

GENERAL TERMS AND CONDITIONS OF PURCHASE

- A. Any Purchase Order, together with these Conditions, and any attachments, exhibits, specifications, statements of work and other information, whether attached to these conditions or incorporated by reference (collectively the "**Contract**"), constitute the entire and exclusive agreement between MONSANTO PHILIPPINES, INC. ("**Monsanto**") and the supplier ("**Supplier**") for the supply of the Goods and/or Services to Monsanto, subject to sub-clause B below. The Supplier acknowledges and agrees that the Contract applies to the exclusion of any other terms and conditions of the Supplier ("**Supplier Terms**") whether communicated orally or contained in any confirmation, invoice, acknowledgement, release, acceptance or other written correspondence, irrespective of the timing. Further, the Supplier acknowledges and agrees that the Supplier Terms do not form a part of the Contract or the terms on which the Goods and/or Services are provided to Monsanto, even if the Supplier purports to condition its acceptance of the Contract or any particular terms issued by the Supplier or Monsanto's agreement to such different or additional terms. The Supplier's electronic acceptance or acknowledgement of this Contract or of any Purchase Order, or the commencement of performance of any Purchase Order constitutes the Supplier's acceptance of these Conditions to the exclusion of any Supplier Terms.
- B. In case Monsanto and Supplier have entered into a written agreement regarding the provision of such goods and/or services, the provisions of such written agreement shall prevail over the Contract.

1. Interpretation and Application of terms

1.1. The definitions below apply in these Conditions:

"**Claim**": includes a claim, notice, demand, action, proceeding, litigation, prosecution, arbitration, investigation, judgment, award, damage, loss, cost, expense, liability however arising whether present, unascertained, immediate, future or contingent whether based in contract, tort or statute and whether involving a third party or a party to this Contract or otherwise.

"**Conditions**": these general terms and conditions of purchase, together with the Special Conditions.

"**Deliverables**": any and all deliverables specified in the Contract.

"**Delivery Instructions**": means any instructions provided to the Supplier by Monsanto.

"**Goods**": means the goods manufactured and/or supplied by the Supplier and sold to Monsanto under the Contract and specified in the applicable Purchase Order.

"**Intellectual Property Rights**": any and all tangible and intangible: (i) copyrights and other rights associated with works of authorship throughout the world, including but not limited to copyrights, neighboring rights, moral rights, and all derivative works thereof; (ii) trademark and trade name rights and similar rights; (iii) trade secret rights; (iv) patents, designs, algorithms, utility models, and other industrial property rights, and all improvements thereto; (v) all other intellectual and industrial property rights (of every kind and nature throughout the world and however named) whether arising by operation of law, contract, license, or otherwise; and (vi) all registrations, applications, renewals, extensions, continuations, divisions, or reissues thereof now or hereafter in force.

"**Purchase Order**": Monsanto's written instruction to buy goods or to engage the services of Supplier, incorporating these Conditions.

"Preexisting IP and Materials": any Intellectual Property Rights or tangible personal property of the Supplier or Monsanto created before the date of this Contract or outside the scope of this Contract.

"Services": the services that the Supplier is to perform for Monsanto under the Contract and specified in the applicable Purchase Order.

"Special Conditions": means the conditions set out in any annexure to this Contract.

"Specifications": means the specifications, drawings, samples or other description or requirements furnished or specified by Monsanto, or otherwise notified by Monsanto to the Supplier.

"Supplier": means the supplier of the Goods and/or Services to Monsanto as specified in the applicable Purchase Order.

"Work": the delivery of the Goods and/or Services to be supplied and/or performed under the Contract.

1.2. Monsanto will not be bound by any Purchase Order unless it is placed on Monsanto's official order form and shall be entitled to cancel any Purchase Order not yet accepted by the Supplier.

1.3. The Supplier is deemed to have accepted a Purchase Order if it does not reject the Purchase Order in whole or in part within 3 days of its receipt.

