

**General Purchase Terms and Conditions of Bayer East Africa Ltd with its registered offices in Kenya**

**1. GENERAL**

- 1.1 These terms and conditions ("Purchase Terms and Conditions") are incorporated by reference into the purchase agreement or other agreement entered into for the purchase of goods and/or services ("Agreement") that includes these Terms and Conditions between Bayer East Africa Ltd ("Purchaser") and the contractual partner ("Supplier").
- 1.2 These Purchase Terms and Conditions apply exclusively. These Purchase Terms and Conditions shall not apply only if and to the extent that the validity of Purchaser's special terms and conditions is agreed on. In that case, the Purchase Terms and Conditions apply only additionally and secondarily. These Purchase Terms and Conditions shall in particular not apply if there is an express reference to the Purchase Terms and Conditions for IT Services/Work Services, for Construction Services, for Engineering Work Services and/or General Engineering Services or for Equipment.
- 1.3 Supplier's conflicting or differing terms and conditions or other terms and conditions or other general business terms and conditions are not recognized. Conflicting or differing terms and conditions shall apply only if the Purchaser has expressly accepted them in writing in each individual case. This provision applies even if goods and/or services are accepted by the Purchaser in awareness of Supplier's general business terms and conditions.
- 1.4 Individual contractual agreements always have priority over these Purchase Terms and Conditions.

**2. PURCHASE ORDER AND ACCEPTANCE**

- 2.1 Supplier shall check each purchase order received from Purchaser for discernible errors, ambiguities, omissions and unsuitability of the specifications selected by Purchaser for the intended purpose. Supplier shall immediately inform Purchaser of any necessary amendments or clarifications to the purchase order.
- 2.2 Each purchase order and/or amended purchase order that does not accept a previous offer of Supplier must be acknowledged in writing by Supplier. The start of execution of the purchase order by Supplier shall be equivalent to this express acceptance by Supplier of the offer.

**3. COMPENSATION**

- 3.1 Unless expressly agreed otherwise in writing, the compensation owed is a fixed price. Fixed prices also include expenses, energy cost, raw material costs, third-party costs, travel costs and out-of-pocket expenses as well as packing and freight-paid delivery. Fixed prices also include compensation for sketches and drafts (including clean drawings or drawing stored on electronic media, including image data). Fixed price agreements are also valid for estimates prepared by Supplier before the conclusion of the Agreement, unless such estimates are explicitly identified as non-binding. Any increased costs necessary to perform the service shall be borne by Supplier.
- 3.2 Unless a fixed price has been stipulated, travel costs are reimbursable only on the basis of Purchaser's prior

written consent according to Purchaser's conditions for the reimbursement of travel costs.

- 3.3 If Supplier's prices are reduced or Supplier's conditions improve during the period between the purchase order and delivery, the prices and conditions in effect on the date of delivery also apply for Purchaser. The above provision applies accordingly for individually approved third-party services, costs and expenses.

**4. PAYMENT TERMS**

- 4.1 Invoices must contain the purchase order number indicated in the purchase order and describe the components of the service or goods in detail. Invoices must also correspond to the language, order of invoice items and prices indicated in the purchase order. Any additional or reduced services or goods must be listed separately in the invoice.
- 4.2 Invoices not denominated in local currency must show the conversion rate between the foreign currency/local currency or the VAT amount in the local currency.
- 4.3 If in the specific instance the parties agree in writing, notwithstanding the provisions of Section 3.1, that Purchaser shall reimburse out-of-pocket expenses, costs of third-party services and other expenses, these expenses must be shown in the invoice, broken out by item, quantity, unit and total prices and documented by copies of the corresponding in-voices or vouchers.
- 4.4 Payment periods begin to run from a specific date, although not earlier than the receipt of the goods or their acceptance, and in no case before receipt of the invoice and - if stipulated - the transmission of analysis certificates and/or manufacturing documentation.
- 4.5 Payments are due within 30 (thirty) days net from date of the statement, unless the provision in Section 4.4 results in a later payment date.
- 4.6 The Parties may deviate from the payment terms as set forth in Section 4.5 if explicitly agreed, for example in the text field of a purchase order.
- 4.7 Purchaser's payment shall be late only if Purchaser received an express warning after the date payment was due and/or a fixed payment deadline was stipulated. The lump-sum late interest rate applicable in the event of late payment is the prime rate of interest as applicable in the country of domicile of the Purchaser where payment is made in local currency

