

Non-Disclosure Agreement

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THIS AGREEMENT is between

- (1) **FINE AGROCHEMICALS LIMITED** incorporated and registered in United Kingdom with company number 01699303 whose registered office is at Hill End House, Church Lane Whittington, Worcester, Worcestershire, WR5 2RQ ("**Fine**")
- (2) **INSTITUTE OF EXPERIMENTAL BOTANY AS CR** entity ID: 61389030 whose registered office is at Rozvojová 263, 165 02 Praha 6 – Lysolaje, Czech Republic ("**Institute**")

(each a **Party** and together, the **Parties**)

BACKGROUND

- (A) The Parties intend to enter discussions relating to the Purpose which will involve the exchange of Confidential Information between them.
- (B) The Parties have agreed to comply with this Agreement about the disclosure and use of Confidential Information.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 The following definitions and rules of interpretation apply in this Agreement:

Affiliate: in relation to a company, that company, any subsidiary or any holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company which Controls, is Controlled by or is under common Control with the Party.

Affiliate Company: in relation to a company, any company which Controls, is Controlled by or is under common Control with the Party.

Agreement: this confidentiality Agreement.

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Confidential Information: has the meaning given in [Clause 2](#).

Control: means direct or beneficial ownership of 50% (or outside a Party's home territory, such lesser percentage as it the maximum permitted level of foreign investment) or more of the share capital, stock or participating interest carrying the right to vote or to distribution of profits of that Party as the case may be.

Discloser: a Party to this Agreement when it discloses its Confidential Information, directly or indirectly, to the other Party.

Recipient: A Party to this Agreement when it receives Confidential Information, directly or indirectly, from the other Party.

Representative(s): in relation to each Party and any Affiliate or member of its Affiliate Company:

- a) its officers and employees that need to know the Confidential Information for the Purpose;
- b) its professional advisers or consultants who are engaged to advise that Party and/or any member of its Affiliate Company about the Purpose;
- c) its contractors and sub-contractors engaged by that Party and/or any member of its Affiliate Company about the Purpose; and
- d) any other person to whom the other Party agrees in writing that Confidential Information may be disclosed about the Purpose.

1.2 Interpretation:

- a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- b) Any words following the terms **including**, **include** for **example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- c) A reference to **writing** or **written** includes email.
- d) A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- e) Any obligation on a Party not to do something includes an obligation not to allow that thing to be done.

2. CONFIDENTIAL INFORMATION

2.1 Confidential Information means all confidential information relating to the Purpose which the Discloser or its Representatives or any of its Affiliate Companies, or their Representatives directly or indirectly discloses, or makes available, to the Recipient or its Representatives or any of its Affiliate Companies, or their Representative, before, on or after the date of this Agreement. This includes:

- a) the fact that discussions and negotiations are taking place concerning the Purpose and the status of those discussions and negotiations;
- b) all confidential or proprietary information relating to:
 - (i) the business, affairs, customers, clients, suppliers including plans, intentions, or market opportunities of the Discloser or of any of the Discloser's Affiliate Companies; and
 - (ii) the operations, processes, product information, know-how, agricultural, mathematical scientific and technical information including materials, designs, trade secrets or software of the Discloser, or of any of the Discloser's Affiliate Companies;
- c) any information, findings, data or analysis derived from Confidential Information;
- d) any other information that is identified as being of a confidential or proprietary nature but excludes any information referred to in [Clause 2.2](#).

2.2 Information is not Confidential Information if:

- a) it is, or becomes, generally available to the public other than as a direct or indirect result of the information being disclosed by the Recipient or its Representatives or by any of the Recipient's Affiliate Companies or their Representatives in breach of this Agreement (except that any compilation of otherwise public information in a form not publicly known shall still be treated as Confidential Information);
- b) it was available to the Recipient on a non-confidential basis prior to disclosure by the Discloser;
- c) it was, is, or becomes available to the Recipient on a non-confidential basis from a person who, to the Recipient's knowledge, is not under any confidentiality obligation in respect of that information;
- d) it was lawfully in the possession of the Recipient before the information was disclosed by the Discloser; or
- e) it is developed by or for the Recipient independently of the information disclosed by the Discloser; or
- f) the Parties agree in writing that the information is not confidential.

