

**RICE SEED PRODUCTION AGREEMENT (WINTER NURSERY)**  
**between the**  
**UNIVERSITY OF PUERTO RICO**  
**AGRICULTURAL EXPERIMENT STATION**  
**and**  
**LOUISIANA AGRICULTURAL EXPERIMENT STATION**  
**LSU AGRICULTURAL CENTER**

BE IT KNOWN, THAT ON THE FIRST DAY OF OCTOBER, 2010 (THE EFFECTIVE DATE”),

1. **AGRICULTURAL EXPERIMENT STATION OF THE UNIVERSITY OF PUERTO RICO**, having its registered office at Carretera No 2, Calle Ramon E. Betances 259 N, Mayaguez, PR, 00680,  
represented in this agreement by its Chancellor, Miguel Muñoz Muñoz,  
 (“UPR”)

AND

2. **LOUISIANA AGRICULTURAL EXPERIMENT STATION OF THE LSU AGRICULTURAL CENTER**, having its registered office at 104 Efferson Hall, Baton Rouge, Louisiana 70803,  
represented in this agreement by its Chancellor, William B. Richardson,  
 (“LSU”)

**HAVE AGREED AS FOLLOWS:**

**WHEREAS**, LSU wish to share a winter nursery for rice grown and are willing to pay UPR to organize such winter nursery and grow the rice for them, as they may decide from time to time;

**WHEREAS**, UPR (at Mayaguez Campus), is willing and able to grow rice at its facilities at Lajas, Puerto Rico;

**NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:**

**ARTICLE 1. DEFINITIONS**

“Service”: the following non-exhaustive list of services pertaining to the Material: planting, increasing, pollination, crossing, herbicide and insecticide treatment, follow-up, harvesting of the Rice Crop, drying, replanting, obtaining customs clearance, organize shipping of rice seed, required to be performed by UPR.

“Material”: the rice seed which will pursuant to the terms of this Agreement be delivered each year to UPR for purposes of planting in the winter nursery at Lajas, Puerto Rico.

The Material shall be referred to as LSU Material, dependent on the Party having delivered such Material to UPR.

“Term”: the time period defined in Article 3.1 of this Agreement.

“Time Period”: September 1 of a calendar year until August 31 of the subsequent calendar year.

“Rice”: means specific breeding lines of rice seed provided by LSU to UPR for propagation purposes.

“Rice Crop”: the Rice, progeny of the Material which, will be harvested each session or each time period during the Term.

“Winter Nursery”: the rice winter nursery and seed increase acreage organized by UPR and funded as specified in this Agreement, located at or near Lajas Agricultural Experiment Station and running during the Term from September 1 of each year through August 31 of the next year. Winter Nursery is further defined as land dedicated for breeding head rows and seed increase purposes.

## **ARTICLE 2. IDENTIFICATION OF PROJECT**

This project shall be defined by the UPR assigned account number and by the title: LSU Rice Winter Nursery at Lajas Substation”.

## **ARTICLE 3. TIME PERIOD**

Subject to Article 12, this Agreement will commence on the Effective Date and terminate August 31, 2013 (the “Term”) and will comprise three (3) successive Time Periods, each comprising two planting/harvesting sessions as described in Article 3.2.

During each Time Period, a first planting/harvesting session shall run from September 01 through December 15. The second session shall run from January 15 through June 1, thus resulting in two rice crops per Winter Nursery. Parties expressly agree that the value of this Agreement largely depends on the ability to have an all-winter nursery, ensuring two crops per Winter Nursery.

## **ARTICLE 4. STATEMENT OF WORK**

- 4.1 A detailed description of the Services which will be required for each Time Period and shall be delivered by LSU not later than September 1 of each calendar year of this Agreement (the "workplan").
- 4.2 The Workplant will detail at very least:
- What LSU Material will be delivered to UPR for planting,
  - Which Services will be required pertaining to such Material,
  - What timelines and milestones need to be respected by the Parties, and
  - What needs to happen with the remainder of the Material and the replanted Material after (re) planting and with the Rice Crops after harvesting.

