

NON-DISCLOSURE AGREEMENT

[insert] 2018

Grains Privatization Committee
Saudi Grains Organization Building
King Fahd Road
Al Olaya District, 3402
Riyadh 11471
Saudi Arabia

For the attention of: Khalid Al Shwair
E-mail address: shwair@sago.gov.sa

Dear Sirs,

In consideration of our submitting a preliminary non-binding expression of interest to participate in the Qualification Process and you agreeing to disclose Confidential Information to us, we agree with and undertake to, as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this letter agreement, unless the context otherwise requires:

- (a) “**Affiliate**” means, in relation to a body corporate, any subsidiary or holding company of such body corporate, and any subsidiary of any such holding company, in each case from time to time;
- (b) “**Business Day**” means a day (other than a Friday or Saturday) on which banks in Riyadh, the Kingdom of Saudi Arabia are open for ordinary banking business;
- (c) “**Confidential Information**” means:
 - (i) all business, technical, financial, operational, administrative, customer, marketing, legal, economic and other information in whatever form (including in written, oral, visual or electronic form) relating to the Grains Privatization Committee (or any of its members) and its Milling Companies that is directly or indirectly disclosed, whether before, on or after the date of this letter agreement, to us or any of our Representatives, by you or any of your Representatives or which comes to our attention in connection with the RFQ and the Qualification Process;
 - (ii) all information in whatever form (including in written, oral, visual or electronic form) relating to the existence, status or progress of the RFQ or the Qualification Process including the existence and contents of this letter agreement; and
 - (iii) all documents that contain or reflect or are generated from any of the foregoing and all copies of any of the foregoing;

- (d) “**Milling Companies**” has the meaning given to such term in the RFQ;
- (e) “**Representatives**” means, in relation to a party, its Affiliates and their respective directors, officers, employees, agents, consultants and advisers;
- (f) “**RFQ**” means the request for qualification dated 28 June 2018;
- (g) “**Qualification Process**” has the meaning given to such term in the RFQ; and
- (h) references to a “person” includes any individual, partnership, body corporate, corporation sole or aggregate, state or agency of a state, and any unincorporated association or organisation, in each case whether or not having separate legal personality.

2. DUTY OF CONFIDENTIALITY

- 2.1 We will hold the Confidential Information in strict confidence and will not disclose, reproduce or distribute any Confidential Information in whole or in part, directly or indirectly, (or permit any of the foregoing) to any persons, other than to our Representatives to the extent that such disclosure, reproduction or distribution is strictly necessary for the purposes of evaluating, negotiating and/or advising on the RFQ and the Qualification Process.
- 2.2 Neither we nor any of our Representatives will, without your prior written consent, use any Confidential Information for any purpose other than the evaluation of the RFQ and the Qualification Process or make, permit or assist any other person to make any public announcement in relation to the RFQ and the Qualification Process.
- 2.3 We will take all reasonable steps to ensure that proper and secure storage is provided for all Confidential Information to protect against theft or unauthorised access and immediately inform you if we or any of our Representatives become aware or suspect that Confidential Information has been disclosed to or has come into the possession of any unauthorised person.
- 2.4 The undertakings given by us in this letter agreement are given on our own behalf and on behalf of each of our Representatives with their full knowledge and authority. We shall ensure that each of our Representatives is informed of the terms of this letter agreement and we shall procure that each of our Representatives adheres to the terms of this letter agreement as if it had entered into this letter agreement in our place (notwithstanding that it is not a party hereto) and we will be responsible to the extent that any of our Representatives do not do so.
- 2.5 If we desire to disclose any Confidential Information to any third party (who is not our Representative), we shall arrange for such third party to execute a non-disclosure agreement, substantially in the form of this letter agreement, as well as obtaining your prior written consent.

3. PERMITTED DISCLOSURE

- 3.1 The undertakings in paragraphs 2.1 and 2.2 will not apply to Confidential Information which we can establish to your reasonable satisfaction:
 - (a) is, at the time of disclosure to us or one of our Representatives, or subsequently becomes, public knowledge (other than as a direct or indirect result of the information being disclosed in breach of this letter agreement) and could be obtained by any person with no more than reasonable diligence;

- (b) was known to us or one of our Representatives before the date of this letter agreement and such person was not under any obligation of confidence in respect of that information;
- (c) we or one of our Representatives found out from a source not connected with you or any of your Representatives and which is not under any obligation of confidence in respect of that information; or
- (d) in respect of which a period of two (2) years has lapsed from the date of signature of this letter agreement.

3.2 The undertakings in paragraphs 2.1 and 2.2 will not apply to any disclosure of Confidential Information that is required by any stock exchange or competent governmental or regulatory authority or any order of any court of competent jurisdiction.

4. RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION

Where we determine that we do not wish to proceed with the Qualification Process or where you, in your sole discretion, at any time, so demand in writing, we and each of our Representatives will within five Business Days destroy or return to you (at your sole election) any documents containing Confidential Information and use all reasonable endeavours to expunge all Confidential Information from any computer, word processor or other device containing Confidential Information; provided that (i) neither us nor our Representatives will be required to destroy any electronic copy of Confidential Information created pursuant to our or our Representatives' standard electronic backup and archival procedures; and (ii) we and each of our Representatives may each retain one copy of any Confidential Information, to the extent required to defend or maintain any litigation relating to this letter agreement or the Confidential Information, comply with applicable legal, regulatory or internal compliance policies or to demonstrate compliance with this letter agreement; provided further that, in each case, the confidentiality provisions of this letter agreement shall continue to apply to any Confidential Information so retained.

5. GENERAL

- 5.1 We will be responsible for making our own decision regarding the RFQ and the Qualification Process and we acknowledge and agree that no representation or warranty is made by any person as to the accuracy, reliability or completeness of any of the Confidential Information.
- 5.2 Without prejudice to any other rights or remedies that we each may have, we each acknowledge and agree that a person with rights under this letter agreement may be irreparably harmed by any breach of its terms and that damages alone may not be an adequate remedy. Accordingly, a person bringing a claim under this letter agreement shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the terms of this letter agreement.
- 5.3 No variation or amendment of this letter agreement shall be valid unless it is in writing and duly executed by or on behalf of all of the parties.
- 5.4 Any notice or other communication given under this letter agreement or in connection with the matters contemplated herein shall, except where otherwise specifically provided, be in writing in the Arabic or English language, addressed to the registered office of the addressee.
- 5.5 A person who is not a party to this letter agreement shall have no right to enforce any of its terms.

- 5.6 This letter agreement may be executed in any number of counterparts. Each counterpart shall constitute an original of this letter agreement but all the counterparts together shall constitute but one and the same instrument.
- 5.7 This letter agreement and any non-contractual rights or obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of the Kingdom of Saudi Arabia.
- 5.8 Any dispute arising out of or in connection with this letter shall be referred to the competent courts of Saudi Arabia for resolution. All determinations by the courts of Saudi Arabia shall be deemed conclusive and binding on the parties.

We agree to the terms set out in this letter agreement and would appreciate if you sign and return to us a signed duplicate copy.

Yours faithfully,

For and on behalf of *[insert]*

We acknowledge receipt of this letter agreement

Name:

For and on behalf of

GRAINS PRIVATIZATION COMMITTEE