Non-Exclusive Sub-License Agreement
for Using and Making Metabolic Engineering Applications and Research Products by Red/ET Recombination

Between

Gene Bridges GmbH, Im Neuenheimer Feld 584, 69120 Heidelberg, Germany

(hereinafter "**GENE BRIDGES"**)

and

(hereinafter "**LICENSEE"**)

the following is agreed upon:

PREAMBLE:

Whereas, the European Molecular Biology Enterprise Management Technology Transfer GmbH (hereinafter "**EMBLEM**"), a fully-owned subsidiary of the European Molecular Biology Laboratory (hereinafter "**EMBL**"), is the exclusive licensee of certain U.S. and foreign patents and patent applications owned by EMBL.

Whereas, GENE BRIDGES represents and warrants that EMBLEM granted GENE BRIDGES licenses under particular patents and patent applications with the right to grant sub-licenses.

Whereas LICENSEE desires to sublicense from GENE BRIDGES particular patent rights.

Now, in consideration of the promises and conditions contained herein, GENE BRIDGES and LICENSEE agree to the following:

ARTICLE 1
DEFINITIONS

1.1 **Affiliate** shall mean:

Any Person directly or indirectly owned by, owning, or under common ownership with, to the extent 50% or greater, LICENSEE. The term “ownership” shall relate to equity interest (or an equivalent interest), partnership interest (or an equivalent interest), or voting interests.

1.2 Cell shall mean:

Any cell, including eukaryotic or prokaryotic, whether present individually, or in a group of cells, such as cell lines and tissue.

1.3 Class I Product shall mean:

A DNA construct which is, or is intended to be, used to alter a mammalian cell so that said mammalian cell (i) carries a genetic modification resulting from the insertion of the said DNA construct targeted to a predetermined, specific chromosomal location without the intent to alter the function or expression of the gene(s) at the site of the targeted chromosomal location; and (ii) is or is intended to be used to create a line of mammalian animals (the “**Class I Animals**”). For clarity, Class I Product includes the said DNA construct (the “**Class I Construct**”), the said altered mammalian cell (the “**Class I Cell**”) and the said altered mammalian animal line. Class I Product only includes the insertion of DNA sequences that are not intended to (a) alter the function or expression of the gene(s) at the site of the targeted chromosomal location, or (b) have a phenotypic impact on the said altered mammalian animal line. Examples of DNA sequences which can be inserted in ways that would not alter the function or expression of the gene(s) at the site of the targeted chromosomal location and thus would be expected not to have a phenotypic impact, are those encoding reporter proteins such as GFP or lacZ, cell surface markers, protein tags or trans-acting utility proteins, such as recombinases including Cre and FLP recombinases, but do not include libraries of cDNAs to be screened for phenotypic effects of their misexpression. For clarity, a Class I product is commonly known as “conditional knock-out”, “reporter strain”, “cell-surface marker”, “protein tagging”, “transacting utility protein” (such as Cre, Flp, or Fre Recombinase).

1.4 Class II Product shall mean:

A DNA construct which is used to, or is intended to, alter a mammalian cell so that said mammalian cell (i) carries a genetic modification resulting from the insertion of the said DNA construct targeted to a predetermined, specific chromosomal location with the intent to alter the function or expression of the gene(s) that was at, or is inserted into, the site of the targeted chromosomal location; and (ii) is or is intended to be used to create a line of mammalian animals (the “**Class II Animals**”). For clarity, Class II Product includes the said DNA construct (the “**Class II Construct**”), the said altered mammalian cell (the “**Class II Cell**”) and the said altered mammalian animal cell line. Class II Product includes DNA constructs designed to delete all or part of a gene sequence or replace all or part of a gene

sequence with a reporter, such as LacZ or GFP, as well as gain-of-function Class II Products whereby a DNA sequence is inserted into a predetermined, specific chromosomal location in a mammalian cell with the intention to test the phenotypic impact of the inserted DNA sequences on the said altered mammalian animal line. For examples, gain-of-function Class II Products include the insertion beside a chosen gene of another gene, the insertion of a dominant negative allele of a chosen gene, the insertion of a cDNA, or the insertion of any other gene with the intent to examine its phenotypic impact in the said altered mammalian animal line. For clarity, a Class II Product is commonly known as “receptor modification”, “gain-of-function of a specific gene”, “conventional knock-out” and “conventional knock-in”.