#### **ARTICLE 5. ORGANIZATION OF THE STEERING COMMITTEE AND PROJECT TEAM**

- 5.1 LSU shall designate a "Project Director" who will be responsible to coordinate with the others parties to this Agreement on everything relating to the practical organization of the Winter Nursery. For UPR, such person shall be named the "Project Leader". The LSU Project Director and the Project Leader shall jointly be referred to as the "Steering Committee". The Steering Committee shall have no authority to modify the terms of the present Agreement, which can only be done by mutual agreement between the Parties.
- 5.2 The LSU Project Director must inform the UPR Project Leader by September 1 of each calendar year of this Agreement what their respective desired planting date ranges will be for the fall/winter planting.
- 5.3 UPR Project Leader will have overall managerial and technical responsibilities for the Winter Nursery and will be responsible as the point of contact for coordinating, scheduling treatments for the crop, and reporting crop progress and weather conditions to LSU Project Directors.
- 5.4 A Research Associate will assist the UPR Project Leader in carrying out the duties and daily supervision of the Personnel and overseeing the maintenance of the equipment and nursery area.

#### **ARTICLE 6. RESPONSABILITIES OF THE PARTIES**

- 6.1 UPR shall ensure that the Service shall be performed by qualified personnel, each expert in the particular Service they are assigned to perform (the "Personnel"). UPR will assign, supervise and pay the Personnel required to execute the Service. It will decide on the number and qualifications of the Personnel needed to perform the work planned during the growing season. At harvest, all effort will be made by UPR to have adequate staffing to complete harvest activities under an agreed upon schedule with Horizon.

- 6.2 UPR shall provide all standard supplies, equipment (except as noted in Article 7.2), land and other facilities necessary and required pursuant to good industry standard in order to perform the Service (jointly the "Environment"). In particular, UPR had developed a nursery area on a tract of land approximately fifteen (15) acres in size located on its main farm at Lajas Substation near Lajas, Puerto Rico. Thereafter, five (5) of fifteen (15) acres will be kept in a state of readiness for planting from September 15 through December 15. This plot must likewise be kept in a state of readiness for planting through February 15.
- 6.3 UPR will have overall responsibilities to prepare plot area land in preparation for planting, keep plot area free of vegetation until planting, do proper drainage of plot area to facilitate timely planting, plant, condition and prepare for replanting, do proper drainage after flushing to encourage emergence, irrigate, control weeds, clear alleys, stake plot area, fertilize, get netting up after initial heading to prevent bird damage, control pests/harvest and thresh, and prepare seed for shipment (including obtaining all customs clearance).
- 6.4 UPR shall have the sole responsibility for the timely delivery of the Service by the Personnel in the Environment, in strict compliance with the Workplan.
- 6.5 LSU, or their respective agents, will each for their own Rice Crop, coordinate the shipment and pay all costs associated with shipping seed to and from UPR.

#### **ARTICLE 7. EQUIPMENT**

- 7.1 The cost of normal operating supplies, equipment, maintenance, land maintenance and cultural input are the responsibility of UPR. Equipment maintenance will be the responsibility of UPR. Major repair of old equipment will be considered as part of the normal operating costs.
- 7.2 In the event additional equipment is required specifically for the Winter Nursery pursuant to this Agreement, the Parties shall consult to attempt to meet this need. Additional equipment specifically required for large quantity seed increase will be provide by LSU. Neither party shall however be obligated to purchase, lease, or rent such equipment without a prior written agreement thereto. A list of all equipment so furnished will be kept by LSU and UPR and updated on a bi-annual basis.
- 7.3 Ownership of fixed property (including but not limited to grain bins, auger equipment, drying fans, loading equipment and any other related items) shall remain with the Party having initially provided same. In the event of early termination by UPR, a specific remuneration at a standard depreciation schedule (fifteen year straight line) for the described fixed property that cannot be moved will be made by UPR to the property owner as per the terms of the Agreement.

