soaking system, with different severities followed by a "steam explosion".	Bioflex technology adopted a one-stage hydrothermal technology, with an additional mechanical treatment and no separation and wash steps.

## EXHIBIT 8

### PROCESS DESCRIPTION

#### 1. Process Description

Bioflex technology is a single-step process pretreatment concept with an additional mechanical treatment to enhance enzymatic access and efficiency.

##### 1.1. Area: Biomass pretreatment

The biomass is received in GranBio's biomass handling unit to reduce impurities and proper fiber cutting. After that, biomass is conveyed to the Bioflex pretreatment.

The Bioflex hydrothermal pretreatment process comprises a new single step liquid hot water cooking concept, which operates at mild pressure and temperature steam conditions to provide complete solubilization of hemicellulose and partial lignin removal from the cellulose fibers. No additional chemical is added at the pretreatment stage. The technology includes a mechanical pretreatment system downstream the liquid hot water pretreatment to assure efficient enzymes access. There is a single pretreated stream leaving the pretreatment section.

The differential of Bioflex technology is that the reduction of fiber accessibility due to the mild conditions is offset by the reduction of the degradation products of hemicellulose and glucose generated, which improves fermentation yields by lowering the inhibitors, reducing production costs. The Bioflex pretreatment technology brings higher operational reliability due to the process cooking conditions.

##### 1.2. Area: Enzymatic hydrolysis

The single stream exiting the pretreatment section is fed into the enzymatic hydrolysis tanks.

To reestablish the proper hydrolysis performance, the new Bioflex hydrolysis technology was designed to operate on a Dry Matter content range of 13-19% and a residence time higher than 80 hours. New hydrolysis tanks configuration was designed.

A new concept of heat exchangers for hydrolyzated cooling customized to the streams characteristics was also designed.

A new customized enzyme cocktail has been developed and is being deployed.

##### 1.3. Area: Fermentation and MO propagation

Bioflex technology has a new proprietary yeast propagation system with two new tanks, with different aeration rates and chemicals recipe. This leads to a minimal sugar consumption and no ethanol co-production during yeast propagation, in compliance with the Renewable Fuel Standards - RFS, Low Carbon Fuel Standards- LCFS and other sustainability programs in Europe. The technology also includes a new pump design with higher reliability and low chemical consumption.

The stream exiting from the hydrolysis tanks, which is cooled in the heat exchangers mentioned above, is sent to the fermentation section. The Bioflex fermentation basic concept is co-fermentation of both glucose and pentose by using its own proprietary genetically modified yeast. The fermentation cycle time is below 40 hours. The fermentation yield is above 90%.

#### **1.4. Area: Distillation and Ethanol Dehydration Section**

The Bioflex distillation concept is similar to a typical corn ethanol distillation and dehydration unit, which comprises a vacuum beer column, a beer rectifier column and molecular sieves ethanol dehydration. A new energy integration scheme was designed to assure optimal steam consumption. The bottom stream of the beer column is sent to the Lignin separation section.

#### **1.5. Area: Lignin separation**

The bottom stream from the first distillation column is fed to a set of standard press filters to separate the lignin from the stillage. The lignin cake exiting the filters is sent to a step of size reduction in order to be fed to the boiler. The stillage stream is sent to the stillage evaporation unit.

#### **1.6. Area: Stillage evaporation unit**

Bioflex installed a complete stillage evaporation unit with the purpose of reducing the logistics cost to send the stillage back to the cane fields across the year.

EXHIBIT 9

LICENSE AGREEMENT

BY AND BETWEEN

Beta Renewables S.p.A., a company duly established under Italian law, with registered office in Tortona (Alessandria), Strada Ribrocca 11, VAT number and number of registration with the Companies' Register of Alessandria 02232720066, represented herein by its legal representative Dr. Dario Giordano ("Beta")

and

GranBio LLC (previously Graal Bio LLC), a company duly established under the laws of Delaware (U.S.), with registered office in Atlanta, 3625 Cumberland Boulevard SE Suite 1000, GA 30339-6403 - U.S.A., VAT number 322475575, represented herein by its legal representative Mr. Bernardo Gradin ("GranBio")

Hereinafter, Beta and GranBio will be collectively referred as "Parties" and individually as "Party".

