1. GENERAL

1.1. These terms and conditions (“Purchase Terms and Conditions”) are incorpo-
rated by reference into the purchase agreement entered into for the purchase of
goods and/or services (“Agreement”) between Bayer plc or Bayer Crop-
Sciences Ltd as specified in the PO (“Purchaser”) and the contractual partner
(“Supplier”).

1.2. Subject to Section 1.3, these Purchase Terms and Conditions apply to the ex-
clusion of any other terms that the Supplier seeks to impose or incorporate, or
which are implied by law, trade custom, practice or course of dealing.

1.3. Separate negotiated contractual agreements always have priority over these
Purchase Terms and Conditions.

2. PROVISIONS OF THE AGREEMENT

2.1. Individual provisions of these Purchase Terms and Conditions that make ex-
press reference to a specific type of purchase category (e.g. purchase of goods,
purchase of work and materials, work services, general services or equipment)
apply exclusively for the respective type of purchase category. Otherwise, the
provisions set forth below apply to all types of purchase categories.

3. PURCHASER’S OFFER

3.1. The raising of a purchase order by the Purchaser constitutes an offer by the
Purchaser to purchase the goods/ services as set out in the Supplier’s quote/
proposal in accordance with these Purchase Terms and Conditions. Supplier
shall check each purchase order received from Purchaser for discernible errors,
ambiguities, omissions and unsuitability of the specifications selected by Pur-
chaser for the intended purpose. Supplier shall immediately inform Purchaser
of any necessary amendments or clarifications to the purchase order.

4. SUPPLIER’S ACCEPTANCE

4.1. The purchase order shall be deemed to be accepted by the Supplier on the ear-
lier of: (i) the Supplier issuing a written acceptance of the purchase order; or
(ii) the Supplier doing any act consistent with fulfilling the purchase order; at
which point the Agreement shall come into existence. The final version of the
quote/ proposal shall be incorporated into the Agreement.

4.2. The Supplier waives any right it might otherwise have to rely on any term en-
dorsed upon, delivered with or contained in any document of the Supplier that
is inconsistent with these Purchase Terms and Conditions.

4.3. Supplier must indicate the following information in all correspondence: Pur-
chasing department, complete purchase order number, date of purchase order
and Purchaser’s reference.

4.4. Purchaser is entitled to demand modifications to the goods or services to be
supplied even after the formation of the Agreement, provided Supplier can be
reasonably expected to make such modifications. Such amendments to the
Agreement shall consider the effects for both parties, in particular, sufficient
account shall be taken to cost increases or decreases and effects on the schedule.

4.5. Supplier is not authorized by the Agreement to represent Purchaser as agent or
otherwise.

5. SUPPLIER OBLIGATIONS

5.1. Supplier shall perform any services itself or have them performed by an affili-
ate. Supplier shall not use subcontractors without Purchaser’s prior express
approval. If Purchaser approves the use of subcontractors, they shall be commis-
sioned by Supplier in its own name and the Supplier shall remain responsible
for all the acts and omissions of its subcontractors as if they were its own.

5.2. If the performance of the service takes place at the Purchaser’s site, Supplier
must comply with the safety and organizational requirements for outside com-
panies and/or the internal operating regulations applicable at the respective site.
Supplier must also comply with all other requirements displayed for its infor-
mation on the site. If Supplier considers the requirements unreasonable, it must
immediately register its objections with Purchaser.

5.3. In the performance of the Agreement the Supplier shall (i) use only qualified
persons who are suitably skilled and experienced to perform tasks assigned to
them and in sufficient number to ensure that the Supplier’s obligations are ful-
filled in accordance with the Agreement; (ii) use best care, skill and diligence
in accordance with best practice in the Supplier’s industry profession or trade;
(iii) provide all equipment, tools and vehicles and such other items as are re-
quired to provide the services/goods under the Agreement; (iv) use the best
quality goods, materials, standards and techniques, and ensure that the deliver-
ables and all goods and materials supplied and used in the Agreement or trans-
ferred to the Purchaser, will be free from defects in workmanship, installation
and design; (v) obtain and at all times maintain all licenses and consents which
may be required for the performance of the Agreement; (vi) not do or omit to
do anything which may cause the Purchaser to lose any licence, authority, con-
sent, or permission on which it relies for the purposes of conducting its busi-
ness, and the Supplier acknowledges that the Purchaser may rely or act on the
goods and or services supplied under the Agreement; (vii) co-operate with the
Purchaser in all matters relating to the Agreement and comply with all instruc-
tions of the Purchaser; and (viii) ensure that the service and or goods will con-
form with all descriptions, standards and specifications set out in the order,
quote and proposal and that deliverable shall be fit for any purpose that the
Purchaser expressly or impliedly makes known to the Supplier.

