BASF

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Special Terms and Conditions of Purchase for the Perpetual Provision of Standard Software

1. General

These Special Terms and Conditions of Purchase for the perpetual provision of standard software ("**Special Conditions**") shall apply in addition to and take precedence over the General Terms and Conditions of Purchase of BASF SE and its Affiliated Companies based in Germany ("**General Conditions of Purchase**") for the perpetual provision of standard software in return for a one-off payment together with the associated documentation between the supplier of the software (hereinafter "**Contractor**") and BASF SE or its Affiliated Companies with registered offices in German (hereinafter "**Principal**").

2. Subject of the Agreement and Scope of Services

2.1 The Contractor shall provide the Principal with the contractual software specified in the order ("**Software**") and the associated documentation for use for an unlimited period of time.

2.2 The scope of the Software, in particular the designation, number, type and scope of the purchased licenses and metrics, shall result from the Principal's order.

2.3 The Contractor shall provide the Principal with the Software by making it available for download and installation on the Principal's own hardware environment (hereinafter "**Installation**"), providing the necessary access data (in particular user names, associated passwords and possible license keys) and, at the Principal's request, additionally by handing over a suitable data carrier.

2.4 Within the scope of a test or pilot operation, the Contractor shall instruct the Principal in the use of the Software to the extent required. In addition, the Contractor shall offer the Principal introductory and training events upon request for a reasonable fee.

2.5 The Software shall be provided with documentation ("**Documentation**"). The Documentation shall consist of at least a user documentation and an operating documentation and shall contain, in particular, information on installation, use and operation. The Documentation shall describe all necessary procedures in such a way that they are comprehensible to an average user. In addition, the Documentation must also describe typical and foreseeable error situations and how to rectify them. The Documentation shall comply with the standards customary at the time of use of the Software and shall enable the Principal to use the Software comprehensively and competently. The Documentation shall be provided to the Principal free of charge in machine-readable form and in German and English and must correspond to one of the common formats, e.g. Microsoft Excel, Microsoft Word or PDF.

2.6 The Principal shall be entitled to copy, use, and make available for its own purposes and the purposes of Affiliated Companies the Documentation in a reasonable number for the contractual use and for training purposes without any further costs.

2.7 At the request of the Principal, the Contractor shall also provide installation and implementation services. If the Principal requests such services, these shall be covered in a separate contract.

3. Installation Requirements, Cooperation- and Contribution Duties

3.1 The Contractor shall explicitly and conclusively list in its offer any installation requirements to be provided by the Principal as well as other requirements for the hardware and software environment of the Principal. In addition, the Contractor shall ensure that the Software can be operated on the hardware and software environment of the Principal on which the offer was based.

3.2 Apart from the cooperation- and contribution duties (*German: "Obliegenheiten"*) expressly agreed in the contract, the Contractor may only demand further cooperation- and contribution duties from the Principal to the extent that these are necessary for the proper performance of the contractual service and are reasonable for the Principal, in particular taking into account operational concerns as well as the time and financial effort. The Principal may provide such cooperation- and contribution duties himself or through third-parties.

3.3 The Contractor shall inform the Principal in due time about the type, scope, time and other details of the cooperation- and contribution duties to be provided by the Principal.

3.4 The Contractor may only invoke a failure by the Principal to provide cooperation- and contribution duties if the Contractor has set the Principal a reasonable grace period in writing and has informed the Principal of the legal and factual consequences of the failure to provide such cooperation- and contribution duties.

4. Rights of Use

4.1 The Contractor shall grant the Principal a perpetual, worldwide, non-exclusive and transferable right to use the Software to the extent and for all users as contractually specified.

4.2 The right of use granted by the Contractor includes in particular the following rights:

- temporary reproduction of the Software for use in accordance with the contract, including, without limitation, loading into RAM, displaying and running,
- loading, executing and processing own data sets with the Software,
- provision of the Software to and use by a third-party service provider of the Principal for purposes of the Principal, to the extent and as long as this service provider renders services for the Principal that absolutely require the use of the Software (for example, data center services or production-related services). In the case of provision of the Software by means of downloads and installation, this shall also include the installation, loading into the main memory, running and other duplication of the Software on a hardware of this service provider.

4.3 The right of use granted by the Contractor shall also include the storage and installation as well as the use of the Software on any hardware environment, including the use of the Software on productive, integration, test, backup and emergency systems (hot/cold stand by) as well as the use of older versions of the Software within the scope of use under the contract ("**Downgrade Right**") without any obligation to notify the Contractor or the manufacturer of such use.

