



# BIOLOGY CENTRE CAS

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## LICENCE AGREEMENT

**THIS AGREEMENT** is dated 22.12.2022

### PARTIES

- (1) Biologické centrum AV ČR, v. v. i. of Branišovská 1160/31, company number 60077344, České Budějovice, 370 05, Czech Republic, (**Licensor**); and
- (2) Apis Innovation s.r.o., a company incorporated and registered in Czech Republic with company number 04844637, whose registered office is at Kpt. Nálepky, 962/13, Olomouc, 779 00, Czech Republic (**Licensee**).

### BACKGROUND

- (A) The Licensor has agreed to grant, and the Licensee has agreed to take, a licence of certain patent rights and know-how on the terms set out in this agreement.

### AGREED TERMS

#### 1. INTERPRETATION

The following definitions and rules of interpretation apply in this agreement.

##### 1.1 Definitions:

**Commercial launch:** placing the product on the market or start of sales.

**Business Day:** a day other than a Saturday, Sunday or public holiday in the Czech Republic.

**Effective Date:** the date of this agreement.

**Feed Additive Products:** apiculture feed additives for bees and other pollination insects and any other articles falling within the scope of any of the claims of the Patent or that incorporate, or their development or production makes use of, any of the Licensed Know-how falling within the definition of feed additive as laid down in Regulation (EC) No 1831/2003.

**Feed Placing Regulation:** REGULATION (EC) No 767/2009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 July 2009 on the placing on the market and use of feed

**Feed Products:** apiculture feed products intended as feed for bees and other pollination insects feed and any other articles that incorporate, or their development or production makes use of, any of the Licensed Know-how falling within the definition of feed as laid down in Regulation (EC) No 178/2002.

**Field of Use:** production of feed, feed supplements and veterinary products for bees and other pollination insects.

**Improvement:** any improvement, enhancement or modification to the technology that is the subject of the Patents.

**Intellectual Property:** (i) any improvements, inventions, patents, patent applications, works of authorship, information fixed in any tangible medium of

expression, copyrights, copyright applications, copyright registrations, moral rights, mask works, trademarks, trademark applications, trademark registrations, trade names, trade dress, trade secrets, know-how, ideas, regardless of whether it or they are protectable under any intellectual property law including without limitation patent, trade dress, copyright, trade secret, and trademark law, and (ii) all other subject matter protectable under patent, copyright, moral right, mask work, trademark, trade secret or other laws, and includes without limitation all new or useful art, combinations, discoveries, formulae, manufacturing techniques, technical developments, discoveries, artwork, software, and designs.

**Licensed Know-how:** the know-how identified at Schedule 1, signed by the parties to this agreement and annexed to this agreement.

**Licensed Products:** [REDACTED]

**Net Sales Price:** the actual invoiced price in an arm's length transaction, less, to the extent identified on the invoice, any costs of packing, insurance, transport, delivery, VAT and any other government taxes, duties or levies, and trade discounts and other allowances granted, provided that where the Feed Products are:

- (a) let, leased or sold on hire purchase or supplied other than in an arm's length transaction;
- (b) sold or otherwise supplied to any Group Company of the Licensee;
- (c) incorporated in another article and sold or otherwise supplied at a price which is included in the price of the other article; or
- (d) put into use by the Licensee,

the Net Sales Price of each such Licensed Product shall be deemed to be the Net Sales Price which would have been applied under this agreement, had such Licensed Product been transferred to an independent arm's-length customer.

**Net Receipts:** the amounts received by the Licensee from the grant of sub-licences under the Patents and the Licensed Know-how, less any Value Added Tax or similar tax paid in respect of those amounts.

**Quarterly Periods:** the periods of three months commencing on 1 January, 1 April, 1 July and 1 October respectively.

**Territory:** European Union, USA.

**VAT:** value added tax imposed in any member state of the European Union pursuant to Council Directive (EC) 2006/112 on the common system of value added tax and national legislation implementing that Directive or any predecessor to it, or supplemental to that Directive, or any similar tax which may be substituted for or levied in addition to it or any value added, sales, turnover or similar tax imposed in any country that is not a member of the European Union.