5.4. Persons whose employment with Purchaser was previously terminated by Pur-
chaser for personnel or performance-related reasons, or persons who have re-
peatedly damaged or continue to cause particularly serious damage to Pur-
chaser’s interests may not be used by the Supplier in the performance of any
services. Supplier shall bear any increased costs resulting from a replacement
of the personnel used for the performance of the service.

6. TIME OF PERFORMANCE AND DELIVERIES

6.1. The Supplier shall meet any timelines for performance of services or delivery
of goods specified in the Agreement. Unless agreed otherwise by the parties,
time is of the essence in relation to any performance or delivery dates. If a
specified period of time has been stipulated for the performance, unless other-
wise agreed, this period begins with receipt of the purchase order by Supplier.

6.2. As soon as Purchaser 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 the Supplier fails to perform any services by the applicable dates, the Pur-
chaser shall, without limiting or affecting other rights or remedies available to
it, have one or more of the following rights: (a) to terminate the Agreement
with immediate effect by giving written notice to the Supplier; (b) to refuse to
accept any subsequent performance of contractual obligations which the Sup-
plier attempts to make; (c) to recover from the Supplier any costs incurred by
the Purchaser in obtaining substitute goods or services from a third party; (d)
to require a refund from the Supplier of sums paid in advance for goods or
services that the Supplier has not provided; and (e) to claim damages for any
additional costs, loss or expenses incurred by the Purchaser which are in any
way attributable to the Supplier’s failure to meet such dates.

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 delivery date at Sup-
plier’s expense and risk.

7. PLACE OF PERFORMANCE

7.1. The place of performance for all claims arising under this Agreement is for both
parties the destination specified by Purchaser (i.e. the delivery address indi-
cated in the purchase order or otherwise stipulated, or for services, the Pur-
chaser’s registered address).

8. COOPERATION BY PURCHASER

8.1. Purchaser shall provide the contractually stipulated cooperation. Unless agreed
otherwise, this cooperation is an obligation.

8.2. If Purchaser fails to provide or adequately perform required cooperation ser-
dices, Supplier must register its complaint immediately and in writing. If Sup-
plier does not fulfill this requirement to register its complaints, Purchaser shall
not be in default of its duty of cooperation and Supplier cannot plead a lack of
cooperation.
COMPLIANCE WITH REACH REGULATION

If and to the extent that the REACH Regulation (Regulation (EC) 1907/2006) or any amendment, national implementation, replacement or local equivalent of the same applies to the subject matter of the Agreement, the Supplier shall comply fully with its obligations under such legislation.

INSURANCE

12.1. In accordance with the transfer of risk under the stipulated INCOTERMS/delivery conditions, the respective Party bears the risk for the loss of or damage to the goods prior to the passing of title in goods as set out in Section 19.

12.2. Supplier must, during the Agreement and for a period of 5 years thereafter, at its expense, purchase sufficient professional indemnity insurance, product liability insurance and public 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.

12.3. If applicable, the purchase of special erection/installation insurance coverage in addition to the liability coverage stipulated in Section 12.2 must be coordinated between Purchaser and Supplier in each individual case.

12.4. 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.

NO TRANSFER OF EMPLOYEES

13.1. The Supplier will, and will procure that is sub-contractors and agents will, ensure that no employee of the Supplier or its subcontractors or agents is dedicated only to providing any services under this Agreement.

PURCHASER’S DOCUMENTS

14.1. Purchaser retains title to all documents, drawings, standards, guidelines, analysis methods, formulas and other documents or items that are physically or electronically transmitted by Purchaser to Supplier for the manufacture of any item to be delivered or the provision of any service under this Agreement. Purchaser’s documents are also covered by the requirements set forth in Section 25. The Supplier may only use such documents and items for the purpose of carrying out its obligations under this Agreement. The Supplier shall keep such Purchaser materials in safe custody at its own risk, maintain them in good conditions until returned to the Purchaser and not dispose or use the same other than in accordance with the Purchaser’s written instructions or authorisation.