4.4 The granting of rights referred to in this Section 4 shall apply equally to the Documentation.

4.5 If, in connection with the use of the Software, additional license terms of third-party suppliers apply which must be observed by the Principal when using the Software, these shall be provided to the Principal in full with the Contractor's offer in printed or printable form. If such license terms are not delivered, only the rights of use pursuant to these Special Conditions shall apply. In addition, the terms of the General Terms and Conditions of Purchase on infringement of industrial property rights shall apply.

5. Rights of Subsequent Purchases and Additional Purchases, Reconfiguration, Spin-off

5.1 For a period of three (3) years after delivery of the Software, the Principal shall have the right to

- purchase additional units of the same Software at the contractual and commercial conditions agreed in the contract or at more favorable conditions, in particular at the agreed discounts ("**Subsequent Purchase**"). The list prices of the Contractor in effect at the time of the Subsequent Purchase shall be applicable, using the discounts agreed in the contract;

- purchase further (other) software products of the Contractor under the same or more favorable contractual and commercial conditions ("**Additional Purchase**"). The list prices of the Contractor in effect at the time of the Subsequent Purchase shall be applicable, using the discounts agreed in the contract;

- reconfigure the units acquired under the contract in accordance with the applicable license metrics of different software products among themselves (for example, to reduce the number of users for one software product and simultaneously increase the number of users for another software product by the same number of users), as long as the total number of licenses acquired and the remuneration are not significantly reduced as a result ("**Reconfiguration**"), if necessary;

- continue to make available to a departing Affiliated Company from the Principal's group of companies all software products of the Contractor under the contract on an installation of the Principal under the terms and conditions of the contract for a maximum of twenty-four (24) months after the respective departure of the Affiliated Company ("**Spin-Off**"). The employees of the formerly Affiliated Company shall be regarded as authorized users for the aforementioned period. In such a case, the Principal shall remain the contractual partner of the Contractor for the entire duration of the use of the Software by the departing Affiliated Company. The departing Affiliated Company shall only receive a right to use the Software and shall not be a party to the contract between the Principal and the Contractor.

5.2 In order to exercise any of the above rights (Subsequent Purchases and Additional Purchases, Reconfiguration, Spin-Off), the Principal shall submit a written request to the Contractor not later than one month before the relevant change is to become effective. The Contractor may reject this request only for good cause.

6. Software Maintenance

If the Contractor publicly offers software maintenance for the contractual Software to other customers, it shall be obliged to enter into a separate contract for software maintenance ("**Software Maintenance Contract**") at the request of the Principal for a period of six (6) months, commencing at the time of the corresponding order of the Software by the Principal.

7. Further Developments of the Software

7.1 If the parties have concluded a Software Maintenance Contract, the Contractor shall provide the Principal with further developments of the Software during the term of the Software Maintenance Contract and/or to the extent owed under warranty. The further developments of the Contractor released to the public during the term of the Software Maintenance Contract and/or during the limitation period for warranty claims shall automatically be included in the scope of the contract without any change in the remuneration for the maintenance services and shall be available to all users who are entitled to use the Software under the contract.

7.2 "**Further Developments**" shall include the following changes to the Software:

- "**Patch**" or "**Bugfix**": Temporary fix of a defect and/or malfunction in the Software without interfering with the source code.
- "**Update**": Adaptation of the Software to legal, technical or other general developments and requirements, as well as minor functional improvements and/or adjustments to the Software in a single delivery, changing the last digit of the version number.
- • „**Upgrade**": More than just minor functional improvements and/or adaptations of the Software in a single delivery with a change of the middle digit of the version number.
- „**Release/Version**": New development stage of the Software, which differs significantly from the previous release or version in the range of functions and/or data, changing the first digit of the version number.

7.3 The Contractor is obliged to provide the Principal with all further developments that contain an error correction of the delivered Software free of charge within the limitation period for claims for defects.

7.4 The Contractor shall offer the Principal further developments free of charge for a period of two (2) years after delivery of the Software, even beyond the rectification of defects, provided that it also offers such further developments free of charge to all or a majority of its customers with comparable software purchase contracts.

8. Defects and Deficiencies in Performance

8.1 The Contractor shall make the Software available to the Principal in accordance with the contract and free of defects and maintain it in a condition as contractually agreed. The Contractor warrants in particular that the Software provides the functions specified in the Documentation as well as promised by the Contractor as part of a tender, delivers the contractually agreed results, runs in a controlled and stable manner, has no vulnerabilities in information security and can be operated as described in the Documentation.

8.2 Insofar as the commercial obligation to inspect and give notice of defects pursuant to § 377 HGB applies, the Principal shall give notice of obvious defects to the Contractor within ten (10) working days of delivery. Defects that only become apparent later shall be notified by the Principal within ten (10) working days of discovery.

