

cancellation agreement (in respect of agreement of purchase and sale and exclusive supply)

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between

**GLOBAL AGRICULTURAL PRODUCT PROCUREMENT LIMITED**

**(“GAPP”)**

and

**CCP AG**

**(“CCP”)**

(collectively hereinafter referred to as the “Parties”)

## 1. INTRODUCTION

- 1.1 On 16 September 2015, GAPP and CCP concluded an Agreement of Purchase and Sale and Exclusive Supply (“the **Agreement**”) (annexed hereto marked Appendix “A”) on the further terms and conditions as set out in the Agreement.
- 1.2 The Agreement provides, at clause 3 thereof, that the Agreement shall commence on Signature Date and endure indefinitely thereafter.
- 1.3 Subject to the fulfilment of the payment terms referred to below, the Parties have agreed to cancel the Agreement on the terms and conditions as set out in this Cancellation Agreement (“the **Cancellation Agreement**”), such cancellation to take effect from the end of the 2023 production season, being 31 March 2024 (“the **Effective Date**”).
- 1.4 All terms defined in the Agreement have the same meanings assigned to them in the Agreement when used in this Cancellation Agreement, unless otherwise expressly provided herein.

## 2. CANCELLATION, CONSIDERATION AND PAYMENT

- 2.1 The Parties hereby agree to cancel the Agreement as executed between them on 16 September 2015 with effect from the Effective Date.
- 2.2 The Parties record that the shareholders of CCP shall consent to this Cancellation Agreement at a Special General Meeting (“SGM”).
- 2.2.1 CCP undertakes to commence the SGM within 45 (forty-five) days calculated from Signature Date hereof, authorising CCP to enter into this Cancellation Agreement.
- 2.2.2 Irrespective of the aforesaid, CCP, by affixing its representative’s signature to this Cancellation Agreement, accepts that GAPP by necessity needs to commence discussions with prospective customers for the 2024 production season. GAPP undertakes to conduct the aforesaid discussions in an open and transparent manner and CCP consents to GAPP commencing with the aforesaid production planning process immediately after Signature Date of this Cancellation Agreement and prior to the conclusion of the SGM to be convened in terms of 2.2 hereinbefore. It is specifically recorded and agreed that all such discussions must be held in the presence of a CCP representative.
- 2.3 As compensation for the cancellation, GAPP shall pay CCP the sum of €660,000.00 (six hundred and sixty thousand Euros), payable as follows:

- 2.3.1 Within 5 (five) working days calculated from the Signature Date of this Cancellation Agreement, the amount of €220,000.00 (two hundred and twenty thousand Euros); and
- 2.3.2 On or before 30 September 2023, the amount of €220,000.00 (two hundred and twenty thousand Euros); and
- 2.3.2 On or before the Effective Date, the amount of €220,000.00 (two hundred and twenty thousand Euros).
- 2.4 Subject to fulfilment of the above terms, the Agreement shall terminate from the Effective Date and shall be replaced and superseded by the terms and conditions hereinbelow, which shall cease to exist upon the Parties having performed same on the due dates therefor.
- 2.5 Neither Party shall have any further claims in terms of the Agreement subsequent to the Effective Date, and each Party by affixing their signatures hereto indemnifies and holds harmless the other against all claims in this regard.

### 3. CONTINUING OBLIGATIONS

- 3.1 Due to the nature of the industry and production cycles relating to the Product (as defined in 1.1 of the Agreement), the Parties have agreed to uphold limited obligations between the Signature Date until the Effective Date, and the date(s) and/or for the duration(s) as indicated hereinbelow.
- 3.2 After the fulfilment/expiry of the last obligation, there shall be no further obligations owing between the Parties and the obligations set out in 3.3 and 3.4 hereinbelow shall cease to exist.
- 3.3 CCP hereby undertakes:
  - 3.3.1 To continue to market the Product for the duration of the 2023 production season, on the same basis as set out in the Agreement;
  - 3.3.2 To uphold and maintain all agreed pricing and order commitment forecasts for the 2023 production season as set out in the Agreement;
  - 3.3.3 To disclose to GAPP all price and volume agreements and historical arrangements with its customers and/or clients in the Territory (as defined in 2.1 of the Agreement) in respect of the Product, to facilitate a smooth transition of such customers and/or clients to GAPP and further to ensure CCP's customers and/or clients continue to receive the same standards of service they are accustomed to;

- 3.3.4 To pay GAPP any and all amounts due to GAPP for the Product purchased during the 2023 production season, on or before the Effective Date; and
- 3.3.5 To pay GAPP for the Product on the same payment terms as contained in 6 of the Agreement, save and except that any payment dates which are calculated as being due and payable subsequent to the Effective Date, shall instead be due and payable on or before Effective Date.
- 3.3.6 In the event of GAPP being in default of its payment terms as set out hereinbefore, CCP shall be entitled to set-off such amounts due to it against any liquidated amounts CCP owes GAPP in terms of the Agreement for the purchase and sale of the Product, alternatively, CCP shall be entitled to withhold payment for Product(s) until GAPP remedies its breach, which entitlements CCP may exercise without prejudice to any of its rights and/or remedies contained in this Cancellation Agreement.
- 3.4 GAPP hereby undertakes:
- 3.4.1 To remain liable for all Product quality claims by customers relating to the Product until the Product expiration date, subject thereto that the total liability of GAPP towards any customer of CCP shall be limited to the maximum value of GAPP's total product liability insurance coverage and CCP hereby indemnifies and holds harmless GAPP from all claims and/or liability in excess thereto. To the extent required, GAPP shall cede the proceeds of the aforesaid policy to CCP. Furthermore, the recovery of damages by CCP shall be limited to the terms and conditions as set out in the applicable aforesaid insurance policy. For purposes of clarity, in the event of GAPP's insurance company rejecting a damages claim by CCP, CCP shall have no recourse against GAPP and CCP waives all claims in this regard. Upon CCP's request, GAPP shall provide a copy of the applicable product liability insurance policy together with the insurance cover provided thereby and furthermore CCP shall from time to time be entitled to request confirmation that all premiums are paid up to date; and
- 3.4.2 To liaise and cooperate with Mr Schipper and Mr Alberts, as the nominated representatives of CCP, regarding all matters concerning this Cancellation Agreement and the continuing obligations contained in this clause 3.
- 3.5 From the Signature Date onwards, GAPP shall not be liable to CCP for any commission earned on the sale(s) of Product(s) to Perla and/or PMC.

