

## GENERATION CHALLENGE PROGRAM

### Amendments to GCP Consortium Agreement To Include Agreement Not to Assert Rights for Subsistence Use Approved in November 25, 2005 GCP Steering Committee Annual Meeting

Add this definition to **clause 1**:

- “Subsistence Users”** in relation to Challenge Program IP means users or consumers of products made from or embodying Challenge Program IP:
- (a) for direct personal or family consumption; or
  - (b) for barter (exchange) for personal or family food, shelter, fuel, or clothing; or
  - (c) in trade or business resulting in monetary income of less than €10,000 per year per business entity.

Add the following clauses:

- 24.5 Agreement Not to Assert Rights. Each Consortium Member hereby agrees that during the term of this Agreement and thereafter it will not assert, directly or indirectly, any claim or cause of action based, in whole or in part, upon the purported infringement for the benefit of Subsistence User of any Challenge Program IP that it may now or in the future own or control, worldwide, based on:
- (a) the manufacture, use, importation, offer for sale, sale or other transfer of products, compositions or methods claimed in patents or patent applications included in Challenge Program IP;
  - (b) the production or reproduction, conditioning for the purpose of propagation, offer for sale, sale or other marketing, exporting, importing or stocking of plants protected by breeder’s rights included in Challenge Program IP; or,
  - (c) the reproduction, display, performance, modification, preparation of derivative works or distribution of works of authorship (excluding trademarks and trade names) included in Challenge Program IP.
- 24.6 Each Consortium Member hereby agrees that:
- (a) the resource poor of the world are the intended third party beneficiaries of **clause 24.5 Agreement Not to Assert Rights**;
  - (b) any contract or license entered into by the Consortium Member granting rights for the Commercialization of Challenge Program IP shall include an agreement by the licensee or other transferee not to assert rights for Subsistence Use of Challenge Program IP.; and
  - (c) any license by the Consortium Member of its rights under copyrights, moral rights, contract rights, and other proprietary rights in executable software included in Challenge Program IP shall be at least as broad in scope as the license included in this Agreement as Schedule 6.
- 24.7 Nothing in the agreement of **clause 24.5 Agreement Not to Assert Rights** shall be interpreted as:

- (a) an obligation by any Consortium Member to register any Challenge Program IP; or
- (b) a warranty or representation by any Consortium Member as to the validity or scope of any of the Consortium Member's rights in Challenge Program IP; or
- (c) a warranty or representation that anything made, used, sold, transferred or otherwise disposed of, and that embodies Challenge Program IP does not or will not infringe intellectual property or proprietary rights of third parties; or
- (d) conferring by implication or otherwise any license or rights under any Intellectual Property of a Consortium Member other than Challenge Program IP as defined in this Agreement, regardless of whether such Intellectual Property is dominant or subordinate to Challenge Program IP; or
- (e) an obligation by the Consortium Member to furnish any additional know-how or improvements.