



## General Purchase Conditions for goods and services of dsm-firmenich

The following general purchase conditions apply to and form an integral part of all requests for proposal, quotations and Purchase Orders. Customer expressly rejects the applicability of any other general terms and conditions or stipulations of Supplier.

### 1. Definitions

In this document, **Agreement** means: the binding contract formed as described in article 2; DSM-Firmenich A.G. is hereinafter referred to as **D-F**; **Affiliate of D-F** means any corporation or other entity which is directly or indirectly controlled by DSM-Firmenich A.G.; **Affiliate of Supplier** means any corporation, or other entity which directly or indirectly controls, is controlled by, or is under common control with such party. An entity shall be deemed to "control" another entity if it has the power to direct or cause the direction of the management or policies of the other entity whether through ownership of voting securities or otherwise; **D-F Purchasing Entity** and/or **Customer** means an Affiliate of DSM-Firmenich A.G. issuing a Purchase Order or request for proposal; **Goods** are the products and all related documentation to be supplied as specified in the Purchase Order. A **Purchase Order** is the order issued by a Customer including all related documentation; **Ariba Network** refers to the SAP Ariba cloud-based procurement system. **Services** are the services and/or all pertaining deliverables to be provided as specified in the Purchase Order. **Supplier** means each person or entity that enters into an agreement with Customer.

### 2. Acceptance

These general purchase conditions, together with the relevant Purchase Order issued by Customer, set forth the terms and conditions for the supply of Services and/or the delivery of Goods by Supplier to Customer and will be binding to parties at Supplier's acceptance (the binding Agreement). Any changes by Supplier are binding only, if accepted by Customer in writing. Acceptance of Goods or Services delivered under this Agreement and/or a Purchase Order shall not constitute acceptance of any Supplier's terms and conditions. Performance of any part of a Purchase Order by Supplier will operate as Supplier's unconditional acceptance thereof.

### 3. Commercial conditions

**3.1** Supplier shall deliver the Goods and/or perform the Services for the price(s) mentioned in the Agreement. Unless expressly stated to the contrary, prices are (i) fixed and firm (ii) exclusive of any Value Added Tax but (iii) inclusive of all other taxes, duties, levies, fees (including license fees), charges and inclusive of all costs.

**3.2** Unless otherwise agreed in the Purchase Order, Customer shall pay the amount invoiced by Supplier by bank transfer ninety (90) days after the end of the month of the date of receipt of an invoice, provided and to the extent that the invoice is correct and not under a good faith dispute.

**3.3** Customer may authorize any other Affiliate of D-F. to realize the payment due by Customer. Such payment shall discharge Customer from its respective payment obligation towards Supplier. In case an invoice is under a good faith dispute, Supplier has no right to postpone its obligations. Customer has the right to set off amounts it owes to Supplier or any Affiliate of Supplier, against amounts which Supplier or any Affiliate of Supplier owes to Customer.

**3.4** To the extent Services are supplied on a reimbursable basis, Supplier shall keep records of all costs, expenditures and hours worked and shall provide Customer access thereto.

**3.5** Supplier shall send its invoices to Customer promptly after the delivery of Goods or provisions of Services are complete. Customer shall not be responsible for delayed payments in case Supplier does not submit timely invoices.

**3.6** Unless otherwise agreed between the parties, Supplier can be required to execute the purchasing process (including but not limited to the Purchase Order, order confirmation, shipping notification, invoicing) through electronic communication, including but not limited to the Ariba Network.

### 4. Compliance

**4.1** Supplier complies with all applicable laws, rules and regulations, standards and orders in connection with the performance of the Agreement, including, but not limited to, all applicable regulations relating to (i) anti-bribery and anti-corruption and (ii) international trade, such as, but not limited to, embargos, import and export control and sanctioned party lists ("**Compliance Requirements**").



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**4.2** Supplier expressly warrants that its employees, agents and subcontractors shall not directly or indirectly (i) accept, promise, offer or provide any improper advantage to or (ii) enter into an agreement (a) with any entity or person – including officials of a government or a government-controlled entity –, or (b) relating to a product, which would constitute an offence or infringement of applicable Compliance Requirements. Supplier remains responsible for compliance of its subcontractors, agents and its personnel in all respects with clauses 4.1 and 4.2.