3.6 Within a maximum of 7(seven) days from Signature Date, the Parties shall jointly deliver written notice to all CCP customers and within 60 (sixty) days CCP and GAPP shall deliver in-person notices to all CCP customers:

3.6.1 Of this Cancellation Agreement being concluded on the Effective Date; and

3.6.2 That customers are entitled to make contact, negotiate, and conclude contracts, with GAPP directly (and *vice versa*) for the supply and purchase of the Product, for the 2024 production season onwards; and

3.6.3 That GAPP will be entitled to market and sell 2024 season Product(s) prior to the Effective Date, to the customers directly.

#### 4. BREACH

4.1 If either Party commits a breach of any of the provisions of this Cancellation Agreement and fails to remedy such breach within 7 (seven) days after receipt of written notice from the other Party calling upon it to remedy such breach, then the innocent Party shall be entitled, without prejudice to any other rights which it may have in terms of this Cancellation Agreement, to –

4.1.1 claim immediate performance by the defaulting Party of all of its obligations in terms of this Cancellation Agreement.

4.2 Neither Party shall be entitled to cancel this Cancellation Agreement, and in the event of either Party remaining in breach after the lapsing of period referred to in 4.1, the aggrieved Party shall be entitled to perform the defaulting Party's obligations in terms thereof and claim damages from the defaulting Party.

#### 5. DOMICILIUM AND NOTICES

5.1 The Parties select as their respective *domicilia citandi et executandi* the following physical addresses, and for the purposes of giving or sending any notice provided for or required under this Cancellation Agreement, the said physical addresses as well as the following electronic mail addresses ("Email") –

5.1.1 CCP \_\_\_\_\_

Physical address: \_\_\_\_\_

E-mail address: \_\_\_\_\_

5.1.2 GAPP \_\_\_\_\_  
Physical address: \_\_\_\_\_  
E-mail address: \_\_\_\_\_

provided that a Party may change its *domicilium* or its address for the purposes of notices to any other physical address in the Republic of South Africa or Email by written notice to the other Party to that effect. Such change of address will be effective 5 (five) business days after receipt of the notice of the change.

5.2 All notices to be given in terms of this Agreement will be given in writing, in English, and will –

5.2.1 be delivered by hand or sent by Email;

5.2.2 if delivered by hand during business hours, be presumed to have been received on the date of delivery. Any notice delivered after business hours or on a day which is not a business day will be presumed to have been received on the following business day; and

5.2.3 if sent by Email during business hours, be presumed to have been received on the date of receipt of a read receipt by the sender of the Email. Any Email sent after business hours or on a day which is not a business day will be presumed to have been received on the following business day.

5.3 Notwithstanding the above, any notice given in writing in English, and actually received by the Party to whom the notice is addressed, will be deemed to have been properly given and received, notwithstanding that such notice has not been given in accordance with this clause.

6. **GENERAL**

6.1 This Cancellation Agreement constitutes the sole record of the Cancellation Agreement between the Parties in relation to the subject matter hereof. Neither Party shall be bound by any express, tacit or implied term, representation, warranty, promise or the like not recorded herein. This Agreement supersedes and replaces all prior commitments, undertakings or representations, whether oral or written, between the Parties in respect of the subject matter hereof.

- 6.2 No addition to, variation, novation or agreed cancellation of any provision of this Cancellation Agreement shall be binding upon the Parties unless reduced to writing and signed by or on behalf of the Parties.
- 6.3 No indulgence or extension of time which either Party may grant to the other shall constitute a waiver of or, whether by estoppel or otherwise, limit any of the existing or future rights of the grantor in terms hereof, save in the event and to the extent that the grantor has signed a written document expressly waiving or limiting such right.
- 6.4 Without prejudice to any other provision of this Cancellation Agreement, any successor-in-title, including any executor, heir, liquidator, judicial manager, curator or trustee, of either Party shall be bound by this Cancellation Agreement.
- 6.5 The signature by either Party of a counterpart of this Cancellation Agreement shall be as effective as if that Party had signed the same document as the other Party.
- 6.6 This Agreement shall be governed by and construed in accordance with the laws of the Republic of South Africa.

Signed at .....on ..... 2023.

AS WITNESSES:

1 \_\_\_\_\_

o.b.o **CCP**, warranting s/he is duly authorised thereto

2 \_\_\_\_\_

Signed at .....on ..... 2023.

AS WITNESSES:

1 \_\_\_\_\_

o.b.o **GAPP**, warranting s/he is duly authorised thereto

2 \_\_\_\_\_