

COMPLETED ACQUISITION BY NUFARM CROP PRODUCTS UK LIMITED OF AH MARKS HOLDINGS LIMITED

Consent to Nufarm Limited, Nufarm UK Limited and Nufarm Crop Products UK Limited to manage and administer certain export sales and exchange certain confidential information

On 29 August 2008, the Office of Fair Trading (OFT) made a reference to the Competition Commission (CC) under section 22 of the Enterprise Act 2002 (the Act) concerning the completed acquisition by Nufarm Crop Products UK Limited of AH Marks Holdings Limited (AH Marks).

The reference has not been finally determined.

On 2 September 2008, the CC, in accordance with section 80(3) of the Act, adopted the initial undertakings (the Undertakings) given by Nufarm Limited, Nufarm UK Limited and Nufarm Crop Products UK Limited (together Nufarm) to the OFT on 28 June 2008, for the purpose of ensuring that no action is taken pending the determination of the reference, which might prejudice that reference or impede the taking of action by the CC under Part 3 of the Act.

The Undertakings are still in force.

In accordance with and without prejudice to the generality of paragraphs 1 and 2 of the Undertakings, the CC gives the following consent.

Consent for Nufarm personnel to have responsibility for the management and administration of export sales on behalf of the AH Marks Holdings Limited business

1. Except as the context otherwise requires, terms and expressions defined in the Undertakings shall have the same meaning in this consent.
2. From 3 November 2008, the personnel of Nufarm listed in Schedule 1 may have responsibility for the management and administration of export sales on behalf of AH Marks Holdings Limited business for the region as specified in Schedule 1.
3. Confidential Information of AH Marks Holdings Limited business may be shared with the personnel of Nufarm listed in Schedule 1 solely for the purposes of enabling those persons to carry out the export sales mentioned in paragraph 2 above.
4. Personnel of Nufarm listed in Schedule 1 may share the Confidential Information of AH Marks Holdings business that they hold with:
 - (a) [X] and [X] (both of Nufarm) to enable [X] and [X] to manage the sales of Nufarm and AH Marks on a global basis;
 - (b) [X] of Nufarm to enable him to comply with certain accounting and fiduciary obligations; and
 - (c) [X] of Nufarm to enable him to represent Nufarm in the CC's merger inquiry.
5. This consent is given on condition that:
 - (a) Each of the Nufarm personnel listed in Schedule 1 shall sign a protocol in the form set out in Schedule 2 as soon as possible and in any case within five

working days of the date of this consent. This protocol governs how each person handles and retains Confidential Information belonging to AH Marks Holdings Limited business.

- (b) Nufarm shall procure that the personnel listed in Schedule 1 shall comply with the protocol (including but not limited to seeking confirmation of compliance from such personnel) and shall provide a written statement to the Monitoring Trustee and the CC every two weeks either stating that all such personnel have complied with the protocol or providing details of any breaches. This statement is to be provided within the fortnightly compliance statements currently provided to the CC and the Monitoring Trustee.
- (c) Nufarm shall report all breaches of the protocol to the Monitoring Trustee and the CC within two working days of becoming aware of such a breach.
- (d) Nufarm personnel listed in Schedule 1 shall keep [✂] fully updated as to their export sales activities on behalf of AH Marks Holdings Limited business.

This consent shall continue until the reference has been finally determined in accordance with section 79(1) of the Act (unless earlier withdrawn by the CC having given Nufarm one week's notice).

(signed) PETER FREEMAN
Group Chair
3 November 2008

SCHEDULE 1

<i>Name</i>	<i>Region</i>
[✂]	[✂]

SCHEDULE 2

TEMPLATE PROTOCOLS

Protocols governing the involvement of [insert name] in the AH Marks export sales business

From the date of this document, the following protocols will govern the involvement of [insert name of individual] in the export sales of the AH Marks business.

In these protocols:

'Nufarm' means Nufarm Limited, Nufarm UK Limited and Nufarm Crop Products UK Limited (or any of its employees, directors, agents or affiliates) excluding AH Marks.

1. **Management of Export Sales:** Whilst [insert name] will have day-to-day responsibility for the management and administration of AH Marks export sales in the region specified in the annex, he/she will report directly to [X]. Any negotiations with export customers regarding the terms of supply will be overseen by [X].
2. **Hold Separate Obligations:** All information regarding the AH Marks business obtained by [insert name] will be stored in a way that allows such information to be easily identifiable and separable from any other information.
3. **Reporting to Nufarm:** With the exception of the individuals listed in the annex and as described in paragraph 5 below, no information regarding export sales will be shared with Nufarm personnel without the express written consent of the CC or the Monitoring Trustee (the **'Trustee'**) (or a member of the Trustee team).
4. **Requests for information:** Any requests for information by individuals other than those listed in the annex should be reported as soon as reasonably possible to [X]
5. [Insert name] undertakes:
 - (a) to use his/her best endeavours to ensure that any information regarding AH Marks export business he/she has possession of is not disclosed, directly or indirectly, to any other Nufarm personnel other than: those personnel listed in the annex who require such information to enable them to carry out export sales on behalf of the AH Marks business; [X] and [X] (both of Nufarm) who require such information to manage the sales of Nufarm and AH Marks on a global basis; and [X] and [X] (both of Nufarm) who are also governed by protocols; and
 - (b) not to use any information regarding the AH Marks business for any purpose other than in relation to the management and administration of the AH Marks export sales business in their specified region or, in communications with [X], [X],[X] and [X].

I the undersigned hereby confirm that I have read the above protocols and agree to adhere to these protocols:

[Name of individual] Date

Individual

[✂]

Region