

## **General Terms and Conditions**

### **1. Scope of the Application**

These general terms and conditions of purchase (these “Conditions”) shall apply to, and be reflected in, each contract and/or order placed by Bayer (China) Limited or any its affiliates in China (“Bayer”) with the Supplier (such contract, the “Contract” and such order, the “Order”). Unless otherwise specifically consented by Bayer in writing, these Conditions shall replace any terms or conditions of purchase stipulated by the Supplier. For the avoidance of doubt, in these Conditions, a “Contract” means the agreement or contract concluded by Bayer and the Supplier for the purchase of Goods and/or Services and pursuant to which Orders may be placed, as well as each individual agreement or contract concluded under the Order. If there is any discrepancy between these Conditions and the Contract, the Contract shall prevail; the matters not stated in the Contract shall be subject to these Conditions.

### **2. Quotation**

The Supplier shall propose the quotation fully in accordance with the provisions and requirements in Bayer’s inquiry (for details, see related quotations Bayer has confirmed), and any departure therefrom shall be expressly stated. The Supplier shall propose the quotation free of charge and shall not impose any non-contractual obligations on Bayer.

### **3. Warranties**

The Supplier represents and warrants to Bayer that:

- 3.1. The Supplier has the full capacity to enter into the Contract and/or the Order as a party thereto and perform all its obligations thereunder;
- 3.2. The coming into force and performance of the Contract and/or the Order is within the legitimate business scope of the Supplier; and
- 3.3. The person who signs the Contract and/or the Order on behalf of the Supplier is the legal representative of, or the person duly authorized by the Supplier.
- 3.4. The Supplier owns the Goods and/or Services with free and clear of encumbrances of any kind.
- 3.5. The Supplier shall not provide any personal benefits including but not limited to any bonus points to Bayer employees.

### **4. Order**

Bayer’s Orders and alterations to Orders shall be made in writing. Verbal arrangements or arrangements discussed over the phone shall not be legally binding unless confirmed by Bayer in writing.

### **5. The completion of Services and/or the delivery of Deliverables of Services and/or Goods**

- 5.1. The Supplier shall complete the Services, deliver the Deliverables of Services and/or the Goods in accordance with the agreed requirements, specifications, time schedule, deadlines and other provisions of the Contract and/or the Order. The quotation, requirements, specifications, time schedule, deadline and other details of the Services and /or Goods are stated in relevant quotation form, agenda, Statement of Work, proposal and other related documents.
- 5.2. Time is the essence in the performance by the Supplier of the Contract and/or the Order. If the Supplier for whatever reason anticipates that it will fail to perform wholly or partially, or perform in time, all or part of its obligations stipulated in the Contract and/or the Order, then, the Supplier shall notify Bayer immediately, stating the reasons and the likely duration of the delay.
- 5.3. The Supplier shall complete the Services, deliver the Deliverables of Services and/or the Goods at no extra charge. Should the Supplier complete the Services, deliver the Deliverables of Services and/or the Goods later than the agreed date (with the exception of the force majeure causes specified in clause 20 of these Conditions), the Supplier shall make daily payment to Bayer of liquidated damages calculated at 0.3% of the price of the Contract and/or the Order per day from the date agreed for the Deliverables of Services and/or the Goods to be delivered and/or the Services to be completed until the date when the Deliverables of Services and/or the Goods are actually delivered and/or the Services are actually completed; in case of a delay of five (5) days or more, Bayer has the right to rescind the Contract and/or the Order.

## **6. Quality and Requirements**

- 6.1. The Supplier warrants that the quality of the Goods, Services and/or the Deliverables of Services will be satisfactory to Bayer, capable of reaching the agreed effect, conforming to the qualities, quantities, specifications, methods and other requirements specified in the Contract and/or the Order, and complying with any other materials or instructions given to the Supplier by Bayer, and meeting all applicable national and industrial standards.
- 6.2. The above warranties shall not prejudice the remedies or assurances implied by or available in any applicable law. Notwithstanding any full or partial acceptance of the Goods, Services and/or the Deliverables of Services by Bayer, the above warranties shall remain in force.
- 6.3. For material purchase, the below requirements should be followed:
  - 6.3.1. For material purchase of Bayer Crop Science (China) Co., Ltd., the Supplier shall not use, and permit the use of pallet which does not meet Bayer Crop Science procurement requirements in supplying the Goods. The pallet which does not meet Bayer Crop Science procurements shall not be used in any circumstances, including without limitation, the production process, production area, warehousing or transportation of the Goods supplied to Bayer.  
The Supplier shall procure its upstream suppliers (including without limitation the suppliers of raw material and packaging material of the Goods) to comply with this Article. Upstream suppliers neither shall use nor permit to use any pallet which does not meet Bayer Crop