1.5 Commercial shall mean:

An action or service for a Third Party in exchange for financial benefits or any other consideration including but not limited to an acquisition of shares or rights or an exchange of materials or information.

1.6 Diagnostic Procedure shall mean:

A procedure related to the detection of chosen DNA or RNA sequences.

1.7 Fair market value shall mean:

with respect to each transfer or sale by LICENSEE, its Affiliates and its agents to Third Parties of any metabolic engineering product made by LICENSEE or its Affiliates with the use of the Licensed Technology, Fair Market Value shall mean (i) gross sales for such transfer in the event that cash consideration for such transfer was received less sales tax and/or tariffs imposed directly with reference to a particular sale, any outbound transport charges and amounts allowed or credited on returns; or (ii) the estimated monetary value of any non-monetary consideration received in consideration for the transfer, as mutually agreed by GENE BRIDGES and LICENSEE.

1.8 Effective Date shall mean:

The date of the last party’s signature on this license.

1.9 In-House Research Purposes shall mean:

The non-Commercial use of the Red®/ET® Recombination Method (Licensed Technology) in the research facilities of the LICENSEE or its Affiliates, solely for the research purpose of the LICENSEE. For clarity, Research Purposes do not include the making of any product which can be sold or transferred or is made with these objectives.

1.10 Know-how shall mean:

All information, know-how, experiences, or trade secrets pertaining to the use of the Licensed Technology owned or controlled by GENE BRIDGES, including but not limited to the specific information indicated in **Annex I**.

1.11 Licensed Technology shall mean:

Methods for generating Metabolic Engineering Products and Research Products using the Red®/ET® Recombination Method covered by the Patent Rights and all Know-how related thereto.

1.12 Mammalian Construct shall mean:

A DNA construct allowing genetic modification of a mammalian Cell and/or a mammalian Organism..

1.13 Metabolic Engineering Product shall mean:

a product, such as any industrial monomer, alcohol, oligopeptide, protein, vitamin, amino-acid etc, produced by the LICENSEE for commercial marketplaces, including for use in the pharma, fiber, fuel, feed, food, personal care materials, packaging and other industries generated by microorganisms which were modified using the Red®/ET® Recombination Method. A metabolic engineering product **does not include** polyketides and/or non-ribosomal peptide synthase pathways . For clarity, Microorganisms are not considered to be Metabolic Engineering Products.

1.14 Microorganism shall mean:

Microorganisms are prokaryotes.

1.15 Patent Rights shall mean:

The rights of GENE BRIDGES in patents and patent applications PCT-Application WO 99/29837 claiming priority of the European Patent Application No. 97 121 462.2 (December 5, 1997) and 98 118 756.0 (October 5, 1998), which issued January 2003 as US patent No. 6,509,156 - and the PCT-Application WO 01/04288 claiming priority of U.S. Application no. 09/350,830 (filed July 9, 1999), which issued March 12, 2002, as US patent 6,355,412. A list of these patent applications and corresponding national patent applications is attached as **Annex II**. "Patent Rights" shall include any continuations, continuations-in-part, divisionals, foreign counterparts, and issued patents based thereon.

1.16 Person shall mean:

Any natural person, corporation, general partnership, limited partnership, joint venture, proprietorship, organization, university, academic or research institution, or other business or not-for-profit entity.

1.17 Recombinant Service shall mean:

A service provided by LICENSEE to its Affiliates or any Third Party, in which LICENSEE is provided financial benefits or any other consideration including but not limited to an acquisition of shares or rights or an exchange of materials or information in exchange for the alteration, generation, cloning or subcloning of any nucleic acid or an E. coli strain. For clarity, a Metabolic Engineering Product within the definitions given herein is not considered a Recombinant Service with respect to the license granted under Section 2.2.

