HEXAMETHYLENE DIAMINE (HMD SIEF AGREEMENT)

This SIEF Agreement (hereinafter referred to as the “Agreement”) is entered into by and between:

RHODIA Opérations, as Lead Company for the Substance, as defined below, in the Adipic Acid Consortium, acting in its own name and on behalf of all Members of the Adipic Acid Consortium registering the Substance in accordance with the Consortium Agreement dated 25th November, 2008 (hereinafter referred to as “Lead Registrant”)

And the SIEF Participant signatory of the present Agreement (hereinafter referred to as “Non-Lead Member”)

Hereinafter referred to as “the Parties”.

Preamble

Whereas the Parties to the Agreement have pre-registered HMD, have agreed on the identity and the sameness of the Substance, and thus are Participants of the same Substance Information Exchange Forum (“SIEF”) as potential registrants for that Substance under the meaning of Article 29 of the European Community Regulation EC 1907/2006 (“REACH”);

Whereas REACH imposes on manufacturers and importers as well as on Only Representatives the obligation to register the Substance within the prescribed deadlines;

Whereas REACH requires, subject to certain exceptions, multiple registrants of the same substance to share certain data and jointly submit through a Lead Registrant part of the information required for the registration relating to the Substance to the European Chemicals Agency (“Agency”);

Whereas the Lead Members defined in the Article 1 of the Agreement have prepared the Joint Registration Dossier to be submitted to the Agency through the Lead Registrant;

Whereas, the Members of the Consortium are aware that they have co-operation and data sharing obligations with other SIEF participants.

Whereas the Non-Lead Member has the intention to register the Substance and he is willing to appoint the Lead Registrant as lead registrant in order to have him to submit the Joint Registration Dossier.

Whereas the Agency represented in its REACH guidance that it is advisable for the SIEF participants to agree in writing certain SIEF operational rules concerning data sharing, rights on the developed information and sharing of costs.

Therefore, with a view to fulfilling their regulatory obligations under REACH in respect to the Substance, the Parties hereto have decided to pursue the following objectives (hereinafter referred to as the “Purpose”):

1. to agree on the operating rules governing the exchanges of information between the SIEF potential registrants (Title I);

2. to agree on the rules regarding the rights to participate in the joint submission of data, to use the (robust) study summaries and to refer to the relevant full study reports in the Joint Registration Dossier developed by the Lead Members (Title II);
Article I. Definitions

Terms written in capital letters are defined in the Preamble above, in this Article 1 or in other parts of the Agreement. To the extent not otherwise defined in the Agreement, any definition specified in REACH, in particular in Article 3, shall apply to the Agreement:

Affiliate: Any legal entity controlling, controlled by, or under common control with, either directly or indirectly, a Party or in case of an Only Representative, the affiliate of the non-EU manufacturer or in case of a third representative, the affiliate of the legal entity represented. For these purposes, “control” shall refer to: (i) the possession, directly or indirectly, of the power to direct the management or policies of a person, whether through the ownership of voting rights, by contract or otherwise; or (ii) the ownership, directly or indirectly, of 50 % or more of the voting rights or other ownership interest of a person.

Data Owner: Any entity holding rights to use Information on the Substance, either as SIEF participant or as non SIEF participant.

Information: studies, other scientific, statistical, or technical data, including but not limited to composition, characteristics, properties and processes and applications, and any information in any form made available by a Party or generated by the Parties jointly, pursuant to or in the course of the Agreement.

Joint Registration Dossier: The data that the Parties are required to submit jointly to the Agency in order to register the Substance, pursuant to Article 19 (1) paragraph 2 REACH.

Only Representative: any natural or legal person established in the Community appointed as a representative as described in Article 8 of REACH.

Parties: being the signing parties to the Agreement, having the quality of either:

-Lead Member: a SIEF participant who is subject to the registration requirements under REACH, who participates to the SIEF discussions in order to compile the Joint Registration Dossier and who is member of the Adipic Acid Consortium.

-Lead Registrant: a SIEF participant who is subject to the registration requirements under REACH, which the Non-Lead Member agree hereto to appoint acting as Lead Registrant as defined under Article 19 (1) REACH. The Lead Registrant is a member of and duly represents and acts in the name and on behalf of the other members of the Adipic Acid Consortium registering the Substance (‘Lead Members’).