Science procurement requirements to provide Goods (including but not limitation to raw material and packaging material of the Goods). The pallet which does not meet Bayer Crop Science procurement requirements shall not be used in conditions including but not limitation to: the production process, production area, warehousing or transportation of the Goods supplied to the Supplier by its upstream supplier. For material purchase of other Bayer legal entities excluding Bayer Crop Science (China) Co., Ltd., the Supplier shall not use, and permit the use of, any 2,4,6-tribromoanisole treated wood pallet in supplying the Goods. 2,4,6-tribromoanisole treated wood pallet shall not be used in any circumstances, including without limitation, the production process, production area, warehousing or transportation of the Goods supplied to Bayer.

6.3.2. The Supplier shall procure its upstream suppliers (including without limitation the suppliers of raw material and packaging material of the Goods) to comply with this Article. Upstream suppliers neither shall use nor permit to use any 2,4,6-tribromoanisole treated wood pallet to provide Goods (including but not limitation to raw material and packaging material of the Goods). 2,4,6-tribromoanisole treated wood pallet shall not be used in conditions including but not limitation to: the production process, production area, warehousing or transportation of the Goods supplied to the Supplier by its upstream supplier.

## **7. Acceptance of Goods and/or Services**

- 7.1. Bayer is entitled to review and test the Goods, Services and / or the Deliverables of Services before accepting them. If any Goods, Services and /or the Deliverables of Services do not meet any agreed requirement, specification, representation, warranty or any other provision of the Contract or the Order, Bayer shall send a written notice to the Supplier specifying the defect of the Goods, Services and/or the Deliverables of Services.
- 7.2. Bayer has the right to request correction of such Goods by the Supplier free of charge; Bayer also has the right to repair such Goods at the expense of the Supplier; or reject such Goods. If Bayer rejects such Goods, it shall return the rejected Goods to the Supplier at the Supplier's risk and expense. In that case, the Supplier shall within a reasonable time replace the rejected Goods with Goods which are in all respects in accordance with the Contract and/or the Order. Bayer also has the right to purchase replacement Goods from another source. Any costs paid by Bayer to the Supplier in respect to the rejected Goods, together with any additional expenditure over and above the original price for the rejected Goods reasonably incurred by Bayer in obtaining replacement Goods, shall be paid by the Supplier to Bayer.
- 7.3. Bayer has the right to request correction of such Services and/or the Deliverables of Services by the Supplier free of charge; if the Supplier fails to deliver the required Services and/or the Deliverables of Services within ten (10) days after Bayer's request, Bayer may correct such Services and/or the Deliverables of Services by itself or by a third party designated by Bayer, and charge the Supplier for any and all costs so incurred, and claim against the Supplier for liability for breach.

## **8. Inspection and Audit**

8.1. During the term of the Contract and/or the Order and for a period of two (2) years thereafter, Bayer and/or its duly authorised third-party auditor chosen and paid by Bayer has the right to do the following at normal business hours and upon seventy-two (72) hour prior notice:

8.1.1. to have access to, and to inspect, examine, audit and copy (at no charge to Bayer) all books, records and all other documents and materials in the possession of or under the control of the Supplier which in the reasonable judgement of Bayer relate in any way to the Contract and/or the Order;

8.1.2. to interview key employees of the Supplier under the Contract and/or the Order; and

8.1.3. to enter the Supplier's facilities to conduct the above activities.

The Supplier shall provide full cooperation for Bayer to exercise the rights under this Clause including without limitation, furnishing reasonably adequate workspace free of charge.