2. Quality and defects

2.1. The Supplier warrants that the Goods and Services shall conform in all respects with the Specifications and that the Goods will be of merchantable quality, will only use sound materials and workmanship and will be free from any defect or fault whatsoever. If the purpose for which the Goods are required has been indicated by Monsanto, either expressly or by implications, then the Goods shall be fit for that purpose.

2.2. The Supplier warrants that the design, construction, composition and quality of the Goods shall comply in all respects with all relevant requirements of any statute, statutory instrument or regulation in force at the date of delivery, and that the Goods will conform to any trade description applied to them by the Supplier.

2.3. The Supplier shall provide suitable containers and/or packing materials for the sale, delivery and reasonable storage of the Goods. All such containers and packaging shall comply with any requirements or Specifications in force at the time of delivery of the Goods to Monsanto in accordance with the Delivery Instructions, these Conditions and the applicable Purchase Order.

2.4. Where it has been agreed that such containers and packing materials are returnable and charged for, their costs are to be credited in full on return by Monsanto to the Supplier. The costs of and associated with the return of any such containers and packaging materials (to the point specified by the Supplier) will be at the Supplier's expense.

2.5. The Supplier warrants that it will act in good faith in the performance of the Services and that the Services will be performed in accordance with this Contract and any applicable Specifications by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as is reasonable for Monsanto to expect in all of the circumstances.

2.6. Without prejudice to its other rights, Monsanto reserves the right to reject and (if appropriate) return any Work supplied which fails to comply with this clause Error: Reference source not found. Upon notification of rejection by Monsanto, rejected Goods shall be returned to the Supplier.

2.7. The warranties and remedies provided for in this clause Error: Reference source not found are in addition to and not in substitution for those warranties or conditions which are implied by, or available under, any law, whether statutory or otherwise and will continue to exist notwithstanding the acceptance by Monsanto of the Work in whole or in part.

2.8. The Supplier must pay Monsanto for all packing, handling, sorting and transportation expenses incurred in connection with the return of any rejected Goods, within five (5) days from delivery by Monsanto of the returned Goods, and must at Monsanto's election either:

- (a) re-supply the Goods to Monsanto in accordance with the terms of this Contract;
- (b) provide Monsanto with a credit note for the re-supply of the equivalent value of Goods; or
- (c) where the price of the Goods has been paid, provide Monsanto with a full refund for the Goods.

2.9. If the rejected Work relates to Services, then the Supplier must either:

- (a) re-supply the Services to Monsanto; or
- (b) in Monsanto's discretion, Monsanto may itself, or through a third party, correct any issue with the Services at the Supplier's cost,

and the Supplier must reimburse Monsanto for any expenses or costs incurred in correcting (or replacing) such Services , within five (5) days from Monsanto's demand.

2.10. For the avoidance of doubt, to the extent the Supplier has not already invoiced Monsanto for any rejected Work, the Supplier must not render an invoice to Monsanto in respect of such Work.

3. Health and Safety

The Supplier must take all reasonable precautions to ensure the health and safety of its and Monsanto's employees while on Monsanto's premises (if applicable). Without prejudice to the generality of the foregoing, Monsanto shall provide all Health and Material Safety Data Sheets as may be required to be provided to comply with all statutory requirements. The Supplier must ensure that hazardous Goods have prominent and suitable warnings on all containers, packages and documents and such markings shall comply with all applicable laws.

4. Indemnity

4.1. The Supplier shall defend, indemnify and hold Monsanto, its officers, employees and contractors harmless from and against any and all Claims (including legal costs on a full indemnity basis) as incurred, arising out of or in connection with any (i) breach or non-performance of this Contract; (ii) act or omission of the Supplier (including its subcontractors) in the performance of the Work; (iii) wrongful, willful or negligent act or omission of the Supplier or any of its employees, agents or contractors; or (ii) infringement of a third party's Intellectual Property Rights or any other rights in connection with the Works.

4.2. If any of the Work breaches a third party's Intellectual Property Rights, then in addition to the Supplier's obligations under clause 4.1, the Supplier will use its best efforts to (i) obtain any licenses necessary to permit Monsanto to continue to use the Work; (ii) replace or modify the Work as necessary to permit Monsanto to continue to use the Work; or if (i) and (ii) are not commercially reasonable, then (iii) promptly refund to Monsanto the amount paid for any such Work.