**Veterinary Products Regulation:** REGULATION (EU) 2019/6 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 December 2018 on veterinary medicinal products and repealing Directive 2001/82/EC

1.2 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.

1.3 A reference to **writing** or **written** includes email.

## **2. GRANT**

2.1 The Licensor hereby grants to the Licensee an exclusive licence under the Licensed Know-how in the Field of Use to manufacture, use, and sell or otherwise supply, Licensed Products in the Territory.

2.2 The Licensee will not assign the Licence but may grant sub-licences, provided in each case its first obtains the written consent of the Licensor, and may disclose to sub-licensees such of the Know-how as is necessary for the exercise of the rights sub-licensed, provided that:

- (a) the Licensee must provide the Licensor with a copy of each sub-licence within 30 days after its grant;
- (b) obligations and conditions matching those in this Agreement, and sufficient to protect the security of the Know-how, the Patents, and the interests of the Licensor, must be imposed on every sub-licensee;
- (c) the royalties and other payments required by the sub-licence are at rates or amounts not less than provided for in this Agreement;
- (d) the sub-licence must terminate immediately on the termination of this Agreement for any reason;
- (e) the sub-licence must be personal to the sub-licensee and not capable of assignment without the Licensor's written consent; and
- (f) the Licensee must indemnify the Licensor and keep the Licensor indemnified against any and all loss, damages, costs, claims or expenses which are awarded against or suffered by the Licensor as a result of any act or omission of the sub-licensee.

2.3 The Licensee will ensure that the Licensed Products and the packaging associated with them are marked suitably with any relevant patent or patent application numbers to satisfy the laws of each of the countries in which the Feed Products and Feed Additive Products are sold or supplied. The Licensee acknowledges that any of the Licensed Products may not be suitable for certification under the Veterinary Products Regulation and the Parties do not intend to produce any Licensed Product that would fall within the scope of the Veterinary Products Regulation.

2.4 No licence is granted to the Licensee other than as expressly stated in this clause 2. The Licensor reserves all other rights under the Patents and in respect of the Know-how.

2.5 The Licensee undertakes not to exploit the Patents or the Licensed Know-how in the Territory other than in the Field of Use.

- 2.6 The Licensor undertakes not to exploit the Licensed Know-how in the Territory in the Field of Use, or to grant others the right to do so, provided that this shall not prevent the Licensor from conducting research in the Field of Use.

### **3. NON-USE OF LICENSED KNOW-HOW**

- 3.1 If, Licensee fails to use the Licensed Know-how for such Period, then Licensor shall promptly notify Licensee of such shortfall following the end of the applicable Period (“Shortfall Notice”).
- 3.2 For avoidance of doubt, the Licensee's failure to use the Licensed Know-how shall mean:
- (a) failure to commercially launching a Product in European union within 3 years from the Effective Date, in USA within 5 years from the Effective Date; or
  - (b) after the Licensed Product is commercially launched, the failure to produce and sell Licensed Products in any consecutive period of twelve (12) months of the duration of this Agreement.
- 3.3 The Parties shall meet (in person or via teleconference) promptly following the date of such Licensor Shortfall Notice, to commence good faith negotiations for adjustments of this Agreement if necessary. If the Parties are unable to agree upon such adjustments within sixty (60) days following the date of the Licensor Shortfall Notice, then Licensor shall have the right, at its sole election, to convert the exclusive license granted to Licensee in Section 2.1 to non-exclusive, effective from the first day after the delivery of such Licensor notice.
- 3.4 If, after the conversion of the license to non-exclusive pursuant to Section 3.2, the Licensee fails to use the Licensed Know-how in any consecutive six (6) months of the duration of this Agreement, then Licensor shall have the right, at its sole election, to terminate this Agreement with 60 days termination notice.