8.2. The Supplier shall, at its own cost and consistent with generally accepted accounting principles, maintain complete and accurate books and records covering all the activities and transactions arising out of, or relating to the performance of the Contract and/or the Order, including but not limited to the documents supporting entries to the Supplier's books of account, such as relevant time registers and third party expenses. The Supplier shall keep such books and records in a manner suitable for a complete and accurate inspection and audit. The Supplier shall keep all papers, correspondence, data, accounts, reports, records, receipts and other sources of information for at least two (2) years after the completion of Services and/or the delivery of Deliverables of Services and/or Goods.

8.3. If an audit reveals that the Supplier has overcharged Bayer, Bayer shall be entitled to an immediate refund of the overcharged amount. Bayer has the right to terminate the Contract and/or cancel the Order immediately, if any such audit reveals any Supplier's material breach of the Contract and/or the terms of the Order.

8.4. The Supplier shall, at the request of Bayer, provide reasonable financial information to Bayer on an annual basis to enable Bayer to evaluate the Supplier's long term financial stability.

8.5. Any exercise of the right by Bayer under this Clause 8 or any acceptance of any invoice or any payment thereof by Bayer shall not affect any other rights or remedies available to Bayer, nor preclude Bayer from disputing the accuracy of any invoice or payment. The Supplier shall remain fully liable for any amount due under the Contract and/or the Order. The Supplier represents warrants and undertakes to Bayer that the Supplier collects timesheets from the Project Team members on a weekly basis and reviews the timesheets for accuracy before the calculation of the Fees.

8.6. If Bayer reasonably believes that any of the following has occurred, Bayer has the right to investigate or audit relevant Contract and/or Order, which the Supplier may be in potential breach of, and the Goods, Services and/or the Deliverables of Services thereunder, in accordance with the provisions of this Clause 8:

8.6.1. the Supplier fails to provide in accordance with relevant Contract and/or Order complete, true and accurate supporting documents for the Fees under the Contract and/or the Order; or

8.6.2. The Supplier makes material amendment to the terms and conditions of relevant Contract and/or Order without prior written approval of Bayer, including without limitation change of price, increase of payable items or change of manners or conditions of Goods, Services and/or the Deliverables of Services provisions.

Upon the issuance of the notice under Clause 8.1, Bayer has the right to immediately suspend any and all payment in relation to such Contract and/or Order until completion of the investigation or audit. If the investigation or audit proves that the Supplier has committed any of the above breach, without prejudice to Bayer's right to claim for liability for breach in accordance with other provisions of these Conditions, Bayer has the right, with respect to any Contract and/or Order that the Supplier is in breach of, to immediately terminate the Contract and/or cancel the Order by notifying the Supplier in writing in accordance with Clause 8.3, and refuse to pay all the Fees (if any) under such Contract and/or Order. If the Supplier fails to cooperate with Bayer in the above investigation or audit, Bayer has the right to refuse to pay all the Fees (if any) under such Contract and/or Order.

8.7. Bayer shall have the right to audit the sustainability performance of the Supplier, either by assessment (online, paper questionnaire, etc.) or by an onsite audit, executed directly by Bayer or by a third party, commissioned through Bayer.

## **9. Liability for Breach**

If the Supplier commits a breach, the Supplier shall pay to Bayer liquidated damages. If the liquidated damages are adequate to recover the losses suffered by Bayer, then no other compensation is needed. If the liquidated damages are not adequate to recover the losses suffered by Bayer, then, the Supplier shall make additional payments to make up for the difference. Even though the Supplier agrees to pay or has paid the liquidated damages and/or compensations, the Supplier shall continue to perform the Contract and /or the Order if so requested by Bayer. This Provision does not affect the validity of other terms about liability for breach of contract agreed by the Parties.

## **10. Indemnity**

The Supplier shall indemnify Bayer against any and all losses, liabilities and costs caused directly or indirectly by the following reasons:

- 10.1. alleged or actual infringement of any patents, trademarks, copyrights, any other intellectual property rights, licences or other rights of any third party as a result of the purchase, use, resale by Bayer or authorization of other persons' use of the Goods, Services and/or the Deliverables of Services; and
- 10.2. any act or omission by the Supplier in the performance of or in connection with any of its obligations under the Contract and/or the Order, with the exception of those caused by wilful misconduct or gross negligence of Bayer.