1.18 Red®/ET® Recombination Method shall mean:

A recombination method for specific modification of bacterial chromosomes or *E. coli* compatible DNA target molecules, by *in vivo* homologous recombination with a targeting DNA molecule in prokaryotic cells. The position at which the target molecules are modified is determined by the design of the targeting molecule with which the target molecule recombines. The method also encompasses direct cloning and subcloning of target DNA sequences from various donor molecules. The method is described and claimed in further detail in the Patent Rights.

1.19 Research Product shall mean:

a product, such as any nucleic acid generated and/or modified (through cloning, subcloning, deletion, insertion and/or mutation, of genes, gene fragments or any nucleic acid) using the Red®/ET® Recombinant Method and any DNA, RNA, nucleic acid fragment or vector that contains the same or is derived therefrom, whether purified or in a mixture (including libraries) or in a living, quiescent or dead Cell or Organism For clarity, Research Products include living cells such as modified *E.coli* strains.

1.20 Third Party shall mean:

A Person other than LICENSEE, GENE BRIDGES or any of their respective Affiliates.

1.21 Transgenics shall mean:

A DNA construct which is, or is intended to be, used to alter a mammalian cell so that said mammalian cell carries a genetic modification resulting from the insertion of the said DNA construct that is not targeted to a predetermined, specific chromosomal location, with or without the intent to alter the function or expression of the gene(s) at the site of the chromosomal insertion. Said DNA construct may be used to create a line of mammalian animals (the "**Transgenic Animals**"). For clarity, Transgenic includes the said DNA construct

(the "**Transgenic Construct**"), the said altered mammalian cell (the "**Transgenic Cell**") and the said altered mammalian animal line. Transgenic does not include Class I or Class II Products.

1.22 Transgenic Plant shall mean:

A DNA construct which is, or is intended to be, used to alter a plant cell, so that said plant cell carries a genetic modification resulting from the insertion of the said DNA construct. Said DNA construct may be used to create a line of plants (the **"Transgenic Plant"**). For clarity, Transgenic Plant include the said DNA construct (the **"Transgenic Plant Construct")**, the said altered plant cell (the **"Transgenic Plant Cell")** and the said altered plant.

1.23 Viral Engineering Product shall mean:

A DNA construct, which is used to clone, shuffle or modify DNA or pieces of DNA that are partially or completely leading, or are meant to lead to, the *in vivo* or *in vitro* production of a virus regardless of the replication competence or incompetence of said virus (the "**Viral Engineering Construct**". Virus includes all viruses whose life cycle is dependent upon either single-stranded or double-stranded DNA or RNA. Said DNA construct may be used to create cell lines (the **"Viral Engineering Cell Line")** or a virus (the "**Modified Virus**"), however, Viral Engineering Constructs which are also a Class I or II Constructs within the definitions given herein are not considered Viral Engineering Constructs with respect to the license granted under Article 2.

1.24 Year shall mean:

The twelve-month calendar year starting on 1st January and ending on 31st December.

ARTICLE 2
SUBLICENSE GRANT

2.1 Non-exclusive License for Red/ET based Metabolic Engineering Products

GENE BRIDGES hereby grants to LICENSEE and LICENSEE's Affiliates a worldwide, non-exclusive, license under the Licensed Technology to make and use Metabolic Engineering Products for commercial purposes. The license granted to LICENSEE and LICENSEE's Affiliates includes the right to use, sell, have sold, have made, offer for sale or resale, export and/or otherwise distribute Metabolic Engineering Products. There is no Sublicense Limit for Metabolic Engineering Products, i.e. Metabolic Engineering Products can be made, etc. as provided above in an indefinite number.