**5. PROPERTY AND RISK**

- 5.1 Title to the Goods shall pass to the Purchaser on delivery or, if earlier, on payment for the Goods to the Supplier (without prejudice to any right of rejection by the Purchaser) and risk in them shall pass to the Purchaser upon delivery at the point of delivery stated in the order.
- 5.2 Any information (including but not limited to concepts, methodologies, drawings, standards, guidelines, specifications, formulations, and other information or documents) ("Information") prepared by the Supplier in connection with the manufacture of the Goods and/or supply of the Services or otherwise under instruction from the Purchaser shall be the property of the Purchaser. The Supplier hereby assigns to the Purchaser with full title guarantee all copyright, design right and any other intellectual property rights relating to such Information for no further consideration and subject only to the payment of the price of the relevant

Goods and/or Services. The Supplier undertakes to do all further acts as reasonably necessary in order to assign the ownership of such intellectual property rights to the Purchaser.

Purchaser of any risk of contamination or any suspicion of contamination.

## **6. TIME OF PERFORMANCE AND DELIVERIES**

- 6.1 If a specified period of time has been stipulated for the performance, unless otherwise agreed, this period begins with receipt of the purchase order by Supplier.
- 6.2 As soon as Supplier becomes aware that it can no longer perform its contractual obligations in whole or in part, or not in a timely manner, it must immediately notify Purchaser of this indicating the reasons for and the projected duration of the delay. Notification must be made in writing. If Supplier fails to provide this notification, it may not plead the obstacle to Purchaser as the cause of the delay.
- 6.3 If Supplier does not perform within the stipulated time, it shall be liable in accordance with the applicable laws and regulations. Purchaser is also authorized, in the event of delays in performance or delivery, after prior written notification to Supplier, to impose a contractual penalty in the amount of 0.5%, not to exceed 5% of the amount of the purchase order, for each week or portion thereof the performance or delivery is delayed, unless Supplier is not responsible for the delay. Any contractual penalty paid in accordance with this provision shall be credited toward the compensation for delayed performance owed by Supplier. The contractual penalty can be asserted until final payment is due, with no retention needed.
- 6.4 Partial services and/or deliveries shall be accepted only by express agreement.
- 6.5 If a delivery deadline is stipulated, Purchaser reserves the right to return goods delivered early at Supplier's expense. If Purchaser decides not to return early deliveries, the goods shall be stored until the stipulated de-livery date at Supplier's expense and risk.

## **7. QUALITY ASSURANCE**

- 7.1 Supplier must establish and maintain an effective Quality Assurance program (e.g. in accordance with ISO 9000 et seq. or equivalent). Supplier must demonstrate the corresponding measures to Purchaser on request.
- 7.2 Purchaser itself is entitled to verify the Quality Assurance measures by appointment or to have them verified by third parties engaged by Supplier.
- 7.3 Supplier shall notify Purchaser before making any changes to raw materials, methods of manufacture, production equipment or locations involved into the performance of a purchase order and shall obtain Purchaser's agreement that such changes do not make the of goods and/or services unsuitable for Purchaser before making any such change(s). Purchaser may terminate the purchase order if Supplier does not agree.
- 7.4 Supplier shall ensure that all equipment, and containers are cleaned with the utmost care before any change of products. Supplier shall operate in accordance with all applicable laws including the latest guidance on contamination prevention in the manufacture of Crop Protection products, to be found on <https://croplife.org/?s=guidelines> and shall -to the extent legally possible and where applicable- indicate to Purchaser which other product has been handled, processed or stored in the equipment and containers before. Further, Supplier shall promptly inform