## **11. Insurance**

### **11.1. The following clauses apply to professional service providers such as law firms, accounting firms and insurance companies.**

The Supplier shall take out and maintain, at its own cost, adequate insurance for the Services provided and the Deliverables delivered that is required by law and/or common practice of the industry, including but not limited to vocational /professional liability insurance and other liability insurance as agreed by the Parties with a reputable and qualified insurance company recognised by Bayer, and provide to Bayer certified photocopies of the insurance policies and related documents. The insurance amount of occupational liability insurance shall not be less than RMB 15 million, other types of liability insurance and the amount of insurance shall be handled as agreed by both parties.

### **11.2. The following clauses apply to contracts involving vehicle leasing services**

The Supplier shall purchase all necessary vehicle-related insurance for the vehicles serving under the contract in accordance with the provisions of laws and regulations and maintain the insurance validity for the duration of the contract to cover the loss of property and/or casualties caused by the vehicles /or services provided by the Supplier during the service period in Bayer and/or third parties. The insured items include not limited to compulsory traffic insurance, commercial third-party liability insurance (the limit is not less than 200,000 RMB per car), personnel liability insurance on vehicles, etc. The premium is borne by the Supplier.

### **11.3. The following clauses apply to onsite Services in Bayer, such as cleaning and green planting services at Bayer sites; if the clause apply, it should be used in conjunction with 11.4:**

The Supplier should purchase insurance for death, personal injury and medical expenses of their employees in accordance with the law. All Supplier service personnel for Bayer are employed by the Supplier at its own expense. The Supplier shall bear full responsibility for the salary, bonus, labour, injury, insurance, medical insurance and other benefits of its employees. Bayer is not liable for any work-related injuries of its service personnel, and any omissions of service personnel shall be borne by the Supplier alone.

### **11.4. The following clauses apply to other services For example, IT services, hotels and other venue service**

The Supplier shall, at its own expense, insure in full the services provided and the results delivered by the recognized, reputable and qualified insurance companies in Bayer, and maintain the insurance required by law and/or generally required by the industry, including but not limited to public liability or comprehensive liability insurance, and provide Bayer with certified policies and copies of relevant documents. The limit of liability insurance shall not be less than RMB 10 million. The new address (90 days) of automatic coverage under this insurance category should be extended to include the clauses for abandoning recourse to Bayer and its affiliated enterprises, as well as the clauses for fire, explosion, water loss and sudden and accidental pollution.

## **12. Packaging**

The Supplier shall at its own expense package and label the Goods in a manner suitable for transit and storage in accordance with the Contract and/or the Order.

## **13. Title and Risk**

In accordance with the Contract, without prejudice to any right of rejection which may accrue to the Buyer under the Contract or otherwise, unless otherwise stipulated in the Contract and/or the Order, the title and the risk for the Goods shall be passed to Bayer upon that the Goods has been delivered from the Supplier to Bayer and a representative appointed by Bayer has executed the delivery documents.

## **14. Payment**

14.1 Bayer is only required to pay the Fees of the Goods and/or the Services stated in the Contract and/or the Order, and/or the Expenses reasonably incurred in the performance of the Contract and/or the Order and agreed by Bayer in writing in advance. Unless otherwise agreed by the Parties in writing, the Fees of the Goods and/or the Services stated in the Contract and/or the Order and the Expenses reasonably incurred in the performance of the Contract and/or the Order include all direct and indirect costs, expenses, fees and expenditures, and include any applicable value added tax, customs duties and other taxes. For the avoidance of doubt, if any Expenses are set forth in the Contract and/or the Order, such Expenses shall be the estimated Expenses, and Bayer shall reimburse the Expenses actually incurred.

14.1. When applying to Bayer for payment, the Supplier shall provide statements with seals, and list all end suppliers and corresponding costs, the Supplier's service fee, taxes and total amounts payable. The Supplier shall provide copies of all authentic invoices consistent with the statement from end suppliers including but not limited to providers of hotels or other meeting venues (including medical institutions), transportation service providers (airplane, train, bus, etc., or ticket agents) and catering service providers. The Supplier shall, by affixing its seal thereon, confirm that these copies of invoices are the copies of original invoices. The Supplier shall retain the original invoices of end suppliers (or copies of the invoices if so permitted by Bayer in writing) for at least 2 years after completion of the services under the Contract and/or the Order, and timely present these original invoices or copies of invoices to Bayer for verification for the purpose of audit.