2.2 Non-exclusive License for Research Products

GENE BRIDGES hereby grants to LICENSEE and LICENSEE's Affiliates a worldwide, non-exclusive, sublicense under the Licensed Technology to make and use Research Products for commercial purposes. The license granted to LICENSEE and LICENSEE's Affiliates comprises the right to use but not to sell, transfer or distribute Research Products. Notwithstanding the foregoing, LICENSEE and LICENSEE's Affiliates may transfer Research Products to Third parties or collaborators who are in possession of a valid, appropriate license to the Licensed technology.

2.3 No Allowance for Sublicense Grant

LICENSEE is not entitled to grant any sublicense in the right(s) granted by GENE BRIDGES according to fields defined in this agreement. In case of a sale of LICENSEE, wherein at least 50% of the equity interest (or an equivalent interest), partnership interest (or an equivalent interest), or voting interests in LICENSEE are sold to a Third Party, or in case of a merger of LICENSEE with a Third Party, this Agreement is automatically terminated ("auflösende Bedingung" - resolutory condition). In this case, no remuneration or repayment of the license fees paid by LICENSEE (cf. Article 3) will occur. GENE BRIDGES is prepared to negotiate a new license with said Third Party and resulting company, respectively, in good faith.

2.4 Fields Excluded from this Agreement

LICENSEE is in particular <u>not</u> entitled to the following uses of the Red/ET Recombination Method:

Use to generate Class I products

Use to generate Class II products

Use to generate Transgenics

Use to generate Transgenic Plants

Use to generate Viral Engineering products

Use in a Diagnostic Procedure

Use in a Recombinant Service.

Use for the modification of polyketide and/or non-ribosomal peptide synthase pathways .

Any product of the polyketide or non-ribosomal peptide synthase pathways is excluded from the granted sublicense.

2.5 Field of Use Limitation

The parties acknowledge that they are, within this Article 2, defining the field of use of the Patent Rights to the fields defined in sections 2.1 and 2.2. The LICENSEE is aware that the use of the Licensed Technology by the LICENSEE for applications listed in 2.4 results in the immediate loss of all rights granted in this agreement.

ARTICLE 3
FINANCIAL CONSIDERATION

3.1 Initial payment

An initial annual fee of Euro (see license fee list) excluding VAT tax is due within 30 days of the Effective Date of this Agreement. A delay in payment in excess of thirty one (31) days after the last signature will result in an additional surcharge of 2% of the total payment due per calendar month. Should the license fee payment be delayed by more than three (3) months after the last signature, GENE BRIDGES shall have the right to terminate this non-exclusive license agreement.

3.2 Annual Renewal Fee

An Annual Renewal Fee of Euro (see license fee list) excluding VAT tax is due on each Effective Date of the respective Year and after the receipt of an appropriate invoice from GENE BRIDGES. The annual renewal fee will also be adjusted to accommodate the annual inflation rate of the USA, equal to the publicly quoted US consumer price index (CPI) as defines by the U.S. Department of Labor, at a maximum of 3% increase annually. A delay in payment in excess of thirty one (31) days after the Effective Date or receipt of the invoice, whichever is later, will result in an additional surcharge of 2% of the total payment due per calendar month. Should the license fee payment be delayed by more than ninety (90) days after the Effective Date, GENE BRIDGES shall provide notice to LICENSEE and LICENSEE shall have thirty (30) days to cure, if LICENSEE fails to cure GENE BRIDGES shall have the right to terminate this non-exclusive license agreement.

3.3 Royalty payment

For the sale or transfer of Metabolic engineering products to Third Parties LICENSEE shall pay a royalty of one percent (1%) of Fair Market Value on such products made by LICENSEE or its Affiliates with the use of the Licensed Technology .

3.4 Taxes / Distribution costs

All turnover taxes and indirect taxes (i.e. VAT) shall be borne by LICENSEE. All distribution costs for DNA constructs, bacterial strains and posted documents which must be provided by GENE BRIDGES shall be borne by LICENSEE. The Party required to deduct withholding taxes shall do so and promptly pay such tax. Each Party agrees to assist the other Party, as may reasonably be necessary, in claiming exemption from or reduction of such deduction or withholding under a double taxation treaty. The Parties also agree to assist each other by providing documentation as is needed to claim a repayment of or a credit for the withholding tax.