-Non-Lead Member: a SIEF participant being neither a Lead Member nor a data holder (Article 28 (7) REACH) and that agrees to rely on the Joint Registration Dossier prepared and/or made available by the Lead Registrant, on his own behalf, for its Affiliates, and/or on behalf of the represented potential registrants in case he is a Third Party Representative.

Substance: Adiponitrile (CAS No 124-09-4).
Third Party Representative: a representative appointed in accordance with Article 4, REACH.

Title I: SIEF OPERATING RULES

Article II. Confidentiality

1. The Parties shall:

   a) treat all Information as confidential and not disclose it to third parties, unless regulatory disclosure requirements apply. Each Party shall advise immediately the other Parties in writing of any disclosure or misuse by any Party or a third party of Information, as well as of any request by competent authorities relating to the disclosure of that Information.

   Disclosure of Information as required for legal and/or regulatory purposes including the REACH Regulation, shall only take place by the Parties in a form (for example short summaries where possible) reflecting the minimum information required to be disclosed. This restriction does not apply to the Party who has provided the Information.

   b) use the Information only for the Purpose or otherwise as permitted under or in accordance with the Agreement.

   c) disclose the Information to their employees, Affiliates, external experts and/or consultants and if the Non-Lead Member is an Only Representative or a Third Party Representative, the non-EU manufacturer(s) or the legal entity(ies) represented by any of them, only on a need to know basis and only to the extent reasonably necessary for the Purpose or otherwise as permitted under or in accordance with the Agreement. Each Party shall have in place policies and procedures to ensure the confidentiality of Information, and require that its external experts and/or consultants also have such policies and procedures in place to ensure their compliance with these confidentiality obligations.

2. The obligations specified in Article II.1 above shall not apply to Information for which the receiving Party can reasonably demonstrate that such Information:

   a) was known to the receiving Party on a non-confidential basis prior to its disclosure pursuant to the Agreement;

   b) is publicly known at the time of disclosure or thereafter becomes publicly known without breach of the terms of the Agreement on the part of the receiving Party;

   c) becomes known to the receiving Party through disclosure by sources other than the disclosing Party, having (to the best knowledge of the receiving Party) a right to disclose such Information,

   d) was independently developed by the receiving Party without access to the disclosing Party’s Information, as reasonably evidenced by documentary records,

Specific items of Information shall not fall within any exception merely because they are combined with more general Information falling within any exception. Likewise, any combination of specific items of Information shall not fall within any exception merely because the specific items fall within any exception, but only if the combination itself, and its principles of operation, fall within any exception.
Article III. Competition Law compliance

1. The Parties acknowledge that any activities carried out under the Agreement have to be carried out in full compliance with EU competition law, in particular but not limited to Articles 101 and 102 of the Treaty on the Functioning of the European Union as well as any applicable national laws. The Parties explicitly agree to observe CEFIC REACH Competition Law compliance guidance attached in Annex 1 to the Agreement, and which forms an integral part of the Agreement.

2. Should it become apparent at any time that the Agreement, any provision of the Agreement, or any activity or decision of the Parties, can have a potentially restrictive effect on open and fair competition, in breach of any legal provision, each Party to the Agreement shall take immediate steps to remedy that situation.

Article IV. Legal personality

The Agreement or the cooperation contemplated herein shall not constitute or be deemed to constitute a legal entity or partnership between the Parties.

Article V. Regular report of the preparation of the Joint Registration Dossier

1. The Lead Registrant undertakes to inform the Non-Lead Member regularly on the development of the Joint Registration Dossier according to the CEFIC general guidance in regard to SIEF management attached in Annex 1 to this Agreement.

2. The Non-Lead Member undertakes to make all reasonable efforts to check proactively and regularly all up-dated Information that is made available by the Lead Registrant on the development of the Joint Registration Dossier.