The Supplier shall provide, together with copies of invoices of end suppliers for verification, a detailed list for all expenses in support of the statement (e.g. a restaurant bill setting out names and quantity of dishes and drinks). If the end suppliers are unable to provide the detailed list, the Supplier is responsible for collecting and presenting the detailed information.

The detailed list shall be reasonable and be consistent with the amount in the invoice from end suppliers and the amount on the Supplier's statement.

- 14.2. Bayer may deduct, from any amount due or becoming due and payable to the Supplier, any amount that is due and payable by the Supplier to Bayer.

Bayer shall pay the invoiced amount within the period for payment after receipt of the invoice related to the Order. The Supplier shall ensure that Bayer receives the Special Value Added Tax Invoice within seven (7) days after the Supplier has completed the Services, delivered the Goods and/or the Deliverables of Services. In the case of a value added tax invoice, the Supplier shall ensure that the invoice indicates the order number and the address where the Services are completed, the Deliverables of Services and/or the Goods are delivered. Bayer is entitled to refuse payment for any Goods, Services and/or the Deliverables of Services which do not meet the agreed requirements and have not been accepted by Bayer.

**The following article 15, article 16, article 17 apply to Goods purchase**

**15. Weight**

The Supplier must adhere to the weight of the Goods stated in the Contract and/or the Order, except for a tolerance of +/-5%. If, in case of a purchase weight, the Supplier has not officially weighed the Goods through the railroad, then equivalent weighing has to be performed by Supplier.

**16. Shipping Requirements**

The Supplier shall always pack, mark and ship dangerous Goods in compliance with the applicable national or international regulations. The accompanying documents shall state not only the risk category but also any further particulars required by the applicable regulations.

**17. Documents**

- 17.1. If the Goods are sent by air-freight, the Supplier shall, prior to the Goods arriving at Bayer's destination, provide to Bayer, by facsimile, a copy of the airway bill marked with the Contract and/or the Order number and with the words of either "freight prepaid" or "freight to collect" at the Supplier's location. If the Goods are sent by air parcel post, the Supplier shall provide to Bayer the following documents: two copies of the air parcel post receipt addressed to Bayer, the invoice or, if applicable, the value-added tax invoice indicating the Contract and/or the Order number and setting out the details of the relevant Contract, two copies of the packing list issued by the Supplier, and the certificate of quality and quantity issued by the Supplier. If the Goods are sent by ship, the Supplier shall provide shipping papers and the invoice or, if applicable, the value-added tax invoice stating the name of the shipping company and of the ship.
- 17.2. Without prejudice to the above, the Supplier shall provide at its own expense to Bayer all the documents that Bayer may reasonably request for the performance of the Contract and the Order.



### **18. Confidentiality, Publicity, Compliance and Others**

- 18.1. The Supplier shall keep in confidence all information provided by Bayer in relation to Bayer and the affiliates of Bayer and all information provided, prepared, produced, designed or developed by Bayer or the Supplier for the purpose of the Services, and shall not disclose or use such information except for the purpose of performing the Contract and/or the Order. Upon request of Bayer, the Supplier shall immediately return the aforesaid information and materials and shall not keep copies in any form (including electronic copy).
- 18.2. Without the prior written consent of Bayer, the Supplier shall not by any means publicize or make it publicly known that the Supplier provides or will provide the Services to Bayer.
- 18.3. Without the prior written consent of Bayer, the Supplier shall not use any name, logo, trade mark or brand of Bayer or an affiliate of Bayer, either alone or together with the Supplier's name, logo, trade mark or brand or in any other manner.
- 18.4. The Supplier hereby acknowledges its full understanding and commitment that the Supplier shall strictly comply with all aspects of the applicable Compliance Standards and all substantially similar documents, which Bayer may release from time to time.
- 18.5. The Supplier hereby acknowledges its full understanding and commitment that the Supplier shall strictly comply with all aspects of the applicable Code of Conduct and all substantially similar documents, which Bayer may release from time to time. The current version of the Code of Conduct is posted on the following website: <http://www.supplier-code-of-conduct.bayer.com>

### **19. Personal Information**

If the Supplier acquires, processes or uses any personal information, including but not limited to that of the employees and/or customers of Bayer or Bayer's affiliates, in performing a Contract and/or an Order, the Supplier shall limit such acquisition, processing and use for the purposes of such Contract and/or such Order, and shall comply with all applicable laws and rules (if any) and instructions or requirements made by Bayer to the Supplier according to the laws and rules on personal information protection that may apply to Bayer or Bayer's affiliates.