14.2. Documents of all types that are required by Purchaser for the use, setup, erection or installation, processing, storage, operation, maintenance, inspection, service and repair of any items or Services supplied under this Agreement must be made available by Supplier promptly, unsolicited and free of charge.

14.3. Purchaser’s internal standards (company standards) and guidelines must be requested by Supplier in good time, to the extent that they have not already been made accessible or transmitted.

14.4. Documents transmitted by Purchaser must be returned unsolicited and/or - in the case of electronic documents - deleted by Supplier, subject to the obligation set forth in Section 15 and/or existing statutory retention obligations, not later than at the time of the completion of the order.

PURCHASER’S DOCUMENT RETENTION OBLIGATION

15.1. All documents created by Supplier in the context of the Agreement (e.g. drafts, clean drawings, film copies, audio takes and final proofs) and the data transmitted to Purchaser must be retained by Supplier for an additional three (3) years after the expiration or cancellation of the Agreement and made available at no charge in response to a special request by Purchaser.

QUALITY ASSURANCE

16.1. 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.

16.2. Purchaser itself is entitled to verify the Quality Assurance measures by appointment or to have them verified by third parties engaged by Supplier.
16.3. Supplier shall notify Purchaser before making any changes to raw materials, source of 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 use of goods and/or services unsuitable for Purchaser before making any such change(s). Purchaser may terminate the Agreement if Supplier does not agree.

16.4. Supplier shall ensure that all equipment, and containers are cleaned with the utmost care before any change of goods. 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 goods has been handled, processed or stored in the equipment and containers before. Further, Supplier shall promptly inform Purchaser of any risk of contamination or any suspicion of contamination.

17. CONSIDERATION

17.1. Unless expressly agreed otherwise in writing, the consideration payable by the Purchaser under the Agreement is a fixed price. Such price includes expenses, energy costs, raw material costs, third-party costs, travel costs, packing and delivery, insurance and compensation for sketches and drafts (including clean drawings or drawing stored on electronic media, including image data). No extra charges shall be effective unless agreed in writing with the Purchaser. 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.

17.2. If the parties agree that travel and subsistence costs are reimbursable, it will be only on the basis of Purchaser’s prior written consent according to Purchaser’s conditions for the reimbursement of such costs.

17.3. 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 provisions apply accordingly for individually approved third-party services, costs and expenses.

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

18. PAYMENT TERMS

18.1. 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.

18.2. Invoices not denominated in local currency must show the conversion rate between the foreign currency/local currency and the VAT amount in the local currency.

18.3. If in the specific instance the parties agree in writing, notwithstanding the provisions of Section 17.1, that Purchaser shall reimburse out-of-pocket expenses, costs of third-party services and/or 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 receipts.

18.4. 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.

18.5. Payments are due within 90 (ninety) days net after receipt of the invoice, unless the provision in Section 18.4 results in a later payment date.

18.6. The Parties may deviate from the payment terms as set forth in Section 18.5 if explicitly agreed, for example in the text field of a purchase order.

18.7. 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 4 percentage points a year above the Bank of England’s base rate from time to time.

18.8. In the event of defective delivery of goods or services, Purchaser is entitled to withhold payment proportionally until proper performance.

18.9. Payment does not constitute any acknowledgment of terms, conditions or prices. The payment date has no effect on the beginning of the warranty periods and represents neither unrestricted acceptance of the item delivered nor a waiver of potential warranty claims.

18.10. Unless otherwise stipulated, invoices made out to the respective Purchaser must be sent by email to the Purchaser at invoice.bayer.plc@bayer.com for Bayer plc/ Pharmaceuticals or invoice.bcs.uek@bayer.com for Bayer Crop Sciences.

19. RETENTION OF TITLE

19.1. Subject to Section 19.2, title to goods shall be transferred to Purchaser without restrictions and without regard to payment of the price on the completion of unloading of the goods at the delivery location, as agreed with the Purchaser.

19.2. If, under the terms of this Agreement, the parties agree to the transfer of title on payment of the purchase price rather than on delivery, Supplier’s reservation of title expires not later than payment of the purchase price for the goods delivered. Purchaser also remains authorized, even before payment of the purchase price, to resell the goods in the ordinary course of business, including the advance assignment of the claim resulting from resale; alternatively the simple retention of title extended to the resale applies. However, all other forms of retention of title are excluded. The above provision applies in particular for expanded and forwarded retention of title and retention of title extended to include reprocessing.