RECITALS

- A. Beta is the owner of the patents listed in Exhibit 1 ("Patents"), relating to PROESA™ Process Technology;
- B. Within the scope and as a part of the settlement agreement between, among the others, Beta and GranBio ("Settlement Agreement") to which this license agreement ("Further License Agreement") is attached, Beta is willing to provide GranBio, that is willing to accept, with two licenses of the Patents, under the terms and conditions of this Further License Agreement.

The above being stated with regards to the mutual covenants and Recitals herein contained the Parties hereby agree as follows:

1. RECITALS AND EXHIBITS

- 1.1. The Recitals and Exhibits form an integral part of this Further License Agreement.

2. GRANT OF RIGHTS

- 2.1. Subject to the entry in force of the Settlement Agreement and only for settlement purposes, Beta hereby grants to GranBio n. 2 (two) non-exclusive, non-assignable, non-transferrable, free of charge and royalty free licenses to use the Patents solely to design, procure, construct, operate and maintain n. 2 (two) commercial manufacturing facilities in Brazil to produce maximum 65 kt/y of cellulosic ethanol in each facility ("Two New Plants") and to use, sell, offer for sale, export and distribute such cellulosic ethanol anywhere in the world.
- 2.2. For the avoidance of any doubt, nothing in this Further License Agreement shall be construed as implying a duty on Beta to: a) provide GranBio with any further information, document, data, material, know-how, design, engineering, further license, equipment, prototype, engineering specification and/or operating or assembling manual, b) perform any technical meeting with GranBio and/or





performance test at the Two New Plants, c) erect, operate and/or maintain the Two New Plants, to direct the project management or start-up of the Two New Plants or the operation thereof.

- 2.3. Strictly within the limits and the scope of the above article 2.1., GranBio shall have the right to grant a non-exclusive, non-assignable and non-transferrable sub-license of one or both the licenses granted under this this Further License Agreement to companies where, either directly or indirectly, GranBio owns at least 50.00% of the relevant corporate capital (the "**Controlled Companies**") solely to design, procure, construct, operate and maintain the Two New Plants, to produce maximum 65 kt/y of cellulosic ethanol at the Two New Plants and to use, sell, offer for sale, export and distribute such ethanol anywhere in the world, provided that the Controlled Companies to which said sub-licenses will be possibly granted (the "**Sub-Licensees**") undertake in writing to fully comply with the terms and conditions set forth by this Further License Agreement. In the event that GranBio will grant one or both said sub-licenses to Sub-Licensee(s), it will inform Beta in writing within 5 (five) days as from the signing of the relevant sub-license agreement(s) providing Beta with a copy of said sub-license agreement(s) that will include the Sub-Licensee(s)' undertaking to comply with the Further License Agreement, as well as with the evidences of the fact that GranBio, directly or indirectly, owns at least 50.00% of the corporate capital of the Sub-Licensee(s). For the avoidance of any doubts, in the event that GranBio owns indirectly at least 50.00% of the corporate capital of a Sub-Licensee(s), that shall imply that GranBio owns at least 50.00% of the corporate capital of any entity between GranBio and such Sub-Licensee(s).
- 2.4. GranBio undertakes to bind the Sub-Licensees to the terms and conditions set forth by this Further License Agreement and shall be fully responsible and liable towards Beta for any breach of the terms and conditions set forth by this Further License Agreement made by the Sub-Licensee(s).
- 2.5. Without prejudice for the provision of the above article 2.3., GranBio shall have no right to sub-license the Patents.
- 2.6. For the avoidance of any doubt, GranBio shall not use and does not have the right to use the Patents to: a) design, procure, construct and/or operate plants other than the Two New Plants and/or plants situated outside the Brazilian territory, b) produce any product other than ethanol, c) produce ethanol at plants other than the Two New Plants.

### 3. LIABILITIES

- 3.1. Beta gives no warranties or guarantees, either expressed or implied, with reference to the Patents, that are licensed to GranBio on an "as is" basis. In particular, by way of example and without limitation, Beta does not warrant or guarantee: a) the merchantability or fitness of the Patents for a particular purpose, b) that the Patents will allow GranBio to design, procure, construct, operate and/or maintain the Two New Plants, and/or to produce ethanol, c) that the Two New Plants will meet specific performance levels, and d) that the Two New Plants will produce ethanol of a certain quality.