ARTICLE 4
IMPROVEMENTS

4.1 Modifications of Licensed Technology

LICENSEE is allowed to further develop the Licensed Technology. LICENSEE shall report all improvements or modifications made after the date of last signatory of this Agreement of the Licensed Technology to GENE BRIDGES. LICENSEE shall disclose any such improvements or modifications of the Licensed Technology to GENE BRIDGES in writing within ninety (90) days after its actual or constructive reduction to practice.

4.2 Joint Inventions

Any and all intellectual property rights including, without limitation, patent rights and Know-How and improvements generated by LICENSEE and GENE BRIDGES jointly in the course of or as a result of this Agreement shall belong to LICENSEE and GENE BRIDGES jointly depending on the respective inventive contribution.

4.3 Improvements of GENE BRIDGES

GENE BRIDGES shall retain full rights to the Licensed Technology (including all intellectual property rights thereunder), and any improvements and modifications to the Licensed Technology that might be created exclusively by GENE BRIDGES.

4.4 Improvements by LICENSEE

Patentable improvements of the Licensed Technology made solely by LICENSEE shall belong to LICENSEE alone. However, In consideration for the rights granted hereunder Licensee shall grant to Gene Bridges an irrevocable, worldwide, royalty-free non-exclusive license with the right to sub-license in any patents issued to Licensee for aspects that require, or improve on, the use of the Red/ET Recombination Method.

ARTICLE 5
CONFIDENTIALITY

5.1 Except as expressly contemplated by the license granted hereunder, neither party shall not disclose or transfer, sell, distribute and/or exchange to any Third Party any confidential or secret information or trade secrets confided or made available by the other party (collectively "**Confidential Information**") in particular, (1) data or information of any kind, including Know-how, as well as (2) Material.

This obligation of confidentiality does not apply to Confidential Information which:

(a) was known and can be proven by documentary evidence to be known to the receiving party prior to disclosure by the disclosing party; or

(b) is or becomes, through no fault of receiving party, accessible to the public, the burden of proof lies with the receiving party; or

(c) can be shown by the receiving party to have been obtained from a third party entitled to disclose such information;

(d) is the subject of a written permission to disclose provided by the disclosing party; or

(e) is independently developed without access to Confidential Information.

5.2 The receiving party may disclose Confidential Information pursuant to an order of a competent court or administrative agency, provided that it has informed the disclosing party of such order, and has used reasonable efforts to limit the scope of the disclosure and to obtain confidential treatment by the court or administrative agency of the Confidential Information disclosed pursuant to such order.

5.3 This obligation of confidentiality shall survive expiration and/or termination of this Agreement or any part of it.

ARTICLE 6
USE OF THE NAMES EMBL; EMBLEM; GENE BRIDGES AND LICENSEE

LICENSEE may not use the name EMBL or EMBLEM for any purpose. In any promotional materials developed and/or used by LICENSEE concerning any products made using the Licensed Technology, the name GENE BRIDGES may be included as

"From the inventors of the Red®/ET® Recombination Method"

LICENSEE agrees that it shall provide GENE BRIDGES with an opportunity to review and comment on all such promotional materials that include the name GENE BRIDGES. LICENSEE agrees to incorporate all changes reasonably requested by GENE BRIDGES.

GENE BRIDGES may use LICENSEE's name in transient publications, such as power point publications, poster presentations that are not left on long term display, and in verbal communications.

ARTICLE 7

WARRANTIES AND INDEMNITIES

7.1 GENE BRIDGES does not assume liability for any damage occurring through the use of the Licensed Technology or Material for any purpose, in particular arising out of the care, handling, disposal, transfer breeding and shipment of the Material, unless the claim is due to the intentional misconduct or gross negligence of GENE BRIDGES. GENE BRIDGES gives no warranty nor makes any representation, express or implied, with regards to the suitability of the Licensed Technology or Material for any applications or purposes of LICENSEE.