**4.3** Supplier expressly warrants that it has good and marketable title to the Goods and deliverables of the Services supplied, including the right to grant Customer intellectual property right(s) and that Supplier holds any and all licenses, permits, end-user statements and any other documents, which are required in the country of origin, of transit and of destination to perform its obligations and will immediately notify Customer of any legal restrictions.

**4.4** Unless agreed otherwise in writing, both Customer and Supplier may Process Personal Data received from the other party in connection with the performance of the Purchase Order, thereby independently determining the purposes and means of the Processing and acting as Data Controller. Both Customer and Supplier shall act in compliance with applicable (inter)national data protection laws, rules and regulations when Processing Personal Data and when carrying out their obligations under the Purchase Order. Supplier expressly warrants neither to process any Customer's Personal Data nor those of its suppliers on Customer's behalf, before entering into a data processing agreement with Customer nor to involve any subcontractors in Processing any such Personal Data without its prior written consent and instructions.

**Personal Data** means any information relating to an identified or identifiable individual; **Processing** (and its declinations) means any operation that is performed on Personal Data, whether or not by automated means, such as collection, recording, storage, organization, alteration, use, disclosure, transmission or deletion of Personal Data.

### 5. Time

Supplier guarantees that it will supply the Goods and/or Services without delay and interruption. Supplier shall immediately notify Customer of any foreseeable delay.

### 6. Delivery, warranty and acceptance of Goods

**6.1** Unless explicitly agreed otherwise, the Goods shall be delivered according to Incoterm DDP site Customer.

**6.2** Delivery shall be effected in adequate packaging. Costly and re-usable packaging shall be taken back by Supplier. Supplier shall timely provide Customer with (copies of) all applicable licenses, documents, information, specifications and instructions necessary for safe and proper transport, use, treatment, process and storage of the Goods and with all certificates of analysis/conformity as customarily supplied. If applicable, stored Customer's Goods will be redelivered in the original quantity, state, and condition.

**6.3** Supplier warrants the proper functioning of the Goods and warrants that the Goods will be in conformity with the specifications and requirements, be unused, of good materials and workmanship, free from any and all defects and from any and all liens and encumbrances, pledge or right of retention and suitable for the intended purpose. These warranties shall not be deemed to exclude warranties and/or rights that Customer may have or obtain and shall extend to Customer and its customers.

**6.4** Within a period of 2 years after the date of acceptance or the date of first operational use, whichever date is later, Supplier shall promptly repair or replace any and all Goods. Repaired or replaced Goods or parts will be warranted for another period of 2 years from the repair or replacement date. If requested, Supplier shall, as reasonably possible, leave these goods in free use with its user until Supplier has delivered Goods in replacement. The warranty period shall be extended by any period(s) during which the Goods have been out of operation.

**6.5** Customer is entitled to reject any Goods, which are delivered (i) not at the agreed time, (ii) not in the agreed volume and/or quantity, (iii) in inappropriate or damaged packaging or (iv) with other defect(s), for risk and account of Supplier and without prejudice to Customer's right to compensation for the losses and damages suffered as a result of Supplier's non-compliance.

**6.6** Inspection, testing, acceptance or payment does not release Supplier from its obligations and warranties.

### 7. Performance and acceptance of Services

**7.1** Supplier warrants the quality and the results of the Services. Supplier shall perform the Services in accordance with the requirements and specifications of the Agreement, observing due skill and care, using proper and well-maintained materials and employing sufficiently qualified staff.

**7.2** Supplier shall properly and timely instruct Customer of any special use or treatment regarding the Services.

### 8. Transfer of title

**8.1** The title of the Goods and deliverables of the Services shall pass to Customer upon delivery at the delivery point as stated in the Agreement. If Goods or deliverables of the Services are received by Customer in phases or under agreed



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milestones (e.g. linked to Customer's payment percentage), each phase or milestone shall be considered as a separate delivery and the title of such (semi-finished) Goods or (partial) delivery of Services, shall pass to Customer.

**8.2** The title and risk of Goods under a rental service agreement remain with Supplier.

**8.3** The title of stored Customer's Goods under a warehousing agreement remains with Customer. The risk of such Goods is transferred to Supplier at acceptance of the Goods and ends after delivery of these Goods to Customer

**8.4** Supplier shall identifiably store any raw materials and semi-finished goods allocated for the manufacture and or production of the deliverables and the finished deliverable itself. The risk of such goods remains with Supplier until acceptance thereof.