3. CONFIDENTIALITY OBLIGATIONS

3.1 In return for the Discloser making Confidential Information available to the Recipient, the Recipient undertakes to the Discloser that it shall:

- a) keep the Confidential Information secret and confidential;
- b) not use or exploit the Confidential Information in any way except for the Purpose;
- c) not directly or indirectly disclose or make available any Confidential Information in whole or in part to any person, except as expressly permitted by, and in accordance with this Agreement; and
- d) not copy, reduce to writing or otherwise record the Confidential Information except as strictly necessary for the Purpose. Any such copies, reductions to writing and records shall be the property of the Discloser.

3.2 The Recipient shall establish and maintain adequate security measures (including any reasonable security measures proposed by the Discloser from time to time) to safeguard the Confidential Information from unauthorised access or use.

4. PERMITTED DISCLOSURE

4.1 Disclosure to Representatives

- a) The Recipient may disclose the Confidential Information to its Representatives, any of its Affiliate Companies, or their Representatives on the basis that it:
 - (i) informs those Representatives, Affiliate Companies or their Representatives of the confidential nature of the Confidential Information before it is disclosed; and
 - (ii) procures that those Representatives, Affiliate Companies or their Representatives comply with the confidentiality obligations in [Clause 3.1](#) as if they were the Recipient.
- b) The Recipient shall be liable for the actions or omissions of the Representatives, any of its Affiliate Companies or their Representatives in relation to the Confidential Information as if they were the actions or omissions of the Recipient.
- 4.2 The Recipient may, if it has reasonable grounds to believe that the Discloser is involved in activity that may constitute a criminal offence under the Bribery Act 2010, disclose the Discloser's Confidential Information to the Serious Fraud Office without first notifying the Discloser of such disclosure.

5. MANDATORY DISCLOSURE

- 5.1 Subject to the provisions of this [Clause 5](#), a Party may disclose Confidential Information to the minimum extent required by:
 - a) an order of any court of competent jurisdiction or any regulatory, judicial, governmental or similar body or any taxation authority of competent jurisdiction;
 - b) the rules of any listing authority or stock exchange on which its shares or those of any of its Affiliate Companies are listed or traded; or
 - c) the laws or regulations of any country to which its affairs or those of any of its Affiliate Companies are subject.
- 5.2 Before a Party discloses any Confidential Information pursuant to [Clause 5.1](#) it shall, to the extent permitted by law, use all reasonable endeavours to give the other Party as much notice of this disclosure as possible. Where notice of such disclosure is not prohibited and is given in accordance with [Clause 5.2](#), that Party shall consider the reasonable requests of the other Party in relation to the content of this disclosure.
- 5.3 If a Party is unable to inform the other Party before Confidential Information is disclosed pursuant to [Clause 5.1](#) it shall, to the extent permitted by law, inform the other Party of the full circumstances of the disclosure and the information that has been disclosed as soon as reasonably practicable after such disclosure has been made.

6. RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION

- 6.1 If so requested by the Discloser at any time by notice in writing to the Recipient, the Recipient shall:
 - a) destroy or return to the Discloser all documents and materials (and any copies) containing, reflecting, incorporating or based on the Discloser's Confidential Information;
 - b) erase all the Discloser's Confidential Information from its computer and communications systems and devices used by it, or which is stored in electronic form; and
 - c) to the extent technically and legally practicable, erase all the Discloser's Confidential Information which is stored in electronic form on systems and data storage services provided by third parties so that such computer archive copies are incapable of being accessed by any employee of the recipient or by any third party without permission provided by the recipients' IT systems administrator; and
 - d) certify in writing to the Discloser that it has complied with the requirements of this [Clause 6.1](#).
- 6.2 Nothing in [Clause 6.1](#) shall require the Recipient to return or destroy any documents and materials

containing or based on the Discloser's Confidential Information that the Recipient is required to retain by applicable law, or to satisfy the requirements of a regulatory authority or body of competent jurisdiction or the rules of any listing authority or stock exchange, to which it is subject. The provisions of this Agreement shall continue to apply to any documents and materials retained by the Recipient pursuant to this [Clause 6.2](#).

7. RESERVATION OF RIGHTS AND ACKNOWLEDGEMENT

- 7.1** Each Party reserves all rights in its Confidential Information. The disclosure of Confidential Information by one Party does not give the other Party or any other person any licence or other right in respect of any Confidential Information beyond the rights expressly set out in this Agreement.
- 7.2** Except as expressly stated in this Agreement, neither Party makes any express or implied warranty or representation concerning its Confidential Information, including but not limited to the accuracy or completeness of the Confidential Information.
- 7.3** The disclosure of Confidential Information by the Parties shall not form any offer by, or representation or warranty on the part of, that Party to enter any further Agreement with the other Party in relation to the Purpose.