7.2 GENE BRIDGES warrants that to the best of its knowledge, it has been authorized by EMBLEM to sub-license the Licensed Technology as provided for herein. **7.3** GENE BRIDGES represents and warrants as follows:

(a) this Agreement is and shall be a legal and valid obligation binding upon GENE BRIDGES, enforceable in accordance with its terms;

(b) the execution and delivery of this Agreement, does not and will not constitute a breach or violation of any other agreement or understanding, written or oral, to which it is a party

(c) that GENE BRIDGES has the right to grant the license provided herein;

(d) that after reasonable due diligence GENE BRIDGES believes that Patent Rights are valid and enforceable; and

(e) the execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate action on the part of GENE BRIDGES, and the person executing this

Agreement on behalf of GENE BRIDGES has been duly authorized to do so by all requisite corporate action.

7.4 LICENSEE represents and warrants as follows:

(a) this Agreement is and shall be a legal and valid obligation binding upon LICENSEE, enforceable in accordance with its terms;

(b) the execution and delivery of this Agreement, and the use of the Licensed Technology, do not and will not constitute a breach or violation of any other agreement or understanding, written or oral, to which it is a party;

(c) the execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate action on the part of LICENSEE, and the person executing this Agreement on behalf of LICENSEE has been duly authorized to do so by all requisite corporate action; and

(d) LICENSEE shall use the Licensed Technology in accordance with all applicable laws, rules and regulations.

(e) Licensee guarantees that it will not use Licensed Technology without a valid sub-license from Gene Bridges or EMBLEM.

7.5 GENE BRIDGES guarantees neither the patentability nor the validity of the Patent Rights, and shall not be liable accordingly.

7.6 LICENSEE agrees to comply with all applicable laws, rules and regulations relating to the care, welfare, handling, breeding, storage, transfer and disposal of material, including laws relating to shipment to and from GENE BRIDGES.

7.7 LICENSEE guarantees that it will not in future make use of the Licensed Technology in absence of an appropriate Sub-License Agreement with GENE BRIDGES.

ARTICLE 8
NO-CHALLENGE CLAUSE

LICENSEE agrees not to challenge the patentability or validity of the Patent Rights during the duration of the license Agreement and not to support, directly or indirectly, third parties in challenging the patentability or validity of the Patent Rights.

ARTICLE 9

PARTIAL OR COMPLETE LACK OF PATENTABILITY OR INVALIDITY OF PATENT RIGHTS

9.1 Lack of Patentability; Invalidity of the Patent Rights

This Agreement and its validity shall not be influenced by the fact that the Patent Rights should be finally declared not patentable or invalid. LICENSEE shall, however, have the right to terminate this agreement within three months from such final declaration for the last patent, if this declaration has effect for all regions that the license was granted for.

9.2 No Remuneration of Payments and License Fee

Previously made payments as set out in Section 3 or payments made in advance shall be non-refundable. Annual Renewal payments that were due prior to the final rejection of the Patent Rights or the final declaration of invalidity, but have not yet been paid, have to be paid by the LICENSEE.

ARTICLE 10
TERM AND TERMINATION

10.1 Duration

This Agreement shall be entered into for the duration of one (1) Year. It is extended Year by Year for one Year unless it is terminated by written notice three (3) months prior to each Effective Date by one of the parties.

10.2 Material Breach

In the event of a material breach or default in the performance of this Agreement by either party which is not cured within sixty (60) days after the receipt of written notice thereof from the other party, the party not in breach or default shall be entitled without prejudice to any of its other rights to terminate this Agreement by giving written notice to take effect immediately upon receipt. In particular, it is understood and agreed by the parties that any use by LICENSEE of the Licensed Technology outside the scope of the license grant set forth in Section 2.1, and 2.2 in particular non-compliance with Section 2.4 shall be considered a “material” breach or default in the performance of this Agreement resulting in GENE BRIDGES’ right to terminate this Agreement immediately upon written notice to LICENSEE.

10.3 EMBLEM Agreement

This Agreement shall terminate with immediate effect, if the license granted by EMBLEM with regard to the Patent Rights has been terminated or revoked by EMBLEM.