### 9. Opportunity to inspect

**9.1** Supplier ensures that Customer or its nominee has the opportunity to inspect the Goods or the manufacturing process of the Goods and/or any place where the Services or part thereof may be carried out.

**9.2** Supplier diligently and continuously controls and tests the quality of the Goods and Services as well as the operations during manufacturing, storage, and delivery. Supplier shall ensure that Customer, or its nominee, has the opportunity to attend tests and/or inspect the Goods at any time.

**9.3** Inspection and/or testing does not relieve Supplier of any obligation or liability under the Agreement.

### 10. Controlled changes

The implementation of any and all changes of and/or improvements related to the Goods and/or (performance of the) Services including (business) processes, (raw) materials (including supply source) and/or any other changes that might affect the specifications of the Goods and/or the Services require the prior written approval of Customer. Supplier will provide Customer at least ninety (90) days written notice of such changes and will enable Customer to control and test the Goods.

### 11 Chemical Control Regulations

With regard to chemicals supplied under the Purchase Order, Supplier confirms and represents that the Goods or any of its substances, are fully compliant with any and all federal, state and local laws and regulations, including but not limited to any permitting or licensing requirements.

### 12. Supplier Code and safety, health and environmental instructions

**12.1** Supplier agrees to use its best efforts to comply with the principles of the dsm-firmenich Supplier Code, which can be found at the dsm-firmenich [website](#) or will be sent upon request.

**12.2** Supplier shall comply with and act in accordance with all applicable safety, health and environmental instructions, avoid pollution of the soil and the groundwater, limit air and noise pollution on the Customer site, comply with site and site access regulations as well as Customer (network) security regulations. Supplier must arrange for proper and safe transport and equipment, as well as skilled and qualified staff, able to speak the local languages of the Customer and/or English, in order to work in a safe, healthy and environmentally responsible manner. Customer may audit these aspects of this Agreement. Supplier shall report any irregularity with respect to safety, health and environment and security. In case of an incident Supplier shall, under supervision of Customer, immediately take all measures to clean up, isolate or prevent pollution resulting from such an incident.

### 13. Indemnification, Liability and Force Majeure

**13.1** Supplier shall be liable and hold Customer, DSM-Firmenich A.G. and Affiliates of D-F and their directors and employees ("Indemnified Parties"), harmless from and indemnify them against any and all actual or contingent damage, loss, injury/death, costs and claims suffered by or brought against Indemnified Parties, resulting from or connected with the Agreement, the use and/or sale of Supplier's Goods by Indemnified Parties or any third party, the performance of the Services and the deployment of Supplier's Services by Indemnified Parties or any third party, except to the extent that this is caused by Customer's willful misconduct or gross negligence.

**13.2** Supplier is fully liable for the correct and timely payment of all taxes and levies owed in connection with the performance of the Agreement and will indemnify Indemnified Parties against all claims and damages relating to its obligations concerning taxes, contributions and any claims of third parties, including the Government.

**13.3** In no event shall Customer be liable for any direct and indirect damages (including but not limited to lost revenue, lost profits or other consequential or incidental damages) based upon the Agreement.

**13.4** Neither party shall be liable towards the other party for any non-fulfillment of the Agreement to the extent fulfillment thereof has been delayed, interfered with or prevented by an event entirely beyond the control of the party concerned, was not from its area of accountability and not reasonably foreseeable ("Force Majeure"), provided that the party invoking



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Force Majeure shall use its best efforts to fulfill its obligations by any means possible. The mere fact of late supply of materials, labor or utilities shall not be deemed Force Majeure. In case a situation of Force Majeure continues for more than 30 days, Customer shall be entitled to (partly) terminate or cancel the Agreement by written notice. Customer may purchase similar goods and/or services from third parties during any period Supplier is unable to fulfill its obligations. The quantities affected shall be excluded from the calculation from any (minimum) volumes.

### 14. Confidentiality

Any and all information provided by or on behalf of Customer shall be treated as confidential and shall only be used by Supplier for the purpose of this Agreement. Disclosing information is only allowed to any of its employees or a third party on a strict need-to-know basis, except in case Supplier is required to disclose the information by virtue of a court order or statutory duty, provided that the Supplier shall immediately inform Customer and reasonably cooperate with Customer should it seek to obtain a protective order. Supplier shall upon demand promptly return to Customer all such information. Supplier shall not retain a copy thereof. Supplier shall treat the existence of the Agreement as confidential. Supplier or its employees will sign a confidentiality agreement upon request.