- 3.2. Should GranBio become aware of any claim made or threatened by any third party asserting that GranBio's use of the Patents infringes its rights, GranBio shall promptly inform Beta in writing.
- 3.3. GranBio shall hold harmless and indemnify and defend Beta from and against any and all claims of any kind or type, damages and expenses (including death) of any third party (including employees of GranBio) relating to or arising from (i) the erection, modification, replacement, operation or maintenance of the Two New Plants, (ii) the manufacture of ethanol or the sale or use of ethanol manufactured in the Two New Plants or (iii) any by-products, co-products or wastes generated therefrom, regardless of any actual or alleged negligence or other fault of Beta.
- 3.4. GranBio releases Beta and its successors and assigns from any liability for, and shall defend, indemnify, and hold harmless Beta and its successors and assigns harmless from and against all claims, demands or causes of action based on injury, death or sickness of any employee, subcontractor or agent of GranBio, in connection with, arising out of, or related to GranBio's performance or non-performance of any of its obligations or the exercise of any of its rights under this Further License Agreement.
- 3.5. To the extent permitted by the applicable law, neither party shall be liable to the other party of this Further License Agreement for any indirect, incidental, consequential, special or punitive losses or damages, which shall include loss of profit or business, interruption of business, loss of goodwill, loss of contract and cost of capital, even if such party has been advised of the possibility of such damages, provided that such limitation shall not apply with respect to a breach of the provisions or default of the obligations of the above articles 2.3., 2.5., 2.6. and 4.1.

#### 4. CONFIDENTIALITY

- 4.1. GranBio shall keep any possible information that will possibly receive, directly or indirectly, from Beta in the performance of the Further License Agreement (the "Confidential Information") in confidence for a period of 10 (ten) years from the entry into force of this Further License Agreement. GranBio shall use the Confidential Information solely for the purposes indicated in the above article 2.1. and will not directly or indirectly disclose the Confidential Information to any third party and will disclose the Confidential Information only to any of its employees, agents, suppliers and independent contractors who need to know them in connection with the purposes of article 2.1. above, provided that said employees, agents, suppliers and independent contractors are bound by comparable written agreements requiring that they will keep them confidential and will be responsible for any disclosure or misuse of disclose the Confidential Information by any such person. GranBio will take all reasonable measures to protect the confidentiality of the Confidential Information, notify Beta in writing of any unauthorized use or disclosure of the Confidential Information and take steps to remedy any unauthorized use or disclosure. GranBio will give prompt notice to Beta of any legal requirement that it discloses the Confidential Information and will disclose the Confidential Information only to the extent required by the applicable law; provided that GranBio shall first give notice to Beta and

reasonably cooperate with Beta to obtain a protective order or other measures requiring that the information or documents so disclosed be used only for the purposes for which the order was issued or is otherwise required by the applicable law.

5. IMPROVEMENTS

5.1. In the event that GranBio makes any improvement and/or innovation and/or development with regard to the process being operated by GranBio in the Two New Plants, such improvements and/or innovations and/or developments, if they are not directly derived from the Patents, shall be the exclusive property of GranBio.

5.2. In the event that Beta makes any improvement and/or innovation and/or development with regard to the Patents such improvement and/or innovation and/or development shall be the exclusive property of Beta. For the avoidance of any doubt, GranBio will have no right to obtain said improvements and/or innovations and/or developments, from Beta unless agreed by means of a separate agreement.

6. POSSIBLE SERVICES

6.1. Beta is available to provide, directly or indirectly, GranBio with technical services for the purposes of the above article 2.1. (e.g. training programs, technical meetings, support in performance tests) under the terms and the conditions that will be possibly agreed in a separate agreement. Anyway, for the avoidance of any doubt, nothing in this Further License Agreement shall be construed as implying a duty on Beta to provide GranBio with said technical services.

7. APPROVALS AND PERMITS

7.1. It shall be GranBio's obligation to obtain all approvals, permits and licenses and make all filings necessary in Brazil for any permitted sublicense as well as for the construction, ownership, operation and maintenance of the Two New Plants.

8. INTELLECTUAL PROPERTY RIGHTS ON THE PATENTS

8.1. GranBio acknowledges that Beta is the exclusive owner of the Patents and agrees not to contest, challenge or oppose in any way, directly or indirectly, or cause another party to contest, challenge or oppose in any way, in whole or in part, the validity or enforceability of any of the Patents.

9. CONDITIONS PRECEDENT, ENTRY INTO FORCE AND TERMINATION

- 9.1. This Further License Agreement shall enter into force subject to the fulfillment of the following conditions precedent: (i) the Court of Alessandria issues and publishes the authorization pursuant to Article 167 of the Italian Bankruptcy Law (or to any other applicable provision of law) in favor of Beta to enter the Settlement Agreement as well as to perform any act included and/or anyway linked to the Settlement Agreement; and (ii) the Settlement Agreement shall come into full force.