### **20. Force Majeure**

- 20.1. In case of any delay due to Force Majeure Events such as war, fire, flood, typhoon or earthquake, which are beyond the control of the Parties, and which are unforeseeable or, if foreseen, are unavoidable, the Party encountering such event shall not be held liable. The Party encountering a Force Majeure Event shall as soon as practicably possible notify the other Party of such event and, within seven (7) days after the occurrence of such event, provide the other Party with a certificate issued by the competent authorities evidencing the occurrence of the Force Majeure Event.

- 20.2. During the period of the Force Majeure Event, the Supplier shall take all necessary measures to perform the Contract and/or the Order. If, as a result of the Force Majeure Event, delay lasts for more than five weeks, Bayer shall have the right to rescind the Order.
- 20.3. During the period of the force majeure event, the Supplier shall take all necessary measures to facilitate the delivery of the Goods. If, as a result of the force majeure event, delivery is delayed by more than five (5) days, Buyer shall have the right to rescind the Order.

## **21. Effectiveness and Termination**

- 21.1. The Orders shall take effect upon the affixation of the company seals or contract seals of the Parties, provided that, if there is a Statement of Work for the Services (the “**Statement of Work**”), the Order shall not be effective until the Statement of Work has been duly executed by the Parties.
- 21.2. In any event Bayer is entitled to terminate the Contract or cancel the Order by thirty (30) day prior written notice.

## **22. Applicable Laws and Dispute Resolution**

- 22.1. The Supplier’s employment shall comply with the Labour Law of the People’s Republic of China, Labour Contract Law of the People’s Republic of China, Law on Protection of Minors of the People’s Republic of China, Provisions on Prohibition of Child Labour and other relevant laws and regulations, and shall not illegally recruit, or in the course of providing the Services or during any stage of performance of the Contract and/or the Order, illegally use minors under the age of 16.
- 22.2. The Contract and the Order shall be governed by the laws of the People’s Republic of China. Any dispute arising out of or relating to the Contract and/or the Order shall be submitted to the China International Economic and Trade Arbitration Commission for arbitration in Beijing in accordance with the arbitration rules of such commission then in force. The arbitral award shall be final and binding on the Parties.

## **The following article 23 applies to Service agreements**

23. **Pharmacovigilance (PV) terms** (applicable for PV relevant service/contract, when there is a possibility that the supplier could receive information related to the safety of Bayer product for human use)
- 23.1. Supplier agrees to provide Bayer local pharmacovigilance department with written reports of all Adverse Events (“AE”) and Product Technical Complaints (“PTC”) regarding Bayer Product(s) covered by this Agreement that come to their attention in connection with the services performed under this Agreement by fax (010-85505141) or e-mail ([AE\\_China@bayer.com](mailto:AE_China@bayer.com)) within one (1) business day from receipt of information.
- 23.2. All known cases of Exposure via mother/father (exposure during conception, pregnancy, childbirth and breastfeeding); Medication error; Misuse; Off label use ; Abuse; Addiction /

Dependence; Product use issue / Intentional product use issue; Lack of Drug Effect / Lack of Effect; Overdose (accidental and intentional); Suspected transmission of an infectious agent; Drug interactions; Withdrawal syndrome; Occupational exposure or Unexpected therapeutic benefit (pre-existing condition improved) with respect to the Bayer Product(s) covered by this Agreement must be reported in the same manner as an AE/PTC.

- 23.3. For the purposes of this Agreement, an “Adverse Event” shall mean any untoward medical occurrence in a patient administered the Product, which does not necessarily have to have a causal relationship with this treatment. A “Product Technical Complaint” is any report (written, electronic or verbal communication) about a potential or alleged failure of the Product in its quality (including the identity, durability, reliability, safety, efficacy or performance) or suspect counterfeit. The complaint may or may not represent a potential risk to the patient/consumer.
- 23.4. If the supplier entered standalone PV Agreement regarding this service agreement, then the supplier should follow all rules and procedures according to PV Agreement.