7.4 A requirement for specialized equipment o special circumstances warranting unexpected expenses, such expenses may after prior written approved of LSU, be covered as a special budget addendum agreed to by all Parties. LSU reserve the right to review and verify any unexpected expenses as related to the project.

## **ARTICLE 8. BUDGET AND COMPENSATION**

8.1 LSU agree to make the following payments to UPR in according with the following Budget and Payment Schedule.

8.2 Payments shall be made by LSU as a receipt of an individualized invoice provided by UPR, which date can however not be earlier than the timelines set out in Article 8.3 hereof. All payments shall be made payable to the “University of Puerto Rico, Agricultural Experiment Station”.

8.3 Annual Budget

From September 1, 2010 to August 31, 2011:	\$62,820
From September 1, 2011 to August 31, 2012:	\$65,960
From September 1, 2012 to August 31, 2013:	\$69,255

8.4 Payment Schedule

Half of the relevant budget amount set out in Article 8.3 above shall be paid on September 1 of the budget year and the other half by January 30 of each budget year on receipt of invoice.

8.5 If for any reason less than five (5) acres per year are planted as a total nursery area, the payment and budget will be reduced proportionally to the total of planted area, but it never be less than half of the original annual budget set forth herein.

8.6 If additional land area (i.e. more than five (5) acres per year) is needed, and available, for seed increase/production purposes in any particular year, LSU agree to pay the UPR at the same rate per acre.

8.7 Failure to adequately irrigation or provide control measures for disease or birds will result in a payment reduction proportional to area unharvestable at season’s end.

8.8 The UPR Project Leader and the Research Associate will receive payment for their work as an additional compensation of time effort increase at their regular workload. These funds do not represent any additive monies outside the term of this agreement.

## **ARTICLE 9. INDEMNIFICATION**

- 9.1 Subject to Article 9.2 below and to the permitted by the law of the Commonwealth of Puerto Rico, each Party hereto agrees to indemnify, defend, and hold the other Parties, its officers, directors, agents, and employees, harmless from and against any losses, liabilities and claims (excluding attorney fees) arising out of or resulting from the act, fault, omission, or negligence of such first Party or of its employees, contractors, or agents in performing its obligations under this agreement.
- 9.2 Except for gross negligence or willful misconduct, no Party hereto shall be liable to any other for any consequential, incidental or special damages or loss of profit out of it act, fault, omission or negligence.

#### **ARTICLE 10. CONFIDENTIALITY OF INFORMATION**

- 10.1 In order to allow the organization and conduct of the Winter Nursery, Parties envisage that information pertaining to the Material and information pertaining to the Parties' business will need to be disclosed. All information so disclosed by either Party to the others shall be considered as confidential unless expressly stated otherwise by the disclosing Party. All such confidential information shall be referred to hereinafter as "Information". Disclosure of Information shall be made in writing whenever possible. Any verbal disclosure of Information shall be confirmed in writing within thirty (30) days describing the Information and identifying the place and date of the disclosure and the person(s) to whom the disclosure was made.
- 10.2 The receiving Party undertakes to treat the Information disclosed to it as strictly confidential and secret and not to disclose same, directly or indirectly, to any persons except to the purpose of this Agreement and who have undertaken in writing similar obligations to those set forth in this Agreement.
- 10.3 The receiving Party shall assume responsibility for the observance of its obligations under this Agreement by all persons having or having had access to the Information through the receiving Party provided that nothing hereinabove contained shall deprive the Parties of the right to use or disclose any information which:
- was in the receiving Party's or one of its Affiliates' possession and at it free disposal prior to disclosure by the disclosing Party or one of its Affiliates; or
  - was in the public domain at the time of disclosure by the disclosing Party; or
  - subsequently comes into the public domain through no fault, action or omission of the receiving Party or one of its Affiliates: or
  - becomes available to the receiving Party or one of its Affiliates without any obligation of confidence from a third Party having the legal right to transmit the same.