### **4. PROVISION OF TECHNICAL ASSISTANCE**

- 4.1 During the first three months of operation of this agreement and thereafter as the Licensee may, subject to the provisions of this clause 4.1, require, the Licensor shall make available to the Licensee the services of a fully qualified and experienced member of its staff to advise the Licensee on the use of the Licensed Know-how for manufacture of Licensed Products , provided that:
- (a) the Licensee reimburses the travelling and reasonable hotel and living expenses of such person for the period from departure to return;
  - (b) the Licensee pays to the Licensor a fee for the services of such person in relation to time spent with the Licensee and in travelling to and from the Licensee in accordance with the standard rates and conditions of the Licensor as notified in writing to the Licensee from time to time;

- (c) the Licensor is under no obligation to provide such representative for more than two days of work, nor on more than two separate occasions in any consecutive 12-month period; and
- (d) such representative shall act merely in an advisory capacity and neither the Licensor nor such person shall, to the fullest extent permitted by law, be liable in any manner for any loss or damage resulting from the implementation of, or reliance on, any advice or assistance of such person.

## **5. QUALITY CONTROL AND MARKING**

- 5.1 The Licensee shall, in exercising its rights under this agreement, comply with the specifications, standards and directions relating to the Licensed Products as applicable under the relevant legislation, namely Feed Placing Regulation and related laws and regulations.
- 5.2 The Licensee shall promptly provide the Licensor with copies of all communications, relating to the Licensed Know-how or the Licensed Products, with any regulatory, industry or other authority.
- 5.3 The Licensee shall, at its own expense, upon the Licensor's request, supply samples of the Licensed Products to the Licensor.
- 5.4 The Licensee shall, upon the Licensor's request, provide the Licensor with details of any complaints it has received relating to the Licensed Products together with reports on the manner in which such complaints are being dealt with.
- 5.5 The Licensee may market the Licensed Products under any trademarks.

## **6. IMPROVEMENTS**

- 6.1 If either party makes, devises, discovers, or otherwise acquires rights in, any Improvement, such party shall, to the extent that it is not prohibited by law or by any obligation to any other person, promptly notify the other party in writing giving details of the Improvement, and shall, if the other party so requests, provide such further information as is reasonably required to be able to evaluate the Improvement effectively.
- 6.2 Information provided by the Licensor to the Licensee under clause 6.1 shall be subject to the provisions of clause 7.
- 6.3 The Licensee shall grant to the Licensor a non-exclusive, royalty-free, worldwide irrevocable licence (together with the right to grant sub-licences) to use for research purposes any Improvement made, devised or discovered by the Licensee.

## **7. KNOW-HOW AND CONFIDENTIALITY**

- 7.1 The Licensor will provide to the Licensee all of the Licensed Know-how in its possession or control that the Licensor is free to disclose and that is reasonably necessary for the development of Licensed Products, subject to the Licensee complying with clause 7.3.
- 7.2 The Licensee agrees that for a period of 7 years from the Effective Date, or for so long as any substantial part of the Know-how remains secret (whichever is the shorter), it will not use the Licensed Know-how except in accordance with this Agreement.
- 7.3 Neither party will for 5 years after the date of termination of this Agreement, disclose to any third party, nor use for any purpose except as expressly permitted by this Agreement, any of the other party's Confidential Information. Licensee acknowledges that Licensed Know-how is Confidential Information up until its publication in the Patent application or in the article.
- 7.4 Neither party will be in breach of any obligation to keep any information confidential or not to disclose it to any other party to the extent that it:
- (a) is known to the party making the disclosure before its receipt from the other party, and not already subject to any obligation of confidentiality to the other party;
  - (b) is or becomes publicly known without any breach of this Agreement or any other undertaking to keep it confidential;
  - (c) has been obtained by the party making the disclosure from a third party in circumstances where the party making the disclosure has no reason to believe that there has been a breach of an obligation of confidentiality owed to the other party;
  - (d) has been independently developed by the party making the disclosure;
  - (e) is disclosed pursuant to the requirement of any law or regulation (provided, in the case of a disclosure under the Freedom of Information Act 2000, none of the exceptions to that Act applies to the information disclosed), or the order of any Court of competent jurisdiction, and the party required to make that disclosure has informed the other, within a reasonable time after being required to make the disclosure, of the requirement to disclose and the information required to be disclosed; or
  - (f) is approved for release in writing by an authorised representative of the other party.
- 7.5 If the Licensor receives a request under the Freedom of Information Act to disclose any information that, under this Agreement, is the Licensee's Confidential Information, it will notify the Licensee and will consult with the Licensee. The Licensee will respond to the Licensor within 10 days after receiving the Licensor's notice if that notice requests the Licensee to provide information to assist the

