

### ANNEX III

#### **Framework Agreement to carry out audits regarding compliance with the ESTA Standard**

This Framework Agreement is concluded

BETWEEN

**ESA European Seed Association** aisbl, registered according to Belgian law, located in 23/15, rue du Luxembourg, 1000 Brussels, Belgium and represented by its Secretary General, Mr Garlich von Essen or his delegated representative;

hereinafter referred to as '**ESA**'

AND

**XXX**, registered according to .... law, located in .... and represented by ....

hereinafter referred to as '**the Certifying Body**'

together referred to as '**the Parties**'

Whereas [NAME OF THE AGENT], for and on behalf of ESA European Seed Association, is acting as an Agent of ESA, owner of the ESTA scheme, and is charged with the implementation and management of the ESTA scheme; and within that framework is authorized to conclude contracts in the name and on behalf of ESA;

the Parties have agreed as follows:

#### **1. Object of the agreement**

By the present Agreement the Agent, in the name and on behalf of ESA, officially accepts the Certifying Body as a body allowed to carry out audits of Treatment Sites in order to certify their compliance with the ESTA (European Seed Treatment Assurance) standard<sup>1</sup>. The Certifying Body acknowledges fulfilling the requirements and undertakes to comply with the obligations set out in the present Agreement.

#### **2. Requirements of acceptance**

In order to be accepted for the purpose described in point 1 of the present Agreement the Certifying Body has to fulfill the following requirements.

It must:

- be an accredited certifying body accredited or accepted by the competent national accreditation services of its registered offices;

---

<sup>1</sup> The ESTA Standard as effective at all times is available on: [www.euroseeds.eu/ESTA](http://www.euroseeds.eu/ESTA)

ESA\_16.0146.1

- be accredited to the ISO/IEC Guide 65 – ISO/EN 45011 (General requirements for bodies operating product certification systems) or ISO/IEC 17065:2012 (Conformity assessment-Requirements for bodies certifying products, processes and services); and
- have proven competence and experience in the field of agriculture, forestry and fishing, group 01.01, 01.02, 01.61 as defined in NACE Rev. 2 – Statistical classification of economic activities in the European Community. 2008. European Commission.

### **3. Rights of the Certifying Body**

3.1 Upon written application and provided compliance with the requirements listed in point 2 the Certifying Body is accepted and authorized to audit Treatment Sites to certify their compliance with the ESTA standard and to grant the ESTA certification to audited and compliant Treatment Sites. ESTA certification shall not be granted if the Standard License Agreement regulating the authorization to use the ESTA Trademark<sup>2</sup> and the payment of relevant fees has not been signed by the Treatment Site.

Accepted Certifying Bodies are then entered into a public register of accepted ESTA Certifying Bodies available on the ESTA website.<sup>3</sup>

### **4. Obligation of the Certifying Body**

4.1 The Certifying Body undertakes to provide documentary evidence of fulfillment of the acceptance requirements as defined in point 2 of the present Agreement upon application.

4.2 The Certifying Body undertakes to inform ESA without delay in case its accreditation is suspended or withdrawn. In such case the authorization of the Certifying Body to carry out audits for verifying compliance with the ESTA standard is suspended until the accreditation is re-installed.

4.3 The Certifying Body undertakes to carry out also on-site audits – as required also by ISO/EN 45011 or ISO/IEC 17065 – when auditing a Treatment Site regarding its compliance with the ESTA standard as well as at least annual verification audits following the initial evaluation of a Treatment Site.

4.4 The Certifying Body undertakes to provide [Name of the Agent] with an audit report every time a Treatment Site is audited for ESTA certification. The report shall contain the following information:

- full name, address and legal structure of the audited Treatment Site;
- the statement whether the Treatment Site is compliant with the ESTA standard with the indication of potential necessary improvements if applicable;

---

<sup>2</sup> [www.euroseeds.eu/ESTA](http://www.euroseeds.eu/ESTA)

<sup>3</sup> [www.euroseeds.eu/ESTA](http://www.euroseeds.eu/ESTA)

ESA\_16.0146.1

If the Treatment Site has been granted ESTA certification:

- the date on which the ESTA certification was granted; and
- the scope of the ESTA certification (i.e. species covered).