### 15. Ownership and intellectual property

**15.1** Any and all information, property or materials disclosed to Supplier remains the property of Customer. Supplier is not entitled to make use of or refer to any trademark, trade name, domain name, patent, design, copyright, or other intellectual property right of Customer, DSM-Firmenich A.G. or any Affiliate of D-F., unless prior obtained written consent of Customer. Any authorized use of Customer's trademark, trade name, domain name, patent, design, copyright, or other intellectual property right shall be strictly in accordance with the instructions of Customer and for the purposes specified.

**15.2** Supplier warrants that the Goods and/or Services, alone or in combination, will not result in or give rise to any infringement or misappropriation of any intellectual property right of a third party.

**15.3** If Supplier manufactures Goods and/or provides Services pursuant to instructions of Customer, and unless expressly otherwise accepted in writing between the parties, Supplier hereby assigns to Customer, by way of present and future assignment, all intellectual property rights, know-how, copyrights and other items (inventions, drawings, feasibility studies, software (including source codes, sub-software and documentation), etc.) related to such Goods and/or Services developed by or on behalf of Supplier. Supplier shall co-operate in the execution of any formalities necessary to effectuate the transfer of the ownership of such intellectual property rights.

**15.4** Intellectual property rights to software not developed explicitly for Customer or on Customer's instructions shall remain with Supplier and Supplier shall grant Customer a non-exclusive, non-transferable, irrevocable, perpetual and royalty free license not limited to specific equipment or location. Customer is allowed to provide sub-licenses to Affiliates of D-F.

### 16. Insurance

The Supplier shall maintain insurance policies in amounts to cover the risks resulting from or connected with the Agreement. All insurance must be obtained by Supplier from reputable and solvent insurance companies. At the request of the Customer, Supplier will provide the insurance certificates evidencing Supplier's coverage and keep Customer informed of any changes.

### 17. Termination and suspension

Customer is entitled to suspend the performance of its obligations in whole or in part or terminate the Agreement with immediate effect, without prejudice to its right to claim damages and without any compensation to or indemnification of Supplier (i) in case Supplier has been declared bankrupt, is in a state of liquidation, has ceased or suspended whole or a substantial part of its business, is subject of a court order or preventative legal scheme of settlement, (ii) in case of non-compliance with the Compliance Requirements or the provisions of safety, health, environment and security, (iii) in case of not approved changes pursuant to article 10, or (iv) Supplier's breach of the Agreement that goes uncured within thirty (30) days of receiving notice of said breach, After such termination Customer may return received Goods and/or Services in whole or partly against repayment and re transfer of ownership therein to Supplier.

### 18. Miscellaneous

**18.1** If any provision(s) of these general purchase conditions should be or become ineffective or invalid the other provisions will not be affected thereby. Parties agree to replace the ineffective or invalid provision(s) by a provision of similar import, which reflects as closely as possible the intent of the original clause.



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**18.2** Failure by either party to require strict performance by the other party of any obligation hereunder shall in no way affect its right thereafter to enforce any obligation, nor shall a waiver by either party of any breach be held to be a waiver of any previous or later breach. No waiver will have any effect unless specific, irrevocable and in writing.

**18.3** Supplier shall not assign the Agreement in whole or in part without Customer's written consent. Such consent shall not relieve Supplier from, and shall be subject to compliance with, any of the obligations under the Agreement. Customer is entitled to assign this Agreement or any part thereof to any Affiliate of D-F on prompt notice to Supplier.

**18.4** Nothing in the Agreement shall be deemed to constitute either party as the agent of the other or create a partnership, joint venture or employment relation between the parties.

**18.5** During a pending dispute, neither party shall be excused from performing any of its obligations under the Agreement, except for obligations directly affected by the dispute.

**18.6** These general purchase conditions shall be construed and interpreted pursuant to the substantive laws of the country (or state) in which the D-F Purchasing Entity is incorporated. The United Nations Convention on Contracts of the International Sale of Goods (CISG) shall not apply. The parties agree that any suits, actions or proceedings that may be instituted by any party shall be initiated before the competent courts at the seat of incorporation of the D-F Purchasing Entity.

**18.7** Expiry, termination or cancellation of the Agreement shall not affect any right or obligation, which expressly or by its nature survives such expiry, termination or cancellation, including but not limited to representations, warranties, confidentiality obligations, intellectual property rights and accrued rights.