Licensor to determine whether or not an exemption to the Freedom of Information Act applies to the information requested.

- 7.6 Neither the Licensor nor the Licensee will use the other's name or logo in any press release or product advertising, or for any other promotional purpose, without first obtaining the other's written consent.

## **8. ROYALTY**

- 8.1 The Licensee will pay to the Licensor a royalty of:



- 8.2 The Licensee will pay to the Licensor a revenue share of [redacted] of the Net Receipts from any sub-licence.

- 8.3 In marketing the Licensed Products, the Licensee will not accept or solicit any non-monetary consideration without first obtaining the written consent of the Licensor, except that the Licensee may use a commercially reasonable quantity of Licensed Products for promotional sampling.

- 8.4 To calculate royalties, a Licensed Product will be regarded as sold, leased or licensed by the Licensee or a sub-licensee when invoiced or, if not invoiced, when shipped or delivered by the Licensee or sub-licensee.

- 8.5 All payments to be made under this Agreement will be made to the Licensor in Czech Koruna without any deductions.

- 8.6 All amounts payable to the Licensor under this Agreement are exclusive of VAT, export or import duties or any similar tax or duties which the Licensee will pay at the rate from time to time prescribed by law.

- 8.7 Any exchange of currency made to calculate sales for the purpose of this clause will be determined as at the last Business Day of each quarter, using the average of the average daily buying and selling rates quoted by Czech National Bank.

- 8.8 The Licensee will send the Licensor a report within 60 days after the end of each calendar quarter, showing the Net Sales Value of each Feed Product and Feed Additive Product sold and the Net Receipts, and a calculation of the royalties and revenue share due for that quarter, together with a cheque for those royalties and that revenue share.

- 8.9 If the Licensee fails to make any payment due to the Licensor under this Agreement, without prejudice to any other right or remedy available to the Licensor, the Licensor may charge interest both before and after any judgement) on the amount outstanding, on a daily basis [at the rate of [four] per cent per annum above the London Interbank Offer Rate from time to time in force] OR [in accordance with the Late Payments of Commercial Debts (Interest) Act 1998]. That interest will be calculated from the date or last date for payment to the actual date of payment, both dates inclusive, and will be compounded quarterly. The Licensee will pay that interest to the Licensor on demand.

- 8.10 The Licensee and the Licensee's sub-licensees will keep complete and accurate accounts of all Licensed Products sold and will permit the Licensor or its agents to audit those accounts solely for the purpose of determining the accuracy of the royalty reports and payments. If any audit reveals a discrepancy of more than 5% to the detriment of the Licensor, the Licensee will reimburse the Licensor for the costs of that audit.