3. The Parties agree that such communication may be channelled via the use of the Adipic Acid Consortium IT-platform.

TITLE II: DATA SHARING AND JOINT SUBMISSION OF THE DOSSIER

1. OBLIGATIONS OF THE LEAD REGISTRANT

Article VI. Participation in the joint submission of data by multiple registrants

1. According to Article 19 (1) REACH, the Parties hereto agree to have the Joint Registration Dossier for the Substance submitted by the Lead Registrant on behalf of the Non-Lead Member having fulfilled its obligations under Article IX to the Agreement, at least 3 months before end of the applicable registration deadline. Upon demand of the Agency, within the requested deadline and to the extent necessary, the Lead Registrant agrees to complete the Joint Registration Dossier.

2. Notwithstanding anything to the contrary under the Agreement, the Parties remain individually responsible to comply with REACH, in particular, but not limited to, in relation to the individual submission of the information required under Article 19(1) REACH.
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3. The participation in the Joint Registration Dossier may deviate per requesting Non-Lead Member according to its tonnage band or possible opt-outs for certain endpoints.

4. Every Non-Lead Member requesting participation in the Joint Registration Dossier on its own behalf or on behalf of an Affiliate, including Only Representatives and Third Party Representatives, shall certify whether or not it does act for any entity subject to trade restrictions with or restrictive measures against Iran pursuant to any applicable laws and regulations that will have as object or effect to prevent the supply of technology, any exchange of data or the cooperation under to this Agreement, including the EU Regulation n°267/2012 or the United States Iranian Transaction Regulation (31 CFR Part 560) as they are from time to time amended, extended or re-enacted (hereinafter collectively referred to as the ITR).

Such certification shall be provided to the Lead Registrant within 2 months of the relevant registration due date. Only upon receipt of this certification shall the Lead Registrant be required to submit the Joint Registration Dossier also on behalf of the certified legal entity.

5. The Lead Registrant shall open a joint submission object in REACH-IT.

6. The Lead Registrant shall pay the fee (in accordance to Article 19 (4) REACH) as invoiced by the Agency for the submission of the Joint Registration Dossier without undue delay.

7. The Lead Registrant shall make available the data referred to in Article 19 (1) paragraph 2 REACH that have been submitted in the joint submission and when applicable the data referred to in Article 11 (1) paragraph 4 REACH, to the Non-Lead Member, and/or Non-Lead Member’s Affiliate notified under Article VI.4 of the Agreement, provided the Non-Lead Member has fulfilled its obligations under Article VI.4, VI.5 or VI.6 as applicable, and Article IX of the Agreement.

\textbf{Article VII. Grant of right to use the (robust) studies summaries in the Joint Registration Dossier and to refer to the full study reports.}

1. Subject to the payment of the Joint Registration Compensation as specified under Article IX of the Agreement, and provided the Non-Lead Member has fulfilled its obligations under Article VI.4, VI.5 or VI.6 of the Agreement, as applicable, the Lead Registrant grants the Non-Lead Member the non-exclusive, non-transferable and non-terminable right for REACH registration purposes:

   (a) to use the (robust) studies summaries and other Information used in the Joint Registration Dossier within the applicable tonnage band and for which no opt-out has been claimed by the Non-Lead Member;

   (b) to refer to the full study reports on which basis the (robust) studies summaries have been developed; and

   (c) to grant the rights referred to under (a) and (b) hereabove to the Non-Lead Member and its Affiliates notified under Article VI.4, with the right to sub-license such rights only to their only representatives.

   (d) Upon receipt of payment, the Lead Registrant will issue to the Non-Lead Member a Letter of Access, substantially in the form as the example given in Annex 3 of this Agreement. The Letter of Access will list the Information (including a study list) for which rights to refer are granted, based on the requested tonnage band of the Non-Lead Member.
(e) In case the Lead Registrant has not received the right to sublicense the right to refer to studies to Non-Lead Members, the right to refer is to be granted by the study owner in a separate bilateral agreement only. The Lead Registrant shall inform the Non-Lead Member about the name of the respective study owner and respective Studies.

2. Notwithstanding the foregoing, if the Non-Lead Member is a Third Party Representative, he is granted only with the rights specified under (a) and (b) hereabove, and only for the purpose to pass them to the legal entities represented by him in the SIEF and notified to the Lead Registrant under Article VI.5 of the Agreement.

