

AGREEMENT

THIS AGREEMENT made and entered into on this Two Thousand Six amongst the President of India acting through the Scientist-F dealing with Drugs and Pharmaceuticals Research Programme of Technology Development and Transfer Division, Department of Science and Technology, Government of India having its office at Technology Bhavan, New Mehrauli Road, New Delhi – 110016 (hereinafter called DST which expression shall wherever the context so admits include its successors and assigns) of the first part.

AND

....., a Society registered under Societies Registration Act (No.17 of 1960) represented by....., having its registered Office atherein after called IRI which expression shall wherever the context so admits include its successors and permitted assignees) of the second part.

AND

....., a company incorporated under the Companies Act 1956 having its registered office at (hereinafter called ICP which expression shall wherever the context so admits include its successors, receivers, administrators, and permitted assigns) of the third part.

WHEREAS IRI is an academic institutions also having Research and Development in project mode in the field of Science & Technology and other related subjects in particular pharmaceutical research and has developed, over the years, expertise, facilities and capabilities in the fields of advanced research projects based on

AND WHEREAS ICP is engaged in the R&D manufacture and marketing of a range of bulk drugs and formulations.

AND WHEREAS the DST has initiated a programme for promoting R & D in drugs and pharmaceuticals sector in the country under its Plan scheme.

AND WHEREAS IRI & ICP have jointly conceived a project entitled "” (hereinafter called PROJECT) and have submitted the project proposal to DST for its support, and funding.

AND WHEREAS DST has agreed to partially fund the PROJECT to the extent stated herein on the terms and conditions contained hereinafter.

Now, therefore, in consideration of the premises hereinabove, the parties hereto agree as follows:

CL .1 SCOPE OF THE AGREEMENT

This agreement details the terms and conditions, financial arrangements, modalities of collaboration, intellectual property rights, responsibilities and obligations of each party pertaining to the PROJECT.

CL.2 MODALITIES OF COLLABORATION

The respective responsibilities of IRI, ICP & DST shall be as follows:

CL. 2.1 RESPONSIBILITIES OF ICP

ICP shall:

a) provide funds 30 % of the recurring expenditure for the PROJECT to IRI as outlined in Annexure-I(A) (IRI component) as commitment contribution of ICP for the project during theyears of duration which works out to be Rs lakhs (Rupees.only). In the beginning of the first year after signing of the agreement , ICP shall pay Rs.lakhs (Rupeesonly) to IRI as first year contribution and in the beginning of the second year of the project Rs.lakhs (Rupeesonly) to IRI as second year contribution In addition ICP shall invest during the said years a total sum of Rs..... lakhs (Rupeesonly) i.e. Rs lakhs

(Rupees only) during the first year, Rs.lakhs (Rupeeslakhs only) during the second year as outlined in the Annexure I(B) (ICP component).

b) undertake/carry out the activity of the PROJECT as outlined in Annexure-II and maintain separate account for the PROJECT.

c) Permit the monitoring team appointed by the DST to access to the premises where their part of the PROJECT activity is being carried out.

CL.2.2 RESPONSIBILITIES OF IRI

IRI shall :

a) undertake the scientific and technological activities of the PROJECT as outlined in Annexure-II .

b) ensure that the funds of the project are utilised only in accordance with this agreement. The IRI may not entrust the implementation of the work for which the grant is being sanctioned to other institutions and to divert the grant receipts as assistance to the later institution. In case the IRI itself is not in a position to execute or complete the project it may be required to refund forthwith to the DST the entire amount in aid received by it. (In exceptional cases this condition may be relaxed by the DST at its discretion for special and cogent reasons to be recorded for such relaxation.)

c) maintain a separate account operated by Accounts Officer of IRI under the control of the PROJECT co-ordinator(s).

d) submit a statement of accounts and utilisation certificate of the funds of the PROJECT to DST

e) permit the monitoring team appointed by the DST to access to the premises where the part of the PROJECT activity is being carried out.

CL.2.3 RESPONSIBILITIES OF DST

DST shall :

a) provide financial support of Rs lakhs (Rupeesonly) for the PROJECT as outlined in Annexure-I(A) (IRI component). In the beginning of the

first year of the project after signing of the Agreement , DST shall pay Rs.lakhs (Rupeesonly) to IRI as first year contribution after signing of the agreement and in the beginning of the second year of the project after first year monitoring of the project to Rs. lakhs (Rupeeslakhs only) to IRI as second year contribution .

b) appoint a monitoring committee in consultation with IRI and ICP to periodically (at least once a year) review and monitor the PROJECT as well as to give the required direction for timely and effective completion of the PROJECT.

CL.2.4: Annexure I (A), I(B) and II of this agreement shall be deemed to be an integral part of this Agreement and in case of any conflict between the provisions of this agreement and that of the Annexures, the provisions of this Agreement shall prevail over the provisions of Annexures I(A), I(B) and II.