## **9. PROTECTION OF THE LICENSED KNOW-HOW**

- 9.1 The Parties acknowledge that the Licensor did not file any Patent application and no Patent is granted at the Effective Date. The Parties represent that the Feed Products Intellectual Property might be suitable for patenting and once such patent application is drafted and filed, such Intellectual Property shall be added as Patent to the Schedule 1.
- 9.2 Licensor shall, except as expressly set out in this contract, control and have discretion regarding decisions as to the drafting, filing and prosecution of all Patents and determination of their territorial coverage, and the maintenance, extension, abandonment, enforcement and defence.
- 9.3 Licensor will consult with Licensee to give a reasonable opportunity to Licensee to make comments on the patent prosecution strategy, territorial scope and other issues related to Patent applications. Licensor shall take account of such comments, but Licensee acknowledges and agrees that the decision as to any such matter ultimately rests with Licensor.
- 9.4 Except as expressly set out in this contract, Licensor shall be responsible for the payment of all costs and expenses arising from its ownership of the Patents, including any decision as to any matter referred to in par. 9.1. The Licensee
- 9.5 The Licensee shall immediately notify the Licensor in writing, giving full particulars, if any of the following matters come to its attention:
- (a) any actual, suspected or threatened unauthorised disclosure, misappropriation or misuse of the Licensed Know-how;
  - (b) any person applies for, or is granted, a patent by reason of which that person may be, or has been, granted, rights which conflict with any of the rights granted to the Licensee under this agreement;
  - (c) any application is made for a compulsory licence under any Patent; or
  - (d) any other form of attack, charge or claim to which the Patents or the Licensed Know-how may be subject.
- 9.6 In respect of any of the matters listed in clause 9.1:
- (a) the Licensor shall, in its absolute discretion, decide what action, if any, to take;
  - (b) the Licensor shall have exclusive control over, and conduct of, all claims and proceedings;



- (c) the Licensee shall not make any admissions other than to the Licensor and shall provide the Licensor with all assistance that it may reasonably require in the conduct of any claims or proceedings; and
  - (d) the Licensor shall bear the cost of any proceedings and shall be entitled to retain all sums recovered in any action for its own account.
- 9.7 Notwithstanding clause 7 (Confidentiality), Licensee acknowledges that Licensor may wish to publish information concerning the Licensed Know-how or Licensed Products. Licensor may only publish such information in case:
  - (a) Licensed Know-how is protected by Patent Application or altered in a way that prevents any third party from making Licensed Products;
  - (b) Licensee shall have the right to amend the proposed publication text to protect Know-how that it wishes to keep confidential.

## **10. LIABILITY, INDEMNITY AND INSURANCE**

- 10.1 To the fullest extent permitted by law, the Licensor shall not be liable to the Licensee for any costs, expenses, loss or damage (whether direct, indirect or consequential and whether economic or other) arising from the Licensee's exercise of the rights granted to it under this agreement.
- 10.2 The Licensee shall indemnify the Licensor against all liabilities, costs, expenses, damages or losses suffered or incurred by the Licensor arising out of or in connection with the Licensee's exercise of the rights granted to it under this agreement or Licensee's breach or negligent performance or non-performance of this agreement, including any product liability claim relating to Feed Products manufactured, supplied or put into use by the Licensee.
- 10.3 Nothing in this agreement shall have the effect of excluding or limiting any liability for death or personal injury caused by negligence.

## **11. SUBCONTRACTING**

- 11.1 The Licensee shall have the right to subcontract some, but not all, of the manufacture of Licensed Products, provided that in doing so no know-how relating to the manufacture of the Licensed Products, or other confidential information of the Licensors, is disclosed to any subcontractor.

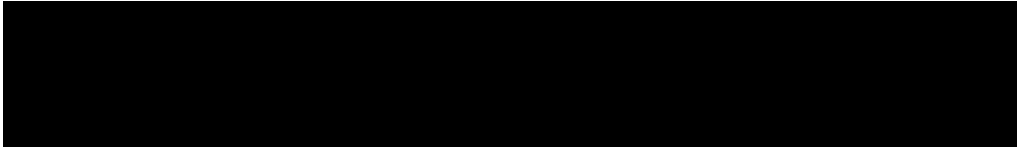
## **12. DURATION AND TERMINATION**

- 12.1 The Licence will take effect on the Effective Date and (subject to the remaining sub-clauses of this clause 8) will continue in force until the later of:
  - (a) the date on which all the Patents have expired or been revoked without a right of appeal; and
  - (b) the twentieth anniversary of the Effective Date.