20. GRANTING/TRANSFER OF RIGHTS

20.1. For the purpose this Section 20, “Background IP” means Supplier Background IP and Third Party IP together. “Supplier Background IP” means all Intellectual Property Rights owned by the Supplier before the date of the Agreement or that are created by the Supplier independently of this Agreement. “Third Party IP” is any Intellectual Property Rights owned by an entity other than the Parties and their affiliates. “Intellectual Property Rights” shall mean patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use and protect and confidentiality of confidential information, and other intellectual property rights, in ease case whether registered or unregistered.

20.2. Work Results: Work Results are (i) all Intellectual Property Rights in or arising out of the services under this Agreement (other than Background IP) and (ii) 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.) and (iii) all other contractual works created under this Agreement. Work Results shall be owned by the Purchaser. The Supplier hereby unconditionally assigns to the Purchaser with full title guarantee, free from all charges, liens, licenses and other encumbrances, title to, and all rights and interest in, all Intellectual Property Rights in the Work Results except for Background IP. For the avoidance of doubt, the parties agree that Purchaser is entitled to use, exploit, lease, assign, add to, modify (including reconfigure and translate) 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.

20.3. Supplier Background IP: Supplier, by entering into this Agreement, hereby grants exclusive, irrevocable rights of use to any Supplier Background IP that subsists in the Work Results or that is necessary for the use of the Work Results as well as to all revisions and/or modifications of such Supplier Background IP with no temporal, geographic or content-related restrictions for all purposes, which rights of use may be transferred and/or sub-licensed in whole or in part. This granting of rights includes the right to use the Supplier Background IP in conjunction with the Work Results, for exploitation and use, including but not
limited to the right of reproduction, dissemination, exhibition, presentation, performance and display, broadcasting, rental, leasing and database rights, cinema and video presentation rights (including all audiovisual storage systems), merchandising rights, as well as the rights to playback via interactive and non-interactive video or audio media, the playback of wireless transmissions and public access, digitization, on-line availability, transmission and playback, other public playback and access. The above granting of rights includes all known types of use, including but not restricted to use, application and/or exploitation for advertising purposes (such as in the form of posters, brochures, invitations, letters, reproductions on the intranet and/or internet, on websites, in apps and by all other digital media), in the context of books, press releases and/or other written works, in the context of television films, company videos, photographs and/or other recorded images, in all digital forms (such as in the context of multimedia products, on websites, in apps, availability on the internet and/or internet) and/or in artistic and/or graphic images (including logos) that portray or integrate the Work Results. Also included is the right to modify and process the Supplier Background IP (including but not limited to translating them into other languages and synchronizing them) and to combine or connect them with other works or items. The above granting of rights to the use of the Supplier Background IP further includes rights for unknown types of use as well as use in processed form. Where an exclusive licence to Supplier Background IP is not possible, the licence described above will be granted to Purchaser by Supplier on a non-exclusive basis.

20.4. Third Party IP: The Supplier also grants to the Purchaser, or shall procure the direct grant to the Purchaser of, a fully-paid up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to any Third Party IP to the extent necessary to enable the Purchaser to fully enjoy the Work Results.

20.5. 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.

21. ATTRIBUTION

21.1. For image material, Supplier must obtain in advance any required permission of persons portrayed in the image and for its publication and exploitation as stipulated in Section 20.

21.2. If third parties such as photographers, illustrators, models, speakers, singers etc. are hired, Supplier shall extend to Purchaser the opportunity to restrict the scope of the service before they are hired, with regard to the determination of fees and legal safeguards.

21.3. If any representative of Supplier or a subcontracted third party is the (co) author of any part of the Work Result, Supplier shall procure that such representative(s) waive their moral rights with respect to the Work Result.

22. IP INFRINGEMENTS

22.1. Supplier shall indemnify Purchaser against third party claims of IP infringement in accordance with Section 30.1(a).

22.2. 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.