CL.3 FINANCIAL ARRANGEMENTS

CL.3.1 In consideration of the work to be carried out for the PROJECT at IRI and ICP the schedule of funding for the PROJECT will be shared between ICP & DST as in Annexure-I(A). The first instalment of contribution will be released by DST for Rs.lakhs (Rupeesonly) and by ICP for Rs.lakhs (Rupeesonly) to IRI after signing of the Agreement. The second instalment of contribution will be released by DST for Rs. lakhs (Rupeeslakhs only) and by ICP for Rs.lakhs (Rupeesonly) to IRI after the monitoring of the project by the team appointed by DST at the completion of one year of project duration. The directions of the Monitoring Committee should be honoured by ICP/IRI.

CL. 3.2 After completion of the PROJECT the capital assets acquired during the tenure of the PROJECT shall be shared between ICP and DST in the ratio of their capital investments made.

CL.4. DURATION OF THE PROJECT

The PROJECT duration will be initially for two years from the date of issue of sanction order for release of funds by DST after the agreement is signed by the concerned parties and need for its extension, if any will be reviewed by mutual agreement between the parties. However, it would be the endeavour of all parties to complete the PROJECT within the stipulated period. In case the parties feel that it is desirable to undertake further research commitment the parties will execute a supplementary agreement laying down the terms, conditions and financial arrangements of such further research work and sharing of the intellectual property right generated by further work.

CL 5. COMPLETION

The PROJECT envisaged shall be deemed to have been successfully completed, as assessed by Monitoring Committee. In case, during the tenure of the PROJECT it is found that the PROJECT is not likely to lead to successful completion, all the parties hereto can jointly decide to abandon the PROJECT prematurely. In case of premature abandonment of the project, the unutilised project money and assets created from the project money should be returned to the party which has given the grant on prorata basis.

CL. 6 RESULTS OF THE PROJECT

CL.6.1 It is the responsibility of IRI & ICP to protect any intellectual property rights (IPRs) that may result from the PROJECT and utilize the IPR or license these to other parties as per mutually agreed terms and conditions. The DST shall monitor a fair and equitable sharing and utilisation of IPRs.

CL. 6.2 The intellectual property generated in the PROJECT shall be owned by IRI & ICP jointly in the ratio of the investment made by IRI and DST on one hand and the ICP on the other. The income/royalty thus obtained shall be shared by IRI/ DST & ICP on that ratio. The IRI and DST will share the money thus received in the ratio of 75:25, i.e. 75% to IRI and 25% to DST.

CL 6.3 ICP shall have the first option to commercialize/use the intellectual property generated in the PROJECT. In such an event ICP will inform IRI/DST in writing within

one year from the completion of the PROJECT about their willingness to exploit the intellectual property commercially. Subject to the provisions of Clause 6.8, the ICP shall have right to commercialise to exclusivity till the expiry of patent life from the date of commercialisation. **The rate of royalty payable by the ICP to IRI shall be of the net sales value of product (exclusive of duties and taxes) for the period of validity of IPR.** The IRI and DST shall share the money received from the royalty in the ratio of 75:25 i.e. 75% to IRI and 25% to DST, ICP will however not pay any royalty on the trial production/initial commercialisation of the IPRs not used for sale. The term trial production will mean production carried out by ICP based on technology developed under the project for carrying out necessary experiments/trials for seeking permission from regulatory agencies such as Drug Controller General of India.

CL. 6.4 In the event ICP are unwilling to commercialise the intellectual property or having exercised the option fails to commercialise within 24 months or as agreed upon between ICP and IRI/DST after giving their option or in the event of the period of exclusivity as defined in CL.6.3 is over, IRI will in consultation with DST and ICP license the intellectual property to other interested parties on executing a separate agreement with them. The income/royalty thus obtained shall be shared amongst IRI , DST and ICP on mutually decided terms as mentioned in the CL 6.2 and 6.3.

CL. 6.5 The procedural formalities for securing and maintaining the intellectual property rights/patents, if any, in India shall be the responsibility of ICP and the expenditure incurred thereon shall be borne by ICP. The question of whether or not IPRs should be secured and the territory shall be decided by IRI and ICP depending upon the commercial and economic utility of the know-how.

CL.6.6 None of the parties hereto shall file any exclusive claim for seeking the IPRs in its own name or in the name of its associates on the pleas of having effected any improvement/modifications upon the intellectual property generated in the PROJECT.

CL. 6.7 The parties hereto shall consult each other for any publication in respect of the PROJECT. These publications shall be in the names of research workers, wherein it will be duly acknowledged that the work had been carried out under the collaborative programme between the parties under support from DST and ICP.

CL. 6.8 In case ICP is unable to manufacture the product in sufficient quantity to meet the market demand, despite a written notice of one month to ICP from the IRI or DST, IRI may in consultation with ICP (which shall not be withheld by ICP beyond 30 days) and concurrence of DST grant license to a third party for commercial manufacturing of the product. In such case, the license fee shall be shared by IRI and ICP in the ratio of their share in the intellectual property rights as mentioned in CL 6.2. DST share shall be 25% of the share received by IRI.