The Certifying Body also provides a report to [Name of the Agent] regarding the main findings of the annual verification audits.

On an annual basis the Certifying Body provides [Name of the Agent] with an overall report indicating the full name, address, legal structure, scope and expiry date of ESTA certification of each ESTA certified Treatment Site as well as with a report on audit findings and granted and rejected ESTA certificates.

## **5. Confidentiality**

5.1 Information provided by the Certifying Body in its reports will be handled as confidential by [Name of the Agent]. However, the names and contact details of ESTA certified Treatment Sites and aggregated information per country on the overall use of the ESTA system may be provided by [Name of the Agent] to ESA for being used on the ESTA website for information purposes.

5.2 The Certifying Body acknowledges that it is ESA's right to use general information - not allowing the identification of individual organisations - provided in the reports from the Certifying Body to the Agent, in compliance with any applicable competition and data protection laws, for its annual reports on the functioning of the ESTA system.

## **6. Intellectual property rights**

6.1 Both the ESTA standard and the ESTA logo constitute the exclusive property of ESA and are protected respectively by copyright and Community Trademark.

6.2 The accepted Certifying Body is allowed to put a copy of or a link to the ESTA standard and to use the ESTA Trademark on its website (or other information material) for information purposes. No further use of the ESTA Trademark is allowed.

## **7. Duration and termination of Agreement**

7.1 The present Agreement comes into force on the date of signature and is concluded for an indeterminate period.

7.2 The present Agreement automatically terminates if the Certification Body ceases to comply with at least one of the acceptance requirements as defined in point 2 of the present Agreement and in case this situation is not remedied in a reasonable period of time.

ESA\_16.0146.1

7.3 The present Agreement can be terminated by the common agreement of the parties at any time.

7.4 The present Agreement can be terminated by any of the Parties unilaterally by written notice to the other party six (6) months in advance.

7.5 The present Agreement can be terminated by any of the Parties by written notice to the other party in case of serious breach of the present terms. The Agreement terminates thirty (30) days following the receipt of the notice by the other party.

## **8. General terms**

8.1 The present Agreement has been prepared in two original copies and is governed by Belgian law.

8.2 Regarding questions not dealt with in the present Agreement in first place the ESTA standard and in second place the Belgian law should apply.

8.3 In case of disputes resulting from the present Agreement and from the activities described therein the Parties should seek an amicable settlement. If such a settlement is not possible they should solve their dispute before the competent Belgian courts.

8.4 The present Agreement represents the complete understanding between the Parties and supersedes all prior or contemporaneous oral or written agreements or undertakings of the Parties referring to the subject matter of the present Agreement.

8.5 Should any provision of the present Agreement be entirely or partially invalid or the Parties be required by national law or authorities to modify certain provisions hereof, the validity of the other provisions shall be unaffected. Furthermore, in the event of an invalid provision or modification being required by national law or authorities, the Parties shall enter into negotiations and amend or replace the provision concerned by a valid provision which comes closest to what the invalid provision was intended to achieve.

8.6 Neither the waiver by either of the Parties of a breach or a default under any of the provisions of this Agreement, nor the failure of either of the Parties, on one or more occasions, to enforce any of the provisions of this Agreement or to exercise any right or privilege hereunder shall thereafter be construed as a waiver of any subsequent breach or default of a similar nature, or as a waiver of any such provisions, rights or privileges hereunder.

8.7 All section captions are for reference only and shall not be considered in construing the present Agreement.

ESA\_16.0146.1

**Signed by:** \_\_\_\_\_

Date \_\_\_\_\_

**for and on  
behalf of ESA:**  
\_\_\_\_\_  
\_\_\_\_\_

**Signed by:** \_\_\_\_\_

Date \_\_\_\_\_

**for and on behalf  
of XXX**  
\_\_\_\_\_