4.3. Nothing in this clause shall prejudice any other remedy or right the parties have under the Contract, at law or in equity.

5. Delivery

5.1. The Supplier must deliver the Goods in accordance with the Delivery Instructions (if any).

5.2. The Supplier acknowledges and agrees that for the performance of the Work, time will be of the essence. The Supplier must immediately notify Monsanto if the Supplier's timely performance under the Contract is delayed or is likely to be delayed. Monsanto's acceptance of the Supplier's notice will not constitute a waiver of any of Monsanto's rights under the Contract.

5.3. Goods shall be delivered, carriage paid, to Monsanto's place of business or to such other place of delivery as is agreed by Monsanto in writing prior to delivery of the Goods. The Supplier shall off-load Goods at its own risk as directed by Monsanto. The Supplier shall assume responsibility for all shipping and delivery charges including, without limitation, customs, duties, costs, taxes and insurance.

5.4. Title to the Goods shall pass to Monsanto on delivery or, if earlier, on payment for the Goods to the Supplier (without prejudice to any right of rejection by Monsanto). Risk in the Goods shall pass to Monsanto upon delivery at the point of delivery stated in the Contract.

5.5. Monsanto reserves the right to refuse acceptance of Goods which are supplied in excess of Monsanto's requirements as stated in the Contract and Monsanto accepts no liability for such Goods. Such excess Goods may be returned at the Supplier's risk and expense. For the avoidance of doubt where it is agreed that the Supplier shall unload the Goods on Monsanto's site, such activity will be construed as Services for the purpose of the Purchase Order.

5.6. If any Goods are rejected by Monsanto in accordance with this Contract, risk in those Goods will pass back to the Supplier at the time of the notification of the rejection by Monsanto and title to those Goods will pass back to the Supplier at the time the Goods are collected by or otherwise returned to the Supplier.

5.7. Acceptance of a delivery (or supply) of any Good does not indicate acceptance by Monsanto that the Good complies with the Specifications or otherwise complies with this Contract.

5.8. Monsanto shall not be deemed to have accepted any Goods until Monsanto has had a reasonable period to inspect those Goods. Monsanto shall also have the right to reject Goods in accordance with this Contract, within 14 days of receipt of the Goods in accordance with the Delivery Instructions, these Conditions and the applicable Purchase Order.

6. Assignment and subcontracting

The Supplier may subcontract tasks necessary for the performance or delivery of the Work to duly qualified independent subcontractors, provided that (i) the prior written approval of Monsanto is obtained; and that (ii) the Supplier ensures that the independent contractor has the necessary qualifications and skills to supply the Work in accordance with the Contract. The Supplier understands and agrees that Monsanto's decision to give or withhold such approval will be discretionary and that, notwithstanding such approval, the Supplier shall remain fully responsible for the performance of its obligations under this Contract in respect of any Work performed by its subcontractors.

7. Confidentiality

7.1. The Supplier undertakes on behalf of itself, its employees, agents and sub-contractors (if any) to treat all information obtained as a result of the Contract regarding the business, products, operations and organization of Monsanto as confidential and to use such information solely for the purpose of complying with its obligations under this Contract.

7.2. The Supplier must obtain Monsanto's written consent prior to any publication, presentation, public announcement, or press release concerning its relationship as a supplier of Monsanto or in relation to any matter concerning the Contract, unless any such information is required to be disclosed under any law.

7.3. The obligations of Supplier in this clause 7 shall survive the termination of this Contract.

8. Monsanto's property

8.1. All Intellectual Property Rights in all materials, media, information and data supplied by Monsanto to the Supplier or not so supplied but used by the Supplier specifically in the Work shall at all times be and remain the exclusive property of Monsanto and shall not be disposed of other than in accordance with Monsanto's written instructions, nor shall such items be used otherwise than as authorized by Monsanto in writing.