3. The rights granted under this Article can be exercised only for the purpose of compliance with REACH. The Parties shall abstain from any other use, whether commercial or non-commercial. For the avoidance of doubt, any other use of the studies shall be subject to an additional written agreement.

4. The Lead Registrant represents that he has been granted or shall be granted by the Data Owners, being the owner(s) and/or the subjects authorized to grant the rights to use the (robust) studies summaries and to refer to the full study reports, the rights specified under Article VII paragraph 1.

Article VIII. Information on the submission of the Joint Registration Dossier

1. Provided the Non-Lead Member has fulfilled its obligations under Article VI.4, VI.5 or VI.6 as applicable, and the Non-Lead Member has fulfilled its obligations under Article IX, the Lead Registrant shall inform without undue delay the Non-Lead Member of the creation of the joint submission object in REACH-IT and shall provide the valid security token number and the name of the joint submission.

2. The Lead Registrant shall inform without undue delay the Non-Lead Member of the submission of the Joint Registration Dossier to the Agency and provide documentation of the same.

3. The Lead Registrant shall further communicate the confirmation that the joint registration has been successful and shall inform the Non-Lead Member of the reception of the relevant registration number that has been obtained from the Agency without undue delay.

2. OBLIGATIONS OF THE NON-LEAD MEMBER

Article IX. Financial compensation for the Joint Registration Dossier

1. Before execution by the Lead Registrant of its obligations pursuant to Title II.1 of the Agreement, the Non-Lead Member shall compensate in a fair, transparent and non-discriminatory way the Lead Registrant with a "Joint Registration Compensation" for the development and submission of the Joint Registration Dossier and the rights granted under Article VII.

2. The Joint Registration Compensation, calculated in accordance with the principles set out in Annex 2, will comprise following elements:
a) Administrative expenses reasonably incurred and evidenced by the Lead Members and the Lead Registrant including but not limited to, secretarial services, management of confidential data, cost for the joint dossier preparation and costs of external experts.

b) Expenses to acquire rights to use existing studies of an individual Lead Member and costs for studies jointly developed by the Lead Members according to Annexes VI to VIII of REACH.

c) Costs for rights to use studies from Data Owners, if the Lead Registrant is authorized by Data Owners to transfer to Non-Lead Member the rights specified under Article VII. paragraph 1.

3. Expenses referred to above shall be allocated equally, in a transparent, fair and non-discriminatory way, to all SIEF participants with the intent to register the Substance, taking into account the following exceptions:

a) Where a Non-Lead Member registers the Substance in a tonnage band lower than the one covered by the Joint Registration Dossier, it shall only be requested to compensate for those parts of the Registration Dossier that it is included in and for those studies it receives a right to refer for.

b) Where the Non-Lead Member decides, based on Article 19 (3) REACH, to opt-out from the Joint Submission or some parts of the Joint Registration Dossier and submit the relevant information separately, it shall only be requested to compensate for those parts of the Joint Registration Dossier that are submitted jointly.

4. Based on the above, the Lead Registrant, directly or represented by the external service provider in charge of the management of the consortium, will send an invoice to the Non-Lead Members for their cost share after their request for joint submission (2010, 2013, 2018 and first time registrants). The Non-Lead Members will only receive the valid security token number after payment of the final invoice (which is a valid VAT invoice) within 21 days. Payment is due in accordance with the schedule set out in paragraph 8 of Annex 2.

5. When cost and income estimations change, in particular in 2013 and 2018, additional payments or refunds respectively may be requested by the Lead Registrant and SIEF Members respectively. For refunds a threshold of 1,000 Euros per SIEF participant is applicable. Where a company wishes to re-coup costs less than 1,000 Euros they will bear the administrative and accounting costs of retrieving such refunds.

6. In case new studies have to be purchased or performed or other dossier preparation, administrative or other cost have to be engaged after conclusion of the Agreement, the resulting cost will be equally divided between all SIF participants who are required to incorporate the results of these new studies into their respective registration dossier, unless they claim to opt out in accordance with Article 19 (2) REACH. Upon receipt of payment, the Lead Registrant will issue the Non-Lead Member which has complied with its obligations under Article VI.4, VI.5 or VI.6 as applicable, with a revised Letter of Access listing the expanded study list and summaries, for which rights to refer are granted.