8. INADEQUACY OF DAMAGES

Without prejudice to any other rights or remedies that each Party may have, each Party acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the terms of this Agreement by the other Party. Accordingly, each Party shall be entitled to the remedies of injunctions, specific performance or other equitable relief for any threatened or actual breach of this Agreement. In the event of a breach or threatened breach by a Party, the offending Party shall reimburse the affected Party for any costs, expenses, claims, damages and settlement made, demands or liabilities arising directly out of a breach and finally awarded by a court of competent jurisdiction. Nothing contained in this Agreement shall be construed as prohibiting the affected Party from pursuing any other remedies available to them for a breach or threatened breach.

9. NO OBLIGATION TO CONTINUE DISCUSSIONS

Nothing in this Agreement shall impose an obligation on either Party to continue discussions or negotiations about the Purpose, or an obligation on each Party to disclose any information (whether Confidential Information or otherwise) to the other Party.

10. ENDING DISCUSSIONS AND DURATION OF CONFIDENTIALITY OBLIGATIONS

- 10.1** If any Party decides not to continue to be involved in the Purpose, it shall notify the other Party of the termination by giving at least 7 days written notice.
- 10.2** Notwithstanding the end of discussions between the Parties in relation to the Purpose pursuant to [Clause 10.1](#), each Party's obligations under this Agreement shall continue in full force and effect for a period of three years from the date of this Agreement.
- 10.3** The end of discussions relating to the Purpose shall not affect any accrued rights or remedies to which either Party is entitled.

11. NO PARTNERSHIP OR AGENCY

- 11.1** Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, constitute any Party the agent of another Party, or authorise any Party to make or enter any commitments for or on behalf of any other Party.
- 11.2** Each Party confirms it is acting on its own behalf and not for the benefit of any other person.

12. GENERAL

12.1 Neither Party shall assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement.

12.2 Entire Agreement

a) This Agreement constitutes the entire Agreement between the Parties and supersedes and extinguishes all previous Agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

b) Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each Party agrees that it shall have no claim for innocent or negligent misstatement based on any statement in this Agreement.

12.3 No variation of this Agreement shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).

12.4 No failure or delay by a Party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

12.5 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

12.6 Notices

a) Any notice or other communication given to a Party under or about this Agreement shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) and its principal place of business (in any other case); or

b) Any notice or communication shall be deemed to have been received:

(i) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and

(ii) if sent by first-class post or other next working day delivery service, at 12.00 pm on the second Business Day after posting or at the time recorded by the delivery service; and

(iii) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this [Clause 12.6\(b\)\(iii\)](#), business hours mean 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

12.7 Unless it expressly states otherwise, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

12.8 This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or about it or its subject matter or formation shall be governed by and construed in accordance with the laws of the prospective defendant and the Parties submit to the exclusive jurisdiction of the Courts determined in accordance with the laws of the prospective defendant.

12.9 Each Party irrevocably agrees that the courts of the country of the prospective defendant shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or about this Agreement or its subject matter or formation.

12.10 This Agreement may be executed in any number of counterparts and all the counterparts when taken together will constitute one Agreement. The Parties agree that execution of this Agreement via an electronic signature is acceptable if the electronic signature is compliant with the Laws of England and Wales or Czech Republic, accordingly. Original signatures are accepted as well. Transmission of a complete Agreement executed by a Party by (a) post, (b) email or (c) via an electronic signature service, shall take effect as delivery of an executed counterpart of this Agreement.

12.11 Fine acknowledges that the Institute is obliged under Czech law to publish the Agreement in Register of Contracts pursuant to Czech Act No. 340/2015 Coll., on Register of Contracts, as amended. Such publication shall not be considered as a breach of confidentiality under the Agreement. If Fine requires not to publish any part of the Agreement, then Fine shall provide the Institute with pdf version of the Agreement with highlighted parts shall not be published. Before publishing, the Institute shall inform Fine if any highlighted part of the Agreement is not eligible to be redacted according to the Act. Amended wording shall be agreed if appropriate.

This Agreement has been entered on the date of the last signature below.

Signed for and on behalf of
FINE AGROCHEMICALS LIMITED

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Position: Managing Director

Date 09 January 2023 | 11:36 AM GMT

Signed for and on behalf of
Institute of Experimental Botany AS CR

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Jan Martinec director

Date