8.2. Unless otherwise agreed by the parties in writing and without prejudice to clause 8.3, Monsanto shall be the sole and exclusive owner of all Deliverables and the Supplier hereby irrevocably assigns and transfers to Monsanto all of its worldwide right and title to the Deliverables, including all Intellectual Property Rights associated with the Deliverables.

8.3. Unless otherwise agreed by the parties in writing, each party owns all right, title and interest in and to any of its Preexisting IP and Materials. The Supplier hereby grants Monsanto a perpetual, irrevocable, worldwide, transferable, royalty-free, nonexclusive license, with the right to sublicense, to use and reproduce the Supplier's Preexisting IP and Materials in the Deliverables to the extent necessary for Monsanto's exercise and exploitation of its rights in the Deliverables.

8.4. Unless otherwise agreed by the parties in writing, the Supplier will obtain and assign to Monsanto a nonexclusive, royalty-free, worldwide, perpetual, irrevocable, transferable, sub-licensable license to use all Intellectual Property Rights incorporated into, required to use, or delivered with the Work.

9. Termination

9.1. These Conditions apply to all Monsanto's purchases of Work and any variation to these Conditions shall have no effect unless expressly agreed in writing and signed by an authorized representative of Monsanto.

9.2. Monsanto shall have the right at any time and for any reason to immediately terminate the Contract in whole or in part by giving the Supplier written notice of termination.

9.3. The termination of the Contract, however arising, shall be without prejudice to the rights of Monsanto accrued prior to termination. The conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

10. Remedies

10.1. Without prejudice to any other right or remedy which Monsanto may have, if any Goods or Services are not supplied in accordance with, or the Supplier fails to comply with, any of the terms of the Contract, Monsanto shall be entitled to avail itself of any one or more of the following remedies in its absolute discretion, whether or not any part of the Goods or Services have been accepted by Monsanto:

- (a) to rescind the Purchase Order;
- (b) to reject the Goods or Services (in whole or in part) and return the Goods to the Supplier at the risk and cost of the Supplier on the basis that a full refund shall be paid forthwith to Monsanto by the Supplier;
- (c) at Monsanto's option, to give the Supplier the opportunity at the Supplier's expense either to remedy any defect in the Work, or to supply replacement Goods and/or Services and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;
- (d) to refuse to accept any further deliveries of Goods or Services without any liability to the Supplier;
- (e) to carry out, at the Supplier's expense, any work necessary to make Goods and Services comply with Contract; and
- (f) to claim such damages as may have been sustained in consequence of the Supplier's breach or breaches of the Contract, provided that where Goods have already been accepted by Monsanto and not returned to the Supplier in accordance with this Contract, Monsanto must pay for such Goods in accordance with the terms of this Contract.

11. Liability

11.1. NOTWITHSTANDING ANYTHING ELSE IN THE CONTRACT OR OTHERWISE, MONSANTO'S MAXIMUM AGGREGATE LIABILITY TO THE SUPPLIER FOR ALL PROVEN LOSSES, DAMAGES AND CLAIMS ARISING OUT OF THE CONTRACT, INCLUDING FOR BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE ACTION IS LIMITED TO THE AMOUNT OF THE GOODS AND /OR SERVICES ORDERED BY MONSANTO UNDER THE CONTRACT.

11.2. IN NO EVENT WILL MONSANTO BE LIABLE TO THE SUPPLIER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL DAMAGES OR LOSS OF PROFITS ARISING OUT OF, OR IN CONNECTION WITH, THE CONTRACT, WHETHER OR NOT MONSANTO WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

12. Force majeure

12.1. Either party may totally or partially suspend the performance of the Contract or any Purchase Order during any period which its performance is prevented or hindered (a) by circumstances beyond its reasonable control including but not limited to requisitions by government authority, war, strike, lock-out, plant break-down, unavailability of raw materials, riots, disease, act of god, storm, failure of public utilities or common carrier; or (b) by the need to comply with legislation or reasonably anticipated legislation which has the effect of preventing or hindering the free manufacture, sale, delivery, use or supply of the Work or any Deliverable.

13. General

13.1. Each right or remedy of Monsanto under this Contract is without prejudice to any other right or remedy of Monsanto under applicable law whether under this Contract or not.