23. CORPORATE DESIGN

23.1. Supplier shall use Purchaser’s current Corporate Design appropriately, in particular in the creation of communications and public relations services (e.g. advertising material, signs, films, television or radio spots, product packaging, business letters, business reports or similar materials, regardless whether for Purchaser’s internal use or for external purposes directed at third parties). In this regard, Purchaser must transmit the Corporate Design to Supplier in a suitable format or enable it to have access. For the purpose of this Section, “Corporate Design” shall include but not be limited to logos, trade marks and tag lines.

24. COMPLIANCE WITH APPLICABLE LAWS

24.1. Supplier shall comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply from time to time to the performance of the Agreement, including the Association of the British Pharmaceutical Industry (ABPI) Code of practice.

25. CONFIDENTIALITY

25.1. 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 shall 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 25 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.

25.2. 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.

25.3. The above obligations do not apply to information that

25.3.1. at the time of its disclosure was already known to Supplier without any obligation to the Purchaser to keep it confidential, or

25.3.2. was disclosed to Supplier by third parties who received and forwarded this information without violating any confidentiality obligation, or

25.3.3. at the time of its disclosure by Purchaser was already in the public domain, or

25.3.4. entered the public domain thereafter through no fault on the part of Supplier.

25.4. Nor does the confidentiality obligation apply if disclosure of the information to a court or a government authority as 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.

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

26. DATA PROTECTION

26.1. 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 Regulation (EU) 2016/679 “General Data Protection Regulation”, including as implemented into UK law “GDPR”)

26.2. Information according to Art. 13 GDPR on how Purchaser processes personal data of natural persons in the context of this Agreement can be found on the following website: https://www.haver.com/en/corporate-compliance/data-privacy-information-for-specific-processing-activities.

26.3. In the event that either or both parties will process personal in connection with this Agreement, they will negotiate any and all additional data processing agreements that may be necessary.

27. WARRANTIES AND LIABILITY FOR DEFECTS

27.1. Supplier undertakes that the goods and or services delivered under this Agreement will conform with all descriptions, standards and specifications set out in the Agreement, be of satisfactory quality and free from defects in design, material and workmanship, and that the goods and deliverables shall be fit for any purpose that the Purchaser expressly or impliedly makes known to the Supplier. Supplier further undertakes that the goods or services delivered will correspond to the generally accepted rules of the art, the latest requirements of government authorities and laws, the respective applicable safety requirements and the occupational safety and accident prevention requirements.

27.2. Supplier’s liability extends to the parts manufactured and/or supplied by subcontractors and the services performed by subcontractors.
29.2.1. Supplier commits a material breach of any term of the Agreement and (if such breach is remediable) does not remedy the breach within a reasonable period of time set by Purchaser, accompanied by the threat of cancellation;

29.2.2. If the deadline for compliance cannot be extended depending on the type of breach, Supplier is deemed to have failed to successfully remedy the breach in spite of a warning;

29.2.3. Supplier has not complied with its obligation to withhold taxes and/or social security contributions; or

29.2.4. There has been significant deterioration of Supplier’s financial situation that endangers performance of the Agreement.

29.3. Termination or expiry of the Agreement shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.

29.4. On termination or expiry of the Agreement, the Purchaser’s materials shall be returned in accordance with Section 14. All deliverables, whether completed or not, shall be immediately delivered the Purchaser. If the supplier fails to comply with this section 29.4 or section 14, then the Purchaser may enter the Supplier’s premises and take possession of the relevant materials and documents.

29.5. Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Agreement shall remain in full force and effect.

30. LIABILITY

30.1. The Supplier shall indemnify the Purchaser against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Purchaser as a result of or in connection with:

30.1.1. any claim made against the Purchaser for actual or alleged infringement of a third party’s intellectual property rights arising out of or in connection with the manufacture, supply or use of the goods or services supplied under this Agreement, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or sub-contractors;

30.1.2. any claim made against the Purchaser by a third party for death, personal injury or damage to property arising out of or in connection with defects in goods, to the extent that the defects in the goods are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;

30.1.3. any claim made against the Purchaser by a third party arising out of or in connection with the supply of the goods and/or services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Agreement by the Supplier, its employees, agents or subcontractors.

31. LIMITATION PERIODS

31.1. Unless expressly agreed otherwise, the statutory periods of limitation apply.

32. WITHHOLDING TAX

32.1. Purchaser has the right to withhold from the consideration due 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.