## **8. INSURANCE**

- 8.1 In accordance with the transfer of risk under the stipulated INCO-TERMS/delivery conditions, the respective Party bears the risk for the loss of or damage to the goods.
- 8.2 Supplier must, at its expense, purchase sufficient liability insurance in an amount standard in its sector to cover damage caused by services or work performed or property owned by it, its personnel or its subcontractors as a result of services performed or work or goods delivered. Proof of coverage must be provided to Purchaser on request. More extensive damage claims to which Purchaser may be entitled in excess of insurance coverage remain unaffected.
- 8.3 The purchase of special erection/installation insurance coverage in addition to the liability coverage stipulated in Section 8.2 must be coordinated between Purchaser and Supplier in each individual case.
- 8.4 Objects loaned to Purchaser, including but not limited to machines and equipment that are used on operating sites, must be insured by Purchaser against the standard risks. Purchaser shall have no further liability for loss of or damage to these objects except in cases of malicious intent or gross negligence.

## **9. LIABILITY**

- 9.1 Supplier must hold Purchaser harmless from producer liability claims.
- 9.2 In the framework of its own liability for damages pursuant to Section 9.1, Supplier must also reimburse any expenditures incurred by Purchaser or in connection with a recall campaign conducted as required by law. The above also applies for precautionary recall campaigns.
- 9.3 Purchaser shall be responsible for instructing government authorities in compliance with applicable legislation. Purchaser shall coordinate with Supplier as necessary.
- 9.4 Apart from that, Supplier shall be liable in accordance with the statutory provisions.

## **10. HEALTH AND SAFETY**

- 10.1 The Supplier shall take all reasonable precautions to ensure the health and safety of its and the Purchaser's employees while on the Purchaser's premises and, without prejudice to the generality of the foregoing, shall provide all Health and Safety Data Sheets as may be required to be provided to comply with all statutory requirements.
- 10.2 The Purchaser shall not be liable to the Supplier in any civil proceedings brought against the Supplier under any Health and Safety Regulations made pursuant to the Occupational Health and Safety at Work etc. Act 2007 as amended or re-enacted from time to time, where such exclusion of liability is permitted by law.
- 10.3 The Supplier shall indemnify and keep indemnified the Purchaser in respect of any liability, monetary penalty or fine in respect of or in connection with the goods or services incurred directly or indirectly by the Purchaser under the Occupational Health and Safety at Work Act 2007 as amended or re-enacted from time to time and/or Regulations, orders, directions or Codes of Practice

made thereunder arising or resulting from the Supplier's default.

Recommendations on the Transport of Dangerous Goods, Model Regulations shall apply.

## 11. CANCELLATION

11.1 If the Agreement is a continuous obligation, Purchaser, in the case of the exercise of its ordinary cancellation rights, is also entitled to partial cancellation, if it can reasonably be expected of Supplier.

11.2 If the Agreement is a continuous obligation, it can be canceled without notice for cause. Sufficient cause exists in the following cases in particular:

- Supplier defaults on a contractual obligation and does not cure the default within a reasonable period of time set by Purchaser, accompanied by the threat of cancellation.
- If the deadline for compliance cannot be extended depending on the type of breach, Supplier has not successfully cured the breach in spite of a warning.
- Supplier has not complied with its obligation to withhold taxes and/or social security contributions. There has been significant deterioration of Supplier's financial situation that endangers performance of the Agreement.

## 12. PACKING AND SHIPMENT

12.1 Separately from the goods and the invoice, Supplier must send a complete shipping notice for each individual shipment on the date of dispatch. Bills of lading and packing lists must be included with each shipment. For shipments by ship, the name of the shipping company and the vessel must be indicated in the shipping documents and the invoice. The Supplier must select the best and most appropriate means of transport for the Purchaser. The purchase order references and information on the unloading point specified by Purchaser must be indicated in full on the shipping notices, bills of lading, packing lists, consignment notes, invoices and on the external packaging.