Unless earlier terminated pursuant to the following art. 9.2, this Further License Agreement shall remain in full force and effect until the expiration of the last to expire of the Patents. Notwithstanding the foregoing, the indemnities and limitations of articles 3.3., 3.4. and 3.5. shall survive the expire and/or termination of this Further License Agreement and/or of the Settlement Agreement.

- 9.2. In the event of:

- a) GranBio's breach of the article 2.1. and/or 2.3. and/or 2.4. and/or 2.5. and/or 2.6. and/or 4.1. and/or 8.1. and/or 12.1., to be fully demonstrated by Beta, Beta will be entitled to terminate this Further License Agreement giving written notice to GranBio;
- b) the termination of the Settlement Agreement, this Further License Agreement will automatically terminate.

In the event of termination of this Further License Agreement pursuant to this art. 9.2. or to the following art. 12.3., all licenses of the Patents under this Further License Agreement shall immediately terminate and be of no further force and effect and GranBio shall immediately cease any use of the Patents.

## 10. GOVERNING LAW AND DISPUTE RESOLUTION

- 10.1. This Further License Agreement and any dispute or claim arising out or in connection with it or its subject matter or formation (including the breach, termination, construction, execution, operation, effect or invalidity of this Further License Agreement and including a non-contractual dispute or claim) (each a "Dispute") shall be governed by and construed in accordance with the laws of Italy, excluding any conflict of laws and principles which would apply to the laws of a different jurisdiction.

- 10.2. The Parties hereby agree to submit any Dispute to the exclusive jurisdiction of the Courts of Milan – Specialized Section on Company Matters.

## 11. NOTICES

- 11.1. Any notice to be given under this Further License Agreement shall be sent either by e-mail, certified mail with return receipt requested, or by overnight delivery by commercial or other service which can verify delivery to the following addresses and such notice so sent shall be effective as of the date it is received by the other Party:



**For Beta:**

Beta Renewables S.p.A.  
Strada Ribrocca 11,  
15057 - Tortona (AL) Italy  
E-mail: dario.giordano@gruppomg.com  
Attn.: Dario Giordano

**For GranBio:**

GranBio LLC  
Atlanta, 3625 Cumberland Boulevard SE Suite 1000,  
GA 30339-6403 – U.S.A.  
E-mail: bernardo.gradin@granbio.com.br  
Attn.: Bernardo Gradin

**12. MISCELLANEA**

- 12.1. GranBio expressly consents to the assignment and/or transfer of this Further License Agreement by Beta to any third party that will eventually result as the owner of the Patents as a result of a competitive procedure pursuant to Art. 163 bis of the Italian Bankruptcy Law.
- 12.2. Without prejudice for the provision of the above article 2.3., GranBio may not transfer or assign, including by operation of law or otherwise, its rights or the performance of its obligations under this Further License Agreement to any third party without the prior written consent of Beta.
- 12.3. GranBio and/or Beta may not publish press releases, articles or any other material, or otherwise include any information in its promotional materials or website, that references or otherwise relates to the Two New Plants and/or this Further License Agreement, in each case without the prior written consent of the other party. For the avoidance of any doubt, Beta will be able to disclose the Further License Agreement where such disclosure or use is required or requested by law or any competent statutory or regulatory body (including but not limited to the Italian Bankruptcy Court and/or Judicial Commissioners).
- 12.4. If any provision of this Further License Agreement is held to be invalid or unenforceable by any court of law or body having authority to so, such provision shall to the extent of such invalidity or unenforceability, be deemed to have been deleted from this Further License Agreement. All the other terms and conditions shall remain in full force and effect unless such deletion cannot be made without destroying the basis of this Further License Agreement in which case this Further License Agreement shall be terminated forthwith at the option of either GranBio or Beta by giving written notice to that effect to the other party.
- 12.5. Exhibit 1 is an integral part of and shall have the same force as this Further License Agreement itself.



However, in the event of any inconsistency between Exhibit 1 and the articles 1 to 12 of this Further License Agreement, the articles 1 to 12 shall prevail.

12.6. No delay or failure by GranBio or Beta in exercising any right or privilege regarding this Further License Agreement will be construed as a waiver thereof nor will any single or partial exercise thereof preclude any other or further exercise of any rights or privilege. No waiver will be valid against GranBio or Beta unless written and signed by the party against whom enforcement is sought.