7. If it becomes apparent that before the submission of the Joint Registration Dossier the actual costs are higher than the payment set out under paragraph 4 above, the Lead Registrant has the right to adjust the payments by requiring additional payment from the Non-Lead Member.

8. If the SIF comprises various Affiliates of the Non-Lead Member, only one of these Affiliates within the SIEF shall be subject to the obligation to compensate the Joint Registration Dossier. Such single Joint Registration Compensation will be calculated on the
basis of the highest tonnage band of all these Affiliates. Accordingly, the Affiliates of the compensating Non-Lead Member, or the Affiliates of the non-EU established companies represented by an Only Representatives being a Non-Lead Member, shall also have the right to refer to the Joint Registration Dossier under the same conditions without additional payment. In that case, the Non-Lead Member that has paid the compensation is responsible for compliance of its Affiliates or their Only Representative (as the case may be) with the rights and obligations pursuant to the Agreement, including the confidentiality obligations under Title I, Article II of the Agreement.

9. If an Only Representative represents more than one non-EU entity within the SIEF, such Only Representative shall compensate the Lead Registrant on account of each non-EU entity it represents by the payment of a separate Joint Registration Compensation per Non-EU entity and its Affiliates.

10. If a Third Party Representative represents more than one entity within the SIEF, such Third Party Representative shall compensate the Lead Registrant on account of each entity it represents by the payment of a separate Joint Registration Compensation per entity and its Affiliates.

11. All payments due hereunder shall be net payments, i.e. free of any bank or transfer charges or similar charges and without deduction of any taxes, levies or other dues payable. If payer is required to withhold any tax or to make any other deduction from any such payments, then the said payments shall be increased to the extent necessary to ensure that, after making of the required deduction or withholding, payee receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made (gross-up amount). If upon application of the beneficiary any withholding tax can be reduced, or refunded, or an exemption from withholding tax is granted, payer shall file on behalf of payee for such reduction, refund or exemption. Payee shall render any assistance to payer to obtain such withholding tax reduction, refund or exemption. Payer shall be entitled to any refund of withholding taxes.

12. Indirect taxes, including but not limited to Value Added Tax (VAT), Goods and Service Tax (GST), service tax, business tax, as applicable pursuant to the relevant tax law, shall be borne by payer. However, payer is entitled to withhold any payment of indirect taxes unless payee has provided payer with a sufficient invoice for purposes of indirect taxation.

3. OWNERSHIP OF INFORMATION

Article X. Ownership of Information

1. The Agreement does not grant any ownership rights or change existing ownership rights to any of the Information provided under the Agreement to the Non-Lead Member, on whatever form and whenever, by the Lead Registrant, including without limitation, the Joint Registration Dossier.

2. Such Information shall consist in any and all data and/or studies:

   a) Individually developed by one of the Lead Members;

   b) Collectively developed by the Lead Members for which they have acquired valid title or right to use; and

   c) Acquired from Data Owner(s) for which the Lead Members, or the Lead Registrant as the case may be, have been granted valid rights.
3. Neither the Agreement nor any disclosure of Information shall vest any present or future rights in any patents, trade secrets or property rights and no license is granted.

**TITLE III: FINAL PROVISIONS**

**Article XI. Limitation of liability in the SIEF**

1. The Parties shall undertake their Purpose related activities specified hereunder in good faith and according to all applicable laws and regulations, and they shall use all reasonable endeavours to ensure the best possible results based on the evidence, methods and techniques known at the time.

2. Each Party having submitted a study which has been used in the Joint Registration Dossier represents to the others (i) that it is the rightful owner of the study(ies) and entitled to grant rights therein, (ii) that, to the knowledge of this Party, these studies do not infringe the rights, in particular, but without limitation, intellectual property rights, of any third party and (iii) that this Party has not received a claim or notice of any alleged infringement in this respect.

3. It is the individual responsibility of each Party to critically assess the Information that is generated or made available. Each Party assumes the full responsibility for its own use of the Information so developed or received. No warranty for acceptance by the Agency of the Joint Registration Dossier or any data it contains is given.