10.4 The Material, received from LSU will be kept strictly confidential by UPR and will not be disclosed or transferred to any other party, except to those employees of UPR to whom it will be strictly necessary to grant access to conduct the Service and who have executed undertakings securing their compliance with this Agreement.

In addition, UPR shall:

- Assume responsibility for the observance of its obligations by all persons having had access to the Material through UPR;
- exercise at least the same degree of care that it uses for its own proprietary information and biological material with respect to the Material;
- Maintain adequate security to prevent unauthorized disclosure, theft, loss or destruction of the Material.

10.5 All Material and Information provided by LSU to UPR, or any data or reports prepared by UPR relating to LSU Material (such data and reports also being considered as Information) are the sole property of LSU. As such, UPR shall strictly apply the above confidentiality obligations also in its dealings with LSU, so as to ensure that no Material and Information provided by LSU, or any data or reports prepared by UPR on LSU Material shall be disclosed to the Party who is not the owner thereof.

10.6 The receiving Party undertakes to stop using and to return promptly the Information, Material and all copies, notes and other material supports containing Information, as well as any progeny of the Material to the disclosing Party at the first written request, and in any case not later than ten (10) days after the termination or the expiry of this Agreement.

#### **ARTICLE 11. PROPERTY**

11.1 The Material remains property of the Party who provided it to UPR.

11.2 All Rice Crops produced under this Agreement are the sole property of the respective owner of the Material from which the rice crop was produced.

11.3 Only the owner of the Material and the Rice Crops is entitled to seek intellectual property protection thereon, if appropriate.

#### **ARTICLE 12. TERMINATION/AMENDMENT OF AGREEMENT**

12.1 This agreement may be terminated in whole or in part by any of the Parties, provided that the others Parties are given: (a) at least thirty (30) days written notice of intent to terminate as well as (b) an opportunity for consultation with the terminating Party prior to termination.

- 12.2 In the event of early termination by LSU, the total payments to UPR shall no be less than all costs incurred by UPR and non-cancelable commitments up to and including the last day of the notice period set out in Article 12.1, not to exceed the total amount budgeted pursuant to Article 8 for the remainder of this Agreement.
- 12.3 LSU reserves the right, upon termination of pursuant to this Article 12 to recoup any equipment or capital investment they have contributed to the Winter Nursery under this Agreement from UPR. LSU shall not remove any fixed property or materials without advance written notice and a description of said property or materials.
- 12.4 This Agreement may be amended only with written approval of all Parties.

### **ARTICLE 13. NOTICES**

The designated LSU Project Director shall be Dr. Steve Linscombe and the designated Project Leader for the UPR shall be Mr. Lucas N. Avilés.

All notices or communications that pertain to the Agreement shall be directed as follows:

University of Puerto Rico-Agricultural Experiment Station  
Mr. Lucas N. Avilés,  
HC 01 Box 11656, Lajas P.R. 00667  
Tel. (787) 899-1530  
Fax. (787) 899-1265  
e-mail: [lucas.aviles@upr.edu](mailto:lucas.aviles@upr.edu)

Rice Research Station LSU  
Dr. Steve Linscombe  
1373 Caffey Road  
Rayne, LA 70578  
Tel. 337-788-7531  
Fax. 337-788-7553  
e-mail: [slinscombe@agcenter.lsu.edu](mailto:slinscombe@agcenter.lsu.edu)

with copy to:

LSU AgCenter Sponsored Programs  
Dr. Wade Baumgartner  
104 Efferson Hall  
Baton Rouge, LA 70803



## ARTICLE 14. GENERAL PROVISIONS

### 14.1 Fiscal Funding

The continuation of this contract is contingent upon the appropriation of funds to fulfill the requirements of the contract by legislature. If the legislature fails to appropriate sufficient monies to provide for the continuation of this contract, or such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of the contract, the contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

### 14.2 Amendments

This Agreement may be amended only by a written document signed by duly authorized representatives of the Parties.

