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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

| | | |
|---|---|---------------------------------|
| _____ |) | Case No.: CV-00-529-TUC-RCC |
| UNITED STATES OF AMERICA, |) | |
| |) | PLAINTIFF UNITED STATES’ |
| Plaintiff, |) | MOTION TO AMEND THE |
| |) | JUDGMENT |
| v. |) | |
| |) | |
| LSL BIOTECHNOLOGIES, INC. <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

The United States, pursuant to Fed. R. Civ. P. 59(e), hereby asks the Court to amend the Judgment entered on March 29, 2002 to provide that this action is dismissed “with prejudice.”

In its dismissal Order dated March 28, 2002, the Court said (at page 8) that “the portion of the complaint addressing Defendants’ domestic conduct will be dismissed without prejudice.” The United States, however, has decided that it does not wish to file a new complaint with revised allegations about the Defendants’ domestic conduct at this time. Instead, the United States prefers to be in a position to address all of the issues raised by the Court’s Order if it decides to appeal the Judgment. The requested amendment of the Judgment will remove any potential

ambiguity about the finality and appealability of the Order and judgment (*cf. WMX Technologies, Inc. v. Miller*, 104 F.3d 1133 (9th Cir. 1977) (*en banc*)) in the event of an appeal by the United States.

The United States contacted counsel for defendants LSL and Seminis to determine their position. Both counsel indicated that they have not yet decided whether to support or oppose the motion.

A proposed Judgment accompanies this motion.

DATED this 12th day of April, 2002.

FOR PLAINTIFF UNITED STATES

"/s/"
Robert L. McGeorge
Tracey D. Chambers
Janet R. Urban
Trial Attorneys
U.S. Department of Justice
Antitrust Division

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

| | | |
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| UNITED STATES OF AMERICA, |) | Case No.: CV-00-529-TUC-RCC |
| |) | |
| Plaintiff, |) | AMENDED JUDGMENT IN A |
| |) | CIVIL CASE |
| |) | |
| v. |) | |
| |) | |
| LSL BIOTECHNOLOGIES, INC., <u>et al.</u> , |) | |
| |) | |
| Defendants. |) | |
| |) | |

DECISION BY COURT. This action came under consideration before the Court. The issues have been considered and a decision has been rendered.

IT IS ORDERED AND ADJUDGED That Defendants LSL Biotechnologies, Inc. and LSL Plantscience LLC’s Motion to Dismiss [Docket # 16] is GRANTED.

IT IS FURTHER ORDERED that this action is DISMISSED WITH PREJUDICE.

Date

Clerk

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing document to be served on the following counsel for Defendants by first class mail, postage prepaid and facsimile transmission:

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Date : April 12, 2002

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