12.7. Nothing in this Further License Agreement is intended or shall give rise to any relationship or profit sharing in the nature of partnership or agency between GranBio and Beta.

Exhibit 1: Patents

Beta

Date: \_\_\_\_\_

\_\_\_\_\_

Dr. Dario Giordano

Legal representative

GranBio

Date: \_\_\_\_\_

\_\_\_\_\_

Dr. Bernardo Gradin

Legal representative

\_\_\_\_\_



## EXHIBIT 1

## Patents - Brazil

Internal Code No.	Title	Application No.	Publication dt	Publication No.
MGB.P.023	An improved process for the rapid hydrolysis of high solids biomass	PI 1006467	25/08/2015	WO 2016/113130
MGB.P.042	Improved pre-soaking process for biomass conversion	BR 11 2014 016039 2	04/07/2013	WO 2013/098789
MGB.P.094	Continuous process for treating a lignocellulosic biomass	BR 11 2017 005406-0	24/03/2016	WO 2016/042053
MGB.P.095	Continuous process for treating a lignocellulosic biomass	PCT/EP2015/071278	24/03/2016	WO 2016/042054
MGB.P.105	Pretreatment process of a ligno-cellulosic feedstock	BR 11 2017 15990-2	18/08/2016	WO 2016/128221
MGB.P.110	Process for propagating a yeast capable to ferment glucose and xylose	PCT/EP2017/053735	31/08/2017	WO 2017/144389
MGB.P.111	Process to produce a fermentation product	PCT/EP2017/053734	31/08/2017	WO 2017/144388
MGB.P.112	Process for producing a bio-product	PCT/EP2017/060336	09/11/2017	WO 2017/191091



**DISPOSAL OF THE ARBITRATION  
AWARD BY CONSENT**

**INTERNATIONAL COURT OF ARBITRATION  
INTERNATIONAL CHAMBER OF COMMERCE**

**ICC CASE NO 21856/TO**

**IN THE MATTER OF AN ARBITRATION BETWEEN**

**GRANBIO LLC**

and

**BIOFLEX AGROINDUSTRIAL S.A.**

Claimants

- and -

**BETA RENEWABLES S.P.A.**

and

**BIOCHEMTEX S.P.A.**

Respondents

**AWARD BY CONSENT**

**WHEREAS**

1. The first claimant is GRANBIO LLC ("GranBio"), a company incorporated under the laws of Delaware, United States of America, having its registered office and place of business at 3625 Cumberland Boulevard SE Suite 1000, Atlanta, GA 30339-6403, United States of America.
2. The second claimant is BIOFLEX AGROINDUSTRIAL S.A. ("Bioflex"), a company incorporated under the laws of Brazil, having its registered office and place of business at Av. Brigadeiro Faria Lima, 2277, 15th Floor, CEP 01452-000, Sao Paulo, Brazil.
3. GranBio and Bioflex are referred to collectively as the "Claimants".
4. The first respondent is BETA RENEWABLES S.P.A. ("Beta"), a company incorporated under the laws of Italy.