4. None of the Parties, including the Lead Registrant, shall be held liable for any direct, indirect or consequential loss or damage incurred by any Party in connection with the activities contemplated in the Agreement.

5. The preceding limitation of liability does not apply in case of the breach of an obligation, the fulfillment of which is of particular significance to the achievement of the contractual purpose (cardinal obligation); in case of damage caused by gross negligence or willful misconduct, as well as in case of damage to the life, body or health.

6. If a cardinal obligation is violated through slight negligence, liability is restricted to such typical damage, which was reasonably foreseeable on conclusion of the Agreement.

**Article XII. Term and termination**

1. The Agreement shall be in force until 31 December 2022.

2. This Article and the provisions relating to the protection of confidentiality (Article II), ownership of Information (Article X), dispute resolution and applicable law (Article XV) and limitation of the liability (Article XI) shall survive the termination of the Agreement. With regard to the studies, the obligations specified in Article II of the Agreement shall survive for a period of twelve (12) years following the initial submission to the Agency. With regard to all other Information, the obligations specified in Article II shall survive for a period of 5 years after termination of the SIEF.

3. The Lead Registrant has the right to terminate its functions as Lead Registrant under the cumulative conditions that:
   - it has been validly replaced in its functions within the SIEF;
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-its assignee has accepted to be bound by the obligations of the Lead Registrant under the Agreement; and
-the Non-Lead Member has been notified about such replacement.

4. Without prejudice to the foregoing any Lead Member and any Non-Lead Member has the right to terminate its participation in the present Agreement subject to giving at least 9 months prior written notice to the Lead Registrant No reimbursement shall be due.

Article XIII. Legal entity change

The consent of the other Party shall not be required in case a Party assigns, transfers or delegates its rights and obligations under the Agreement to any of its Affiliates or to a legal successor in ownership by sale, division, merger or consolidation of all or substantially the whole of the business relevant to the Substance referred to in the Agreement, subject to acceptance by the assignee of the terms of the Agreement, to be notified to the other Parties without undue delay in writing.

Article XIV. Administration and reporting of costs

1. All financial settlements, billings, and reports rendered under the Agreement shall reflect properly the facts which may be relied upon as being complete and accurate in any further recording and reporting made by a Party for any purpose.

2. In accordance with generally accepted accounting procedures, documentation will be maintained and preserved including but not limited to written and electronic records, records on expenses, books of account, correspondence, memoranda and receipts.

Article XV. Dispute resolution and applicable law

1. The Parties shall first attempt to settle amicably any dispute arising out of the Agreement. Any disputes shall be finally settled under the rules of arbitration of the DIS (Deutsche Institution für Schiedsgerichtsbarkeit e.V.). The award shall be binding on the Parties. The arbitral tribunal consists of three arbitrators, of which one acts as chairperson; the chairperson shall have a university degree in law. The arbitral tribunal shall decide on the regulation of the cost of arbitration, including, but not limited to, arbitrators’ fees, lawyers’ fees and costs of arbitration, in accordance with the outcome of arbitration: these costs shall be paid by the losing party in the arbitration. Arbitration shall take place in Düsseldorf, Germany. The language of the arbitration proceedings shall be English.

2. The Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of Germany.

3. If at any time any provision of the Agreement is or becomes invalid or illegal in any respect, this shall have no effect on the validity of the remaining provisions in the Agreement. The invalid provisions are to be replaced, backdated to the time of their becoming ineffective, by provisions which come closest to achieving their objective. Any gaps in the Agreement shall be filled by a provision which the Parties as prudent businessmen would in good faith have agreed to, had they considered the matter not covered by this Agreement.

The Parties are validly bound by the Agreement when the Non-Lead Member has given its consent to the Agreement.
22nd February, 2013

ANNEXES:

Annex 1

CEFIC guidance on competition compliance and SIEF management

SIEF Timechart.xlsx

Annex 2

Rules of calculation of the Joint registration compensation for REACH dossier

2012.11.29 Annex 2 for SIEF agreement.doc

Annex 3

Letter of Access Template

Microsoft Office Word 97 - 2003-Doku