8.3 In the event of defects, the Principal shall be entitled to demand subsequent performance in accordance with the statutory provisions. The choice of the type of subsequent performance lies with the Principal. The Contractor shall bear the expenses necessary for subsequent performance within the scope of the statutory provisions. In the event of a replacement delivery, the Contractor shall also be entitled to deliver a new, error-free program version with at least the same scope of functions ("**Replacement Version**"), unless this is unreasonable for the user of the Software, for example in the event that a different operating system or more powerful hardware is required. A renewed familiarization of the user with a possibly changed program structure or user guidance does not in principle constitute unreasonableness. If the Principal cannot reasonably be expected to wait until the replacement version is available, the Contractor shall provide an appropriate replacement or workaround solution at short notice in order to minimize the effects of the defect until the replacement version is available.

8.4 The Contractor shall be guided by the Principal's operational requirements when handling subsequent performance.

8.5 If subsequent performance has not taken place within a reasonable period of time or if the setting of a deadline was dispensable in accordance with the statutory provisions, the Principal may assert the further statutory rights in the event of defects.

8.6 In the event of defects of title, the Principal may demand subsequent performance from the Contractor, in particular in such a way that (i) the Contractor provides the Principal with a legally unobjectionable possibility of using the Software, e.g. through corresponding license agreements with the respective rights holder or (ii) the Contractor modifies the Software in such a way that no rights of third parties are infringed.

8.7 In all other respects, the statutory provisions shall apply. Further rights of the Principal arising from statutory

liability for defects or guarantees assumed by the Contractor shall remain unaffected.

8.8 Claims for defects shall become time-barred twenty-four (24) months after the transfer of risk, unless a longer statutory period applies. A waiver of claims for defects on the part of the Principal shall only be effective if it is expressly declared in writing.

9. Liability

Unless otherwise provided for in these Special Conditions and the General Conditions of Purchase, the Contractor shall be liable in accordance with the legal provisions.

10. Escrow-Agreement

10.1 If the Contractor is also the manufacturer of the Software, the Principal may demand that the Contractor deposit the source code of the Software acquired with an independent escrow agent and in doing so grant the Principal a right of disclosure in the cases specified in Clauses 10.2 and 10.3.

10.2 For this purpose, the Contractor shall conclude a separate agreement with the Escrow Agent at the Principal's request, which shall lead to a release of the source code in favor of the Principal at least in the following cases:

- the Contractor agrees to the release in writing, or
- the Contractor's business operations have been definitively discontinued by order of a court or authority (in particular in the event of refusal to open insolvency proceedings due to lack of assets or declaration of insufficiency of assets, deletion of the Contractor's company due to lack of assets or for other reasons by an authority or court), or
- the Contractor is liquidated and/or deleted from the commercial register.

10.3 A right of disclosure shall also exist if the Contractor refuses to remedy material defects or provide information on the program interfaces required to establish intercompatibility.

10.4 In the event of a release, the Principal undertakes to use and process the source code only in accordance with the contractual purpose and only to use it to maintain the usability of the Software.

11. Data Protection

11.1 The parties will comply with the applicable data protection requirements.

11.2 The parties shall conclude a data processing agreement (Art. 28 (3) GDPR) if this becomes necessary.

12. Cyber Security Assessment

12.1 During the first three (3) months after delivery of the Software, Principal and Contractor shall cooperate at the request of Principal to perform a security and risk assessment of the Software including the related interfaces and the integration into Principal's IT landscape ("**Cyber Security Assessment**"). The Cyber Security Assessment shall thereby include the realization of an advanced simulation of adversary attacks on IT systems and IT networks of the Contractor ("**Penetration Test**").

12.2 In the event that a Penetration Test is performed, it shall be performed exclusively by an independent service provider with appropriate expertise ("**Pen-Tester**"). In order to enable the Penetration Test to be performed in accordance with applicable law, the parties shall enter into a tripartite agreement with the Pen-Tester in which the further details of the Penetration Test shall be agreed. The Contractor may refuse to commission the Pen-Tester in writing within five (5) business days after notification by the Principal only if this is justified for objective reasons, e.g. if the Pen-Tester and/or one of its affiliates should be a competitor of the Contractor.

12.3 If the Penetration Test reveals significant risks for the Principal's IT systems or security vulnerabilities of the Software, the Principal shall be entitled to withdraw from the contract with immediate effect. If the parties have conducted a Penetration Test, it shall be assumed that there are sufficient legal grounds for immediate withdrawal from the contract if the Penetration Test result reaches a Common Vulnerability Scoring System (CVSS)-Score of 7 („high") or higher according to the "Qualitative Severity Rating Scale".

12.4 All payments made by the Principal under the respective contract up to the moment of immediate withdrawal shall be refunded to the Principal.