5. The second respondent is BIOCHEMTEX S.P.A. ("Biochemtex"), a company incorporated under the laws of Italy.
6. The first and second respondents (the "Respondents") have their registered office and place of business at Strada Ribrocca n.11, 15057 Tortona (AL), Italy.
7. Both Claimants and both Respondents are referred to collectively as the "Parties".
8. On May 15, 2012, Beta and GranBio entered into a license agreement by which Beta licensed to GranBio the Proesa technology to design, procure, construct, operate and maintain a commercial manufacturing facility in Brazil (the "Brazilian Plant") (the "Licence Agreement").
9. On May 15, 2012, Biochemtex and Bioflex entered into two separate agreements: (i) the basic engineering and technical services agreement by which Biochemtex undertook to provide Bioflex with basic design and engineering information for the construction and operation of the Brazilian Plant ("BETS Agreement"); (ii) the equipment supply agreement by which Biochemtex undertook to provide Bioflex with certain critical equipment for the construction and operation of the Brazilian Plant ("Supply Agreement"). Hereinafter, the License Agreement, BETS Agreement and Supply Agreement will be collectively referred to as the "Proesa Agreements".
10. A dispute arose between the Parties in relation to the Proesa Agreements, including, without limitation, as to (i) the alleged inability of the Brazilian Plant to achieve stable operations and perform in accordance with the License Agreement; (ii) the services provided by Biochemtex under the BETS Agreement; (iii) the equipment supplied by Biochemtex under the Supply Agreement; and (iv) the non-payment of certain invoices by GranBio and BioFlex under the Proesa Agreements.
11. By a Request for Arbitration dated 7 April 2016, the Claimants commenced ICC arbitration proceedings with case number 21856/TO (the "Arbitration") against the Respondent, pursuant to identical arbitration clauses contained in each of the License Agreement, BETS Agreement and Supply Agreement.
12. The seat of the Arbitration is London, England. The arbitrators are Mr Jason Fry, Mr John Fellas and Peter Leaver, QC (the "Tribunal").
13. On May 19, 2016, Beta and Biochemtex filed separate responses to the request for arbitration and, inter alia: (i) objected to the jurisdiction of the International Court of Arbitration of the International Chamber of Commerce in the Arbitration on the basis that GranBio and Bioflex could not bring claims against Beta and Biochemtex in a single arbitration proceeding; (ii) rejected the claims brought by GranBio and Bioflex in the request for arbitration; and (iii) filed counterclaims against GranBio and Bioflex for the payment of several outstanding invoices.
14. The Parties have agreed to settle the Arbitration, have agreed the terms of an Award by Consent, and have asked the Tribunal to make an Award by Consent pursuant to Article 33 (*Award by Consent*) of the Rules of Arbitration of the ICC in the form of the draft signed on behalf of each of the Parties.

#### THEREFORE

15. The Tribunal makes this Award by Consent by agreement of the Parties.
16. This Award by Consent is a final, binding and non-appealable determination of all claims and counterclaims raised at any point during the Arbitration including as part of the parties' formal pleadings or in correspondence between the parties and the Tribunal (together the "Claims").

17. On the Tribunal's issuing of this Award by Consent:
- (a) the Tribunal shall be immediately discharged;
  - (b) the Claims shall be dismissed; and
  - (c) the Arbitration shall be immediately concluded.

#### *Enforcement*

18. This Award by Consent is an arbitral award within the meaning of Article 1(1) of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

#### *Waiver*

19. The Parties have waived any and all rights they may have to: (a) challenge the jurisdiction of the Tribunal for any reason whatsoever; (b) challenge this Award by Consent on grounds of jurisdiction or for any other reason; and (c) resist enforcement of this Award by Consent for any reason (save in relation to amounts paid in partial or full repayment of the amount due under this Award by Consent) and in any jurisdiction. For the avoidance of doubt, the Parties have agreed that none of the grounds for refusal of recognition and enforcement set out in Article V of the abovementioned Convention apply.

#### *Costs*

20. The costs of the arbitration (other than the legal or other costs incurred by the parties themselves) have been determined by the ICC pursuant to Article 37 of the ICC Rules, to be as follows:

Registration fee: US\$3,000

ICC administrative charges: US\$[ ]

Arbitrators' fees and expenses: US\$[ ]

Total costs of the arbitration: US\$[ ]

21. The Parties shall bear their own legal, expert and other costs and expenses incurred in the Arbitration.

22. The Claimants shall together bear 50% of and the Respondents shall together bear 50% of:

- (a) The Registration fee;
- (b) the fees and expenses of the Tribunal; and
- (c) the fees and expenses of the ICC

up to the amount already paid on account to the ICC (the "Advance on Costs"). The Claimants will bear 100% of any remaining costs of the Arbitration over and above the amount paid by the Parties as the Advance on Costs.

23. Any part of the Advance on Costs that remains unused in the Arbitration will be paid back to the parties on a 50/50 basis (50% to the Claimants, 50% to the Respondents).

Signed .....

Counsel for the Claimants

Dated: .....

Signed .....

Counsel for the Respondents

Dated: .....

*[A large diagonal line is drawn across the page, likely indicating a signature or a mark.]*

*[Handwritten signature or mark.]*



It is agreed that the parties will bear their own legal, expert and other costs and expenses incurred in the Arbitration.

We would be grateful if the ICC could now issue final invoices to each of the parties.

Following payment of the Arbitration Costs, the parties request that the ICC discharges the Tribunal and concludes the proceedings, returning any unused proportion of the Advance on Costs to the parties on a 50/50 basis (50% to the Claimants, 50% to the Respondents).

Yours faithfully

Wilmer Cutler Pickering Hale and Dorr LLP

For and on behalf of the Claimants

Quinn Emanuel LLP

For and on behalf of the Respondents

Appendix 1