### 14.3 Descriptive Headings

The descriptive heading in this Agreement are for convenience only and shall not be interpreted so as to limit or affect in any way the meaning of the language in the pertaining Article, Section, Paragraph, or Sub-paragraph.

### 14.4 Assignability

No Party shall have the right to assign its rights and/or obligations under this Agreement to any third party without the prior written consent of the others Parties, except as expressly stated in this Agreement.

#### 14.4.1 Severability

Should any provision of this Agreement be illegal, invalid or unenforceable under applicable law, the remaining provision had not been contained herein. The Parties shall attempt to negotiate a provision replacing such negotiations relating to any such provision that is material do not result in agreement within ninety (90) days, any Party shall have the right to terminate this Agreement by ninety (90) days written notice to the other Parties.

### 14.5 Others provisions


1. The two parties state that in their practices and proceedings there will be no discrimination on the basis of sex, race, color, place or date of birth,

national origin, social status, physical or mental handicap, political or religious beliefs, or status as a military veteran.

1. The two parties are committed to maintaining records of all reports, timesheets for jobs or assistantships, and all other documents related to the services discussed in this Agreement, in order that they be available for examination or copying by the Office of Internal Auditors of the University of Puerto Rico, by a firm of outside auditors hired by the University of Puerto Rico, or by the Office of the Comptroller of Puerto Rico in its auditing of the University of Puerto Rico. Audits will be carried out at reasonable times during the course of the services or after their completion, in accordance with generally recognized auditing practices. Said documents will be kept for a period of no less than six (6) years or until the Office of the Comptroller of Puerto Rico has made its investigation, whichever occurs first.
2. Each of the parties consents to exempt and exonerate the other party from responsibility in the case of any judicial or extrajudicial claim, and to provide indemnization for damages and/or mental or moral anguish that may be suffered by any person or legal entity, when said damages are alleged to have been caused by the negligent, reckless, and/or culpable actions, conduct, or omissions of each party, its agents or employees, when such damages shall have occurred totally or partially during the realization of this Agreement.
3. LSU shall not use the name of the University of Puerto Rico, its initials UPR, its stamp, logos, seal, or any other identifying emblem or symbol distinctive of the Institution, for any matter related to the activities that are object of this agreement, without express and written authorization by the University of Puerto Rico.
4. LSU certifies and guarantees that during the performance of this agreement it will comply with the Executive Order 1 1246 of September 24, 1965, Subpart B, Section 202 (41 CFR 60-1.4); the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (41 CFR 60-250.5); the Rehabilitation Act of 1973, Section 503 (41 CFR 60-741.5), all as amended, and any other appliance rules and regulations of the Office of Federal Contract Compliance Programs (OFCCP). LSU is therefore deemed to have complied with these regulations, unless otherwise exempted under the rules, regulations and orders of the Secretary of Labor. LSU recognizes that the absence of truth in this statement will constitute sufficient cause for the University of Puerto Rico first to

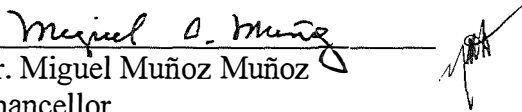
cancel, terminate or suspend, in whole or in part, this agreement and that LSU may be declare ineligible for further agreements with the University of Puerto Rico. LSU also certifies that it has a valid Assurance of Compliance on file.

**RECOMMEND APPROVAL:**

  
\_\_\_\_\_  
Prof. Aristides Armstrong  
Acting Dean and Director  
Agricultural Experiment Station  
University of Puerto Rico, Mayaguez Campus


10/1/10  
Date

**APPROVED FOR THE UNIVERSITY OF PUERTO RICO  
AGRICULTURAL EXPERIMENT STATION**

  
\_\_\_\_\_  
Dr. Miguel Muñoz Muñoz  
Chancellor  
University of Puerto Rico, Mayaguez Campus

10/1/2010  
Date

**APPROVED FOR LSU AGRICULTURAL EXPERIMENT STATION**

  
\_\_\_\_\_  
Dr. William B. Richardson  
Chancellor

Sept. 29, 2010  
Date