32.2. No tax shall be withheld at source, or the amount withheld shall be reduced, if Supplier, before payment of consideration, presents a corresponding certificate of exemption from the HM Revenue and Customs that indicates that the compensation is subject to reduced withholding or is fully tax-exempt on the basis of a current double taxation agreement.
32.3. 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.

33. 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 IF THE PERIOD OF DELAY OR NON-PERFORMANCE CONTINUES FOR FOUR (4) WEEKS, THE PARTY NOT AFFECTED MAY TERMINATE THE AGREEMENT BY GIVING 30 DAYS’ WRITTEN NOTICE TO THE AFFECTED PARTY.

34. ORIGIN OF GOODS
34.1. The goods supplied must meet the origin requirements of the UK Generalized Scheme of Preferences unless expressly stipulated otherwise in the order acknowledgment. Supplier must issue all supplier declarations required by the applicable laws including The Trade Preferences Scheme (EU Exit) Regulations 2020 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 should such declaration prove to be inaccurate or false. A long-term supplier’s declaration may be issued unless the Purchaser requests an individual supplier’s declaration in each case. At Purchaser’s request, however, a certificate of origin must be issued in each case, if necessary.

34.2. In addition the “BAYER Supplier Instruction - Customs and Foreign Trade Terms and Conditions” apply.

35. SUSTAINABILITY
35.1. 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 outlined 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, Version dated December 31st, 2022. 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.

35.2. 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.

35.3. 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.

35.4. 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 months has elapsed 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 elapsed unfruitful and at Bayer’s exclusive discretion.

35.5. 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.

35.6. Supplier shall indemnify and keep Bayer and its affiliates, including Bayer AG (all Bayer affiliates listed at https://www.bayer.com/sites/default/files/GDIS_Companies_EN.pdf) harmless from any damages, 3rd party claims, fines, or losses arising out of violations of the obligations described herein or in the SCoC.

36. FINAL PROVISIONS
36.1. Publication: Unless Purchaser explicitly consents, the Supplier shall not cite the business relationship with Purchaser or to refer to it in informational and advertising material.

36.2. Purchaser transfer: 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 its affiliates (meaning any corporation or other business entity controlling, controlled by, or under common control with, Bayer AG, and “control” having the same meaning as in section 1124 of the Corporation Tax Act 2010) 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.

36.3. Offset: Supplier may offset amounts owed to the Purchaser relating to undisputed or legally upheld claims relating to the Agreement against amounts due from Purchaser under this Agreement. If Supplier has a right to withhold performance, Supplier may do so only against claims that originate from the same contractual relationship.

36.4. Supplier transfer: Supplier may not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Agreement without the prior written consent of the Purchaser.

36.5. Third Party rights: Unless it expressly states otherwise, the Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement.

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

36.7. Notices: Any notice given to a party under or in connection with the Agreement shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case). Any notice shall be deemed to have been received (i) if delivered by hand, at the time the notice is left at the proper address; (ii) if sent by next working day delivery service, at 9:00 am on the second Business Day after posting. This Section does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

36.8. Severance: If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement. If any provision of the Agreement is deemed deleted under this section, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
36.9. Variation: Except as set out in these Purchase Terms and Conditions, no vari-
tion of the Agreement, including the introduction of any additional terms and
conditions, shall be effective unless it is agreed in writing and signed by the
Purchaser.

36.10. Waiver: no failure or delay by a party to exercise any right or remedy provided
under the Agreement or by law shall constitute a waiver of that or any other
right or remedy, nor shall it prevent or restrict the further exercise of that or any
other right or remedy. No single or partial exercise of such right or remedy shall
prevent or restrict the further exercise of that or any other right or remedy.

36.11. Entire Agreement: The Agreement constitutes the entire agreement between the
parties and supersedes and extinguishes all previous agreements, promises, as-
surances, warranties, representations and understandings between them,
whether written or oral, relating to its subject matter.

36.12. Law and Jurisdiction: This Agreement, and any dispute or claim (including
non-contractual disputes or claims) arising out of or in connection with it or its
subject matter or formation, shall be governed by and construed in accordance
with the law of England and Wales. The UN Convention of April 11, 1980, on
agreements for the International Sale of Goods shall not apply. Each party ir-
revocably agrees that the courts of England and Wales shall have exclusive
jurisdiction to settle any dispute or claim (including non-contractual disputes
or claims) arising out of or in connection with the Agreement or its subject
matter or formation.

Updated: UK, April 2022