CL.7 CONFIDENTIALITY

During the tenure of the Agreement and during such extended period/s as agreed upon, after five years from the successful commercialisation of the PROJECT, which ever is later, IRI, ICP and DST undertake on their behalf and on behalf of their employees/representatives/associates to maintain strict confidentiality and prevent disclosure thereof, of all or any part of the information and data exchanged/generated pertaining to the PROJECT under this Agreement for any purpose other than in accordance with this Agreement or prior written consent of all the three parties to the Agreement.

CL.8 EFFECTIVE DATE, DURATION, TERMINATION OF THE AGREEMENT

CL. 8.1 The Agreement shall be effective from the date of signing and shall remain in force for a period of 12 years from the said date.

CL. 8.2 During the tenure of the Agreement, parties hereto can terminate the Agreement either for breach of any of the terms and conditions of this Agreement or otherwise by giving a three months notice in writing to the defaulting party. Failure of

either party to terminate the Agreement on account of breach or default by the other shall not constitute a waiver of that party's right to terminate this Agreement.

CL. 8.3 In the event of termination of the Agreement vide CL. 8.2 the rights and obligations of the parties thereto shall be settled by mutual discussions. In case the parties fail to reach on a mutual settlement within a period of 3 months, the matter shall be referred for decision to the Chairman, Expert Committee under the Drugs & Pharmaceuticals Research Programme of DST. The decision of the Chairman shall be final and binding on the parties. The financial settlement shall take into consideration not only the expenditure incurred but also the expenditure committed by the parties hereto.

CL.8.4 Clause 7 of this Agreement as also the agreement arrived at between the parties hereto for the utilisation of the intellectual property shall survive the termination of the Agreement.

CL. 9 FORCE MAJEURE

Neither party shall be held responsible for non-fulfilment of their respective obligations under this Agreement due to the exigency of one or more of the force majeure events such as but not limited to acts of God, War, Flood, Earthquakes, Strikes not confined to the premises of the party, Lockouts beyond the control of the party claiming force majeure, Epidemics, Riots, Civil Commotions and/or provided on the occurrence and cessation of any such event the party affected thereby shall give a notice in writing to the other party within one month of such occurrence or cessation. If the force majeure conditions continue beyond six months, the parties shall jointly decide about the future course of action.

CL.10 NOTICES

CL. 10.1 All notices and other communications required to be served on parties under the terms of this agreement, shall be considered to be duly served if the same shall have been delivered to or posted by registered mail to :

In case of DST: Secretary,
Department of Science & Technology,

Ministry of Science & Technology,
Technology Bhawan,
New Mehrauli Road ,
New Delhi - 110016

In case of IRI:

In case of ICP:

CL.10.2 Any party may by notice in writing to the other parties change the addresses and/or address to which such notices are to be delivered or mailed. All notices or communications given by Telefax, Telex or Telegram shall be confirmed by sending of copy of the same by registered post in an envelope properly addressed to the Addressee at the above address.

CL.11 No amendment or modification of this Agreement shall be valid unless the same is made in writing by all the parties or their authorised representatives and specifically stating the same to be an amendment of this agreement. The modifications/changes shall be effective from the date on which they are made/executed unless otherwise agreed to.

CL.12 ASSIGNMENT OF THE AGREEMENT

The rights and/or liabilities arising to any party to this Agreement shall not be assigned except with the written consent of the other parties and subject to such terms and conditions as may be mutually agreed upon.

CL.13 ARBITRATION

Except as hereinbefore provided, any dispute arising out of this Agreement or relating to its interpretation, the same shall be referred to the arbitration by the Arbitral Tribunal consisting of one arbitrator to be appointed by each party to the Agreement and the decision of such arbitrators shall be final and binding on all the parties. The venue of arbitration shall be at such place as may be fixed by such arbitrators and the arbitration

proceedings shall take place under the Arbitration and Conciliation Act, 1996 and any modification or re-enactment thereof.

SEAL OF THE PARTIES

In witness whereof the parties hereto have caused their duly authorised representative to execute and sign this Agreement on the day, month and year mentioned herein before.

Parties

For & on behalf of
PRESIDENT OF INDIA

For & on behalf of (IRI)

Signature
Name
Designation

Signature
Name
Designation

SEAL

SEAL

The common seal of -----, has been herein to affixed pursuant to a Resolution passed by the Board of the Directors at their meeting held on..... (Date) in the presence of Mr..... (Name of Director 1) and Mr..... (Name of Director 2) two of the Directors of the said company andwho has affixed the signature hereto.

For and on behalf of

Signature
Name
Designation

Seal

Witness : (Name and address)

(1)

(2)

Date

Financial Requirements

(IRI Component -)

Financial Requirements

ICP Component :

Annexure - II

(a) TITLE OF THE PROJECT :

(b) OBJECTIVES :

(c) Project duration with milestones of phases

Sl. No.	Milestone	Duration	Place of work

(d) DETAILS OF PARTNERSHIP

SCIENCE AND TECHNOLOGY: As indicated in the milestones of phases

FINANCIAL: As indicated in this agreement

INTELLECTUAL PROPERTY : As indicated in this agreement

(e) PROJECT SIGNIFICANCE :