10.4 Expiration of the Patent Rights

In any case, this Agreement shall terminate upon the expiration of the last-to-expire of the patents issued on the Patent Rights.

10.5 Effect of Termination

Upon termination of this Agreement (except as provided by Sections 9.1 and 10.4), LICENSEE will immediately cease to use the Licensed Technology and shall

- destroy all material received from Gene Bridges.
- issue to Gene Bridges a written statement within thirty (30) days of the date of termination that the LICENSEE has ceased to use the License Technology and will not use the Licensed Technology again without a new sub-license to the Licensed Technology from Gene Bridges.

For clarification, LICENSEE is under no obligation to return such reagents including material or to cease using the Licensed Technology should this Agreement be terminated pursuant to Section 9.1 or Section 10.4.

ARTICLE 11
GENERAL CONDITIONS

11.1 Amendments and Modifications

Amendments and modifications to this Agreement including the amendment and modification of this provision may be made only in writing signed by both parties.

11.2 Governing Law; Jurisdiction

This Agreement shall be governed by and construed in accordance with the substantive laws of the Federal Republic of Germany, without reference to conflicts of law principles. To the extent allowable under the substantive laws of the Federal Republic of Germany all correspondence, interviews, documents and proceedings shall be conducted in the English language.

11.3 Assignment

This Agreement may be assigned by GENE BRIDGES or its successors in interest, assigns, trustees and other legal representatives.

11.4 Waiver

Any failure by a party to insist upon strict performance of any provision hereof, at anytime or for any period of time, shall not constitute a waiver of, or estoppel against asserting, the right to require such performance in the future. No waiver of any term or condition of this Agreement shall be effective unless set forth in a written instrument duly executed by or on behalf of the party waiving such term or condition.

11.5 Release

GENE BRIDGES hereby releases, acquits and forever discharges LICENSEE, including LICENSEE's past, present and future officers, directors, employees, subsidiaries and affiliates, from any and all claims of liability for past infringement or alleged past infringement of the Licensed Technology. GENE BRIDGES hereby covenants and warrants that it will not sue or commence any proceedings against Licensor or any affiliate, or subsidiary with respect to any past infringement of any of the Licensed Technology. GENE BRIDGES shall indemnify and hold harmless Licensee from and against, any liability arising from claims or lawsuits raised by EMBLEM and/or EMBL with respect to any past infringement of any of the Licensed Technology.

11.6 **Force Majeure**

Neither party shall be liable or deemed to be in breach of this agreement by reason of any delay in performing, or failure to perform, any of its obligations if the delay or failure was due to any cause beyond that party's control. Causes beyond a party's reasonable control include, but are not limited to, an act of God, explosion, flood, tempest, fire or accident, war or threat of war, sabotage, insurrection, civil disturbance or requisition, acts, restrictions, bye-laws, prohibitions, or measures of any kind on the part of any governmental, parliamentary or local authority, import or export regulations or embargoes, strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of Gene Bridges, customer or a third party), difficulties in obtaining raw materials, materials from suppliers, labor, fuel parts or machinery, power failure, power surge or spike, telecommunications failure or breakdown of machinery.

11.7 Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of, the parties, successors and permitted assigns.

11.8 Annexes

All Annexes are part of this Agreement.

LICENSEE:	GENE BRIDGES :
	Gary Stevens
Name Signature	Name Signature
Title	Chief Executive Officer Title
_____	_____
Date	Date

Annex I

Know How

1) Instruction and/or trouble-shooting guides and manuals

2) Training materials

3) Protocols

4) Any information, such as advice, strategy consultation, technical details, protocols, references and other know-how reduced to writing by GENE BRIDGES within twenty-one (21) days after it has been furnished by GENE BRIDGES and/or its affiliates to the LICENSEE

will be included in this provision. A copy of such information reduced to writing will be sent to the LICENSEE