- 12.2 Either party may terminate this Agreement with immediate effect by giving notice to the other party if:
- (a) the other party is in breach of any provision of this Agreement and (if it is capable of remedy) the breach has not been remedied within 60 days after receipt of written notice specifying the breach and requiring its remedy; or
  - (b) the other party becomes insolvent, or if an order is made or a resolution is passed for its winding up (except voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator, administrative receiver or receiver is appointed over the whole or any part of the other party's assets, or if the other party makes any arrangement with its creditors.
- 12.3 The Licensee will use all reasonable endeavours to develop and commercially exploit Licensed Products, in order to maximise the financial return for both parties. Within 60 days after the end of each calendar year, the Licensee will provide the University with a report detailing the progress made and steps taken during the calendar year in promoting and marketing Licensed Products.
- 12.4 The Licensee may terminate this Agreement by giving the University not less than 90 days' written notice at any time, provided that the Licensee can and does bring all sub-licences to an end on the same date, and continues to make any payments due under clause 6.1 in respect of renewal fees falling due within one month after the effective date of termination.
- 12.5 If the Licensee or any of its sub-licensees challenges the validity within the common market of any of the Patents, the Licensor may terminate this Agreement with immediate effect by giving written notice to the Licensee.
- 12.6 On the termination of this Agreement other than under clause 7.1, the Licensee[ and its sub-licensees] may use or dispose of their stocks of Licensed Products for a period of [insert period] after the effective date of termination (subject to the payment of royalties as set out in clause 4) but will no longer be licensed under the Patents and will no longer have any rights to use the Know-how.
- 12.7 Clauses 1, 7.3 – 7.6 will survive the expiry or termination of this Agreement for any reason and will continue indefinitely.

### **13. FINAL PROVISIONS**

- 13.1 This agreement and the documents referred to in it constitute the whole agreement between the parties and supersede any previous agreement between the parties relating to its subject matter.
- 13.2 Each of the parties acknowledges that, in entering into this agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether negligently or innocently made) other than as expressly set out in this agreement.

- 13.3 No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 13.4 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.
- 13.5 If any provision or part-provision of this agreement is deemed deleted under clause 13.4 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 13.6 This agreement is executed in two counterparts, each of which when executed and delivered shall constitute an original of this agreement.
- 13.7 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute either party the agent of the other party, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 13.8 Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 13.9 Any notice or other communication given to a party under or in connection with this agreement shall be in writing and shall be:
- 13.10 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- 13.11 sent by e-mail message to e-mail address:  

- 13.12 A notice given under this agreement is valid if sent by e-mail as long as it is made from the e-mail address listed in this agreement.
- 13.13 The Parties agree that, in the event of any dispute, controversy or claim arising out of or relating to this Agreement or to a breach hereof, including without limitation its interpretation, performance or termination thereof (a "Dispute"), either Party, by written notice to the other Party, may have such issue referred for resolution to a senior employee of the other Party (collectively, the "Senior Employees"). The Senior Employees shall meet promptly (in-person or via a teleconference) to discuss the matter submitted and to determine a resolution. If the Senior Employees are unable to resolve the Dispute within 30 days after it is referred to them, then the Parties may pursue all other rights and remedies available to them, including the right to commence litigation in accordance with clause 19.
- 13.14 Integral part of this of this Agreement is:
- (a) Schedule 1 – Licensed Know-how.

- 13.15 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Czech Republic.
- 13.16 **Each party irrevocably agrees that the courts of Czech Republic shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation.**

This agreement has been entered into on the date stated at the beginning of it.

Signed by:

prof. RNDr. Libor Grubhoffer, CSc., dr. h. c.

mult.

for and on behalf of Biologické centrum AV ČR,

v. v. i.

.....

Director

Signed by:

Mgr. Jan Rája

for and on behalf of Apis Innovation s.r.o.

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Director

Schedule 1 [REDACTED]