12.2 Supplier shall always pack, label, store, stow and ship product in accordance with applicable laws and according to product specification including product specific requirements for packaging, warehousing, and transportation. If required by applicable laws the accompanying documents shall show the risk category and all further particulars. This may include the delivery of a valid and complete material safety data sheet.

12.3 Goods must be packed to prevent damage during transport. Packing materials must be used only to the extent necessary to achieve this purpose. Supplier must take back the packing material as required by law and the applicable regulations. If, under the terms of an express agreement, Purchaser pays separate compensation for the packing material, it is entitled to return the packing material in good condition for a refund of 75% of the invoiced price, freight prepaid, to Supplier. The maximum weight of each package is 10 kg.

12.4 In general, Supplier must pack, identify and ship hazardous products / dangerous goods ("Dangerous Goods") in compliance with the applicable national/international requirements concerning classification, labelling packaging, storing and transportation of Dangerous Goods ("Transport and Handling"). The same applies to the creation and signing of mandatory transport documentation related to Dangerous Goods, irrespectively of the agreed Incoterm. Where such regulations do not exist, the UN

12.5 Supplier shall be liable for damages and shall assume all costs incurred as a result of failure to comply with these regulations. Supplier shall also be responsible for compliance with these regulations by its subcontractors.

12.6 All shipments that cannot be accepted as a result of Supplier's failure to comply with these regulations shall be placed in storage at Supplier's expense and risk. Purchaser is entitled to ascertain the content and condition of such shipments.

## 13. GRANTING/TRANSFER OF RIGHTS

13.1 The parties agree that all rights to the contractual works, designs, including but not limited to figures and graphics, photographs, software, data collections and/or other work results created by Supplier individually for Purchaser, including the associated drafts, documentation and information (together "Work Results" below) are the exclusive property of Purchaser. The parties further agree that Purchaser is entitled to use, exploit, add to, modify and otherwise process these Work Results (including for purposes beyond the business purposes of the Purchaser and the objective pursued with the specific order) in any conceivable manner and otherwise to process them and connect or combine them with other works or items and to transfer them in modified or unmodified form to affiliated companies and other third parties.

13.2 Supplier, by entering into this Agreement, accordingly grants exclusive, irrevocable rights of use to the Work Results referenced above created by Supplier and protected under copyright law as well as to all revisions and/or modifications of these Work Results with no temporal, geographic or content-related restrictions, which rights of use may be transferred and/or sub-licensed in whole or in part.

13.3 If third-party copyright arrangements allow it, Supplier also assigns to Purchaser the copyright to the Work Results as such. Supplier assigns to Purchaser all additional intellectual property rights to the Work Results as well as the film rights.

13.4 With regard to the contractual software created by Supplier individually for Purchaser and/or adaptations to software and/or parts of the software (including patentable databases, data or database structures and data collections, the terms and conditions set forth below also apply:

- If the Work Results are individually created software or adaptations to standard software, Purchaser shall be granted exclusive rights to said software or adaptations. Otherwise, the rights shall be granted on a non-exclusive basis.
- Purchaser is further granted the rights with regard to the contractual software or parts of the software individually, but also when they are included in other software and/or software parts and to that extent also jointly, in particular the right to exploit, lease, rent, reproduce, reconfigure and modify them, to transmit them wirelessly or by wire in whole or in part, to make them available for retrieval by the public free of charge or for consideration and to publicly report on the service. This right expressly also includes documentation, training materials or interim results of this software.
- Purchaser is entitled to assign rights of use to software that has been purchased by Purchaser

on the basis of these Purchase Terms and Conditions in the event of restructuring, the formation of new entities for purposes of research and development (in particular including for joint ventures formed in this context), the sale of companies or the outsourcing of IT processes in whole or in parts to associated companies and to third parties (in particular service providers in connection with this IT outsourcing). The assignment may to this extent also be only partial and in the context of the license scope shall include a usage authorization in favor of Purchaser.