13.2. If any provision of the Contract or portion of such provision is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions or remainder of such provision shall continue in full force and effect.

13.3. Failure or delay by Monsanto in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract. Any waiver by Monsanto of any breach of, or any default under, any provision of this Contract by the Supplier shall not be deemed a waiver of any subsequent breach or default. No waiver shall be deemed to have been made by Monsanto unless expressed in writing and signed by a duly-authorized representative of Monsanto.

PHILIPPINES SPECIAL CONDITIONS OF PURCHASE

1. Special Conditions of Purchase

If any term or condition in these Special Conditions is inconsistent with the General Terms and Conditions of Purchase, these Special Conditions shall prevail over the General Terms and Conditions to the extent of such inconsistency.

2. Definitions

"VAT": refers to the value-added tax imposed under the Tax Code.

"Tax Code": means Republic Act No. 8424, as amended, otherwise known as the National Internal Revenue Code of 1997.

2.1. Price and payment

I. Unless otherwise expressly stated in the Purchase Order, all prices or other sums payable under or in accordance with this Contract are inclusive of VAT.

II. If the Purchase Order expressly states that the supply of the Work is exclusive of VAT, then if VAT is applicable and imposed on any supply of Goods or Services under or in accordance with the Contract, Monsanto shall pay to the Supplier an additional amount equal to the VAT payable for the supply of such Goods or Services, subject to the issuance by the Supplier to Monsanto of the corresponding VAT invoice or official receipt to allow Monsanto to claim input VAT credits.

III. Payment of the VAT must be made at the same time and in the same way as payment for the Goods or Services supplied is required to be made in accordance with this Contract.

IV. Unless otherwise expressly stated in the Purchase Order, all prices or other sums payable under or in accordance with this Contract are inclusive of all other charges such as shipping and delivery charges, duties, customs, tariffs, imposts and government-imposed surcharges ("**Additional Charges**").

V. For each delivery or supply of Work, the Supplier must provide an invoice to Monsanto ("**Invoice**"). In addition to the items required by the Tax Code to be stated therein, the Invoice must contain a clear description of each item of Work supplied by the Supplier to Monsanto in the relevant Purchase Order, the Purchase Order reference number to which the Work relates and provide a breakdown of the price of each item or part of the Work and all taxes, including VAT, if applicable, and other charges.

VI. Subject to the right of Monsanto to dispute any Invoice, Monsanto will pay the full amount of the Invoice within such number of days from delivery of Goods or Services to Monsanto as set out in the applicable Purchase Order, provided that such number of days shall be at least 45 days from receipt of the Invoice or delivery of the Work (whichever is later). In the event that Monsanto disputes an Invoice, Monsanto shall not be required to pay and settle the same until Monsanto and the Supplier have resolved the dispute and a corrected Invoice has been issued by the Supplier. Monsanto shall pay the full amount of the corrected Invoice within (___) days from its receipt thereof.

VII. Notwithstanding clause VI, if there is any reduction in any Additional Charges prior to the due date of the relevant Invoice ("**Reduction**"), then the Supplier must pass that Reduction on to Monsanto as a reduction in the price of the Work (and the amount of the applicable Invoice) for the relevant Purchase Order.

VIII. Without prejudice to any other right or remedy, Monsanto reserves the right to set off any amount owing at any time from the Supplier to Monsanto against any amount payable by Monsanto to the Supplier whether under the Contract or otherwise.

3. Intellectual Property

The Supplier hereby grants Monsanto a perpetual, irrevocable, worldwide, transferable, royalty-free, nonexclusive right to use and reproduce, with the right to allow third parties to use and reproduce, the Supplier's Preexisting IP and Materials in the Deliverables to the extent necessary for Monsanto's exercise and exploitation of its rights in the Deliverables. The foregoing shall be deemed to have modified the relevant provision of the General Terms and Conditions of Purchase.

4. Governing Law

This Contract shall be governed by and construed in accordance with the laws of Philippines. In case of litigation, the parties submit to the exclusive jurisdiction of the proper courts in the City of Manila.