Workshops and training programs at GENE BRIDGES' or at any of its affiliate(s) facilities or at the facilities of the LICENSEE can be arranged for are will be charged for separately.
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Attachments:
Copies of the information indicated above

Annex II

Patent Rights

I. Patent Application PCT/EP98/07945, Novel DNA Cloning Method (ET) Priority date December 5, 1997;

II. U.S. Patent Application no. 09/350,830 filed July 9, 1999, Directed Cloning and Subcloning;

III. Related know how and reagents complementary to the patent and patent applications listed in Exhibit B; and

IV. US Patent nos. 6,355,412 and 6,509,156B by Stewart et.al. including the following related patents and applications:

US 6509156 FAMILY				
Country	**Title**	**Appln. No.**	**Filing Date**	**Publication No.**
Austria	Neue Methode Zur Klonierung Dns Unter Anwendung Des E. Coli Rece/Rect Rekombinationssystems	AT19980963541T	12/07/98	AT242320T
Australia	Novel DNA Cloning Method	AU19990018771	12/07/98	AU1877199 A
Australia	Novel DNA Cloning Method	AU19990018771 D	12/07/98	AU752105B
Canada	Novel DNA Cloning Method	CA19982312474	12/07/98	CA2312474 A1
Germany	DNA Cloning Method Relying On The E. Coli Rece/Rect Recombination System	DE19986015384	12/07/98	DE69815384D
Germany	DNA Cloning Method Relying On The E. Coli Rece/Rect Recombination System	DE19986015384T	12/07/98	DE69815384T
Denmark	DNA Cloning Method Relying On The E. Coli Rece/Rect Recombination System	DK19980963541T	12/07/98	DK1034260T
Europe	Novel DNA Cloning Method Relying On The E. Coli Rece/Rect Recombination System	EP19980963541	12/07/98	EP1034260 B1
Europe	Novel DNA Cloning Method Relying On The E.Coli RECE/RECT Recombination System	EP20020021915	12/07/98	EP1291420 A1
Spain	DNA Cloning Method Relying On The E. Coli Rece/Rect Recombination System	ES19980963541T	12/07/98	ES2201567T
Japan	DNA Cloning Method Relying On The E. Coli RecE/RecT Recombination System	JP20000524410T	12/07/98	JP2002503448T
Portugal	Novo Metodo De Clonagem De Adn Baseado No Sistema De Recombinacao Rece/Rect De E. Coli	PT19980963541T	12/07/98	PT1034260T
United States	DNA Cloning Method Relying On The E. Coli Rece/Rect Recombination System	US 09/555,510	06/05/00	US6509156 B1
United	Novel DNA Cloning Method	US 10/231,013	08/30/02	US2003036198U

US 6509156 FAMILY				
Country	**Title**	**Appln. No.**	**Filing Date**	**Publication No.**
States				S6787316 B2
United States	Novel DNA cloning method	US 10/842,534	05/11/04	US2004203057
PCT	Novel DNA Cloning Method	WO1998EP07945	12/07/98	WO9929837 A2

US 6355412 FAMILY				
Country	**Title**	**Appln No.**	**Filing Date**	**Publication No.**
Australia	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	AU20000066911	07/10/00	AU6691100 A
Australia	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	AU20000066911 D	07/10/00	AU781379B B2
Brazil*	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	BR20000012283	07/10/00	BR0012283 A
Canada	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	CA20002377938	07/10/00	CA2377938 A1
China	Method And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	CN20000812739	07/10/00	CN1373803 A
Europe	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	EP20000954461	07/10/00	EP1204740 B1
Israel	No English Title Available	IL147385D	Unavailable	
Japan	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	JP20010509492T	07/10/00	JP2003504053T
Mexico	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	MX2002PA00233	07/10/00	
Poland	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	PL20000353634	07/10/00	
United States	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	US10/031,110	07/09/99	US 6,355,412
PCT	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	WO2000EP06533	07/10/00	US6355412 B1
South Africa	Methods And Compositions For Directed Cloning And Subcloning Using Homologous Recombination	ZA20020000152	01/08/02	ZA200200152 A