13.5 Supplier also assigns all rights to and from inventions (including rights from patents and utility models), distinctive marks, trademarks, trade names and design rights on the Work Results created for Purchaser, to Purchaser in full and worldwide. This assignment further comprises all applications and interests in these rights. The assignment is independent of whether the rights, applications and interests are registered or unregistered. If any existing protective or identifying marks, trademarks, trade names or design rights cannot be assigned, Section 13.1 applies as appropriate.

13.6 If Supplier creates software and or adaptations to standard software on orders from Purchaser, the source and object code created in the context of execution of the order shall be assigned to Purchaser comprehensively and in appropriate form. If the subject matter of the Agreement is the supply of standard software and if Supplier does not transmit the source and object code for it to Purchaser, Supplier must, if Purchaser so wishes, deposit the source code with a suitable third-party, i.e. in particular an escrow agent, under standard market conditions and in favor of Purchaser.

13.7 In addition to the exclusive title to intellectual property, Purchaser also acquires exclusive title to all physical objects and data media created or conveyed in the context of this Agreement by Supplier or on the instructions of the Supplier for the performance of the purchase order (e.g. including but not limited to sketches, drafts, documents, molds, models, tools, films, photographs, transparencies, contact prints, film recordings, videotapes, masters, USB sticks, memory cards, advertising material, posters, signs, labels, packing materials etc.). The above provision applies even if some or all of the cited objects remain in Supplier's possession. These objects must be delivered to Purchaser on request.

13.8 With payment of the stipulated compensation, both the services contractually owed by Supplier and the above-mentioned transfers of rights shall be deemed fully compensated.

#### **14. IP INFRINGEMENTS**

14.1 Supplier shall hold Purchaser harmless from all third-party claims, subject to the provisions of Section 14.2, that are brought on grounds of infringement of third-party IP rights by the Work Results and/or objects supplied when used as stipulated by the Agreement. This hold-harmless obligation includes all expenses that are incurred by Purchaser from or in connection with the third-party claim.

14.2 Supplier shall not be liable for services that are made available by Purchaser. Purchaser shall hold Supplier harmless from third-party claims if and to the extent that the respective claim is brought on grounds that

Supplier has acted at Purchaser's express wish, although Supplier has notified Purchaser in writing of its objections with regard to the admissibility of the action.

#### **15. CONFIDENTIALITY**

15.1 Supplier must use all information received orally or in writing from Purchaser only for the purposes stipulated in this Agreement, keep it confidential and not disclose it to third parties without Purchaser's prior written consent. Supplier must further make the information accessible only to those employees and subcontractors, if any, who are bound by a confidentiality agreement equivalent to that stipulated in Section 14 and who are required to have the information to perform the Agreement between Supplier and Purchaser. At Purchaser's request, Supplier must confirm to Purchaser in writing the conclusion of corresponding agreements.

15.2 The confidentiality requirement stipulated above extends as appropriate to the request for quotation and purchase order as well as to the work performed in this regard.

15.3 The above obligations do not apply to information that:

- at the time of its disclosure was already known to Supplier without any obligation to the Purchaser to keep it confidential, or
- was disclosed to Supplier by third parties who received and forwarded this information without violating any confidentiality obligation, or
- at the time of its disclosure by Purchaser was already in the public domain, or
- entered the public domain thereafter through no fault on the part of Supplier.

15.4 Nor does the confidentiality obligation apply if disclosure of the information to a court or a government authority is required by an order of the court or other government authority for the execution of the order. If permitted under the specific circumstances, Supplier shall immediately notify Purchaser before information is forwarded to a court or government authority.

15.5 The confidentiality obligation stipulated above survives the completion of the order unless one of the exceptions cited above occurs subsequently.

#### **16. SAFETY AND SECURITY**

16.1 The Supplier undertakes on behalf of itself, its employees, agents and sub-contractors (if any) to comply with all site safety and security instructions notified to it by the Purchaser or persons acting on the Purchaser's behalf.

16.2 The Purchaser's security staff have been instructed to notify all personnel entering our sites of its current security procedures which may result in additional checks being made whilst they are on site. The Supplier shall ensure this information is passed to the appropriate staff, subsidiary companies, hauliers e.t.c who need to be made aware of the situation.

#### **17. DATA PROTECTION**

17.1 For purposes of the Agreement, the definitions set forth in the Kenya Data Protection Act apply.

17.2 Each party must at all times comply with its respective obligations under the applicable data protection laws and regulations (including but not limited to the Kenya Data Protection Act).

17.3 Information on how Purchaser processes personal data of natural persons in the context of this Agreement can be found on the following website: <https://www.bayer.com/en/corporate-compliance/data-privacy-information-for-specific-processing-activities>.

## 18. WITHHOLDING TAX

18.1 Purchaser has the right to withhold from the compensation owed under this Agreement any taxes due at the source, the withholding of which is Purchaser's statutory responsibility, including any solidarity surtax legally due on such taxes. Any tax withheld shall be treated for all purposes of this Agreement as if it has been paid by Purchaser to Supplier. Supplier must as soon as possible receive a tax receipt from Purchaser indicating the amount of the tax withheld at the source that documents the amount of the taxes withheld and deducted.

18.2 If Purchaser cannot deduct the withholding tax, including any solidarity surtax, from the payment because the compensation is paid by offsetting of mutual claims, Supplier must pay the withholding tax, plus any solidarity surtax, to Purchaser separately. If Purchaser has neglected to deduct withholding tax although it is required under the law to pay withholding taxes to the tax authorities for Supplier's account, Supplier shall assist Purchaser with regard to all procedures that are necessary to obtain a refund from the tax authorities. If the tax authorities do not refund the subsequently paid withholding taxes including any solidarity surtax, Supplier shall immediately refund to Purchaser the amount of the tax owed by law, including any solidarity surtax.

## 19. VAT

All stipulated compensation amounts are net amounts. If owed by Supplier under the law, value-added tax must be paid after receipt of a correct invoice within the meaning of the Value-Added Tax Act in addition to the stipulated compensation.

## 20. ORIGIN OF GOODS/CUSTOMS STATUS

### 20.1 Origin of goods

The goods supplied must meet the origin requirements of the country of origin unless not expressly stipulated otherwise in the order acknowledgment. Supplier must issue all supplier declarations required and confirm the preferential status of the products supplied by it. This requirement is not satisfied by the indication of the country of origin on the invoice. Supplier is responsible for the accuracy of the supplier's declaration and shall be liable to Purchaser for any damage incurred. A long-term supplier's declaration may be issued; at Purchaser's request, however, an individual supplier's declaration must be issued in each case. At Purchaser's request, however, a certificate of origin must be issued in each case, if necessary.

### 20.2 Customs status

Unless otherwise agreed between Supplier and Purchaser, and insofar as applicable, Supplier must always supply Union goods for deliveries from an EU loading point. Supplier must indicate the customs status of the goods in its shipping documents (e.g., bill of lading). Unless otherwise indicated: goods that are shipped from an EU loading point are Union goods.

### 20.3 Custom and Foreign Trade

In addition, the "BAYER Supplier Instruction - Customs and Foreign Trade Terms and Conditions" apply.

## 21. SUSTAINABILITY

21.1 Supplier is obligated to organize its business with Bayer in compliance with Bayer's human rights-related and environment-related expectations as well as other sustainability topics as out-lined in Bayer's Supplier Code of Conduct ("Bayer SCoC"), Version dated December 31, 2022, which can be accessed through <https://www.bayer.com/en/procurement/supplier-code-of-conduct>. Bayer reserves the right to amend this Sustainability Clause as well as the Bayer SCoC if Bayer's human rights-related and environment-related expectations change and will inform Supplier thereof as soon as reasonably possible. Supplier shall acknowledge continued compliance to such amended SCoC or clause, as the case may be.

21.2 Supplier will address the substantive provisions of the Bayer SCoC to its suppliers and ensures that the substantive provisions of the Bayer SCoC are adhered to by itself and its suppliers, including access to Bayer's complaint portal specified in the Bayer SCoC.

21.3 Bayer reserves the right to evaluate, control or audit (onsite or remote audit, online or paper questionnaire, recognized certification systems or audit-systems, etc.) to ensure and verify compliance with the aforementioned. An evaluation, control or audit can be executed directly by Bayer or by a qualified third party.

21.4 Supplier shall, without undue delay, (i) report to Bayer in writing any identified risks for and violations of the principles outlined in Bayer SCoC and (ii) take appropriate remedial actions to prevent, end, or minimize the violation. Bayer reserves the right to (i) apply a concept for ending or minimizing a violation and (ii) ask for Supplier's cooperation in this respect. If Supplier fails to comply with the requirements of the Bayer SCoC, and after a grace period of three (3) months has lapsed without the violations having been eliminated, Bayer reserves the right to either (i) suspend the agreement until such violations have been remedied, or (ii) give extraordinary notice of termination after the aligned timeline for execution has lapsed unfruitful and at Bayer's exclusive discretion.

21.5 Supplier acknowledges and supports Bayer's Supplier Inclusion & Diversity efforts, its commitment to the participation of diverse businesses and the prohibition of discriminatory treatment in the supply chain as outlined in Bayer SCoC. Supplier will use reasonable efforts to employ qualified diverse suppliers and subcontractors where appropriate and feasible, keep record of their use, and be able to produce a report upon Bayer's request of spend percentages with diverse suppliers.

21.6 Supplier shall indemnify and keep Bayer and its affiliates, including Bayer AG harmless from any damages, 3rd party claims, fines, or losses arising out of violations of the obligations described either herein or in the SCoC.

## 22. FINAL PROVISIONS

22.1 **Assignment:** Purchaser may transfer the Agreement and the rights and obligations related to it at any time and without Supplier's consent to Bayer AG or to companies affiliated with i or in connection with the sale or transfer of all or substantially all of (i) its business, (ii) a given business unit or (iii) a given site, or in connection with a merger or other consolidation of Purchaser or any of its affiliated companies with another entity.

22.2 **Force Majeure:** Where a Party is unable, wholly or in part, by reason of fire, flood, explosion, earthquake, riot, act of God, war or terrorist activities, through no fault of the Party declaring Force Majeure and not resulting in any way from its negligence or willful misconduct to carry out its obligations under this Agreement, excluding payment obligations ("Force Majeure Event"), such obligations shall be suspended so far as they are affected by the Force Majeure Event and, in relation to such suspended obligations, neither Party shall be liable to the other or be deemed to be in breach of this Agreement for reason of delay in performance or failure of performance.

22.3 **Applicable Law:** These terms and conditions and the order generally shall be governed in all respects by the Kenyan Law, excluding its conflict of law rules. The UN Convention of April 11, 1980, on agreements for the International Sale of Goods shall not apply. All disputes arising from this Agreement shall be subject to the exclusive jurisdiction of Kenyan Courts.

22.4 If a purchase order references INCOTERMS without indicating the year, INCOTERMS apply in the version in force at the time of the purchase order.

22.5 If individual provisions of the Agreement are or become invalid or unenforceable in whole or in part, the remaining provisions shall be unaffected thereby.

22.6 If provisions are excluded from the Agreement, are invalid or unenforceable, the parties shall replace the invalid or unenforceable provision with a valid and enforceable provision that comes economically as close as possible to the original provision in consideration of their mutual interests.

Updated: Nairobi, February 2023