

GENERAL TERMS & CONDITIONS OF PURCHASE (“Conditions”) OF AB ENZYMES GMBH (“Buyer”)

1. DEFINITIONS

Agreement means, together with these Conditions, any (i) Binding Purchase Order in relation to the Supplies; or (ii) where there is a supply agreement entered into and effective between Buyer and Supplier in relation to the Supplies, that agreement and all Binding Purchase Orders placed under it;

Binding Purchase Order means a Purchase Order which has been accepted or is deemed accepted by Supplier;

Buyer Affiliates means Associated British Foods plc (**‘ABF’**) and affiliates (*verbundene Unternehmen*) of ABF pursuant to Sec. 15ff. of the German Stock Corporation Act (AktG), from time to time;

Buyer Code means Buyer’s code of conduct from time to time located at: https://www.abf.co.uk/documents/pdfs/policies/supplier_code_of_conduct.pdf or otherwise provided by Buyer;

Buyer Indemnified Parties means Buyer’s agents, employees, officers and Buyer Affiliates;

Delivery Point means the unloading point at the address stated in the Agreement or such other address as is notified to Supplier by Buyer;

Goods means the goods to be supplied by Supplier in accordance with the Agreement together with, where applicable, all documents, manuals and instructions which pertain to them;

Insolvency Event means, in respect of a party, circumstances in which such party is unable to pay its debts, becomes insolvent or enters into liquidation or receivership, or suffers any event analogous to any of the above;

Intellectual Property Rights means patents, rights to inventions, trademarks, rights in confidential information (including, without limitation, know-how and trade secrets) copyright, design rights (and all similar or related rights existing anywhere in the world, whether registered or not and including, without limitation, any applications for the same);

Loss(es) means all direct, indirect or consequential losses, damages, expenses, costs, claims, fines, proceedings, or demands;

Purchase Order means a valid and official purchase order placed by Buyer for the supply of Goods or the performance of Services. At Buyer’s option (as formally communicated in writing by Buyer) providing a PO number shall be deemed to amount to placing of a Purchase Order;

Service Completion Date means the date specified as such in the Agreement or as otherwise agreed between the parties in writing;

Service Description means the description of the Services contained or referred to in the Agreement (or otherwise stipulated to Supplier by Buyer in writing prior to the date of the Agreement (as applicable));

Services means the services (if any) described or referenced in the Agreement, to be performed by Supplier;

Specification means the specifications, drawings, samples or other descriptions of the Supplies contained or referred to in the Agreement (or otherwise supplied to Supplier by Buyer in writing prior to the date of the Agreement (as applicable));

Supplier means the company, partnership or person to whom a Purchase Order is addressed or otherwise as stipulated in the Agreement;

Supplies means the Goods and/or Services; and
VAT means value added sales tax payable in Germany or any similar sales tax.

2. GENERAL

2.1 These Conditions apply only in relation to a Supplier who is an entrepreneur (Sect. 14 of the German Civil Code (BGB)), a legal entity under public law or a special fund under public law. These Conditions apply exclusively, which means that they apply to the Agreement and to any Purchase Order to the exclusion of any other terms that Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing. This shall apply in any case, even if Buyer, being aware of Supplier’s general terms and conditions, allows the performance/delivery of Supplies to be carried out without reservation.

2.2 A Purchase Order becomes a Binding Purchase Order for Supplies, which is binding on Supplier once accepted or deemed accepted by Supplier. Acceptance of Purchase Orders may be in writing or, where applicable, in accordance with the terms of the relevant supply agreement in force and effective between Buyer and Supplier. Commencement of performance of the Supplies shall also be deemed acceptance by Supplier of the relevant Purchase Order. The Conditions may not be varied unless agreed by an authorised representative of Buyer in writing.

2.3 Buyer shall be under no responsibility to accept delivery of, or pay for, Supplies for which a Purchase Order has not been provided by Buyer and in which case, Buyer may return such Goods to Supplier (at Supplier’s cost).

3. INTELLECTUAL PROPERTY RIGHTS

3.1 Supplier shall only use Buyer’s Intellectual Property Rights for the purpose of fulfilling the Agreement and only to the extent authorised by Buyer in writing from time to time.

3.2 Supplier hereby transfers to Buyer and Buyer acquires all Intellectual Property Rights created by Supplier in the production, performance or delivery of the Supplies without any limitation in time or territory, with effect at the latest from the date of provision to Buyer with full title guarantee and without restriction. Supplier shall execute and deliver such documents and perform such acts as may be required to give effect to such assignment without any additional fee. Supplier warrants that (i) the manufacture and delivery of the Goods and the performance of the Services does not infringe the Intellectual Property Rights of any third party and (ii) the receipt, use, modification, sale, disposal and/or other exploitation by Buyer of the Supplies does not and will not infringe the Intellectual Property Rights of any third party. Supplier shall indemnify and keep indemnified Buyer (and shall also pay to Buyer such amounts as would indemnify and keep indemnified Buyer Indemnified Parties) in full in respect of all Losses incurred or suffered due to any actual or alleged infringement of any third-party Intellectual Property Rights related to such Supplies. The price as specified under Condition 7 includes all costs of transferring all Intellectual Property Rights referred to in this Condition 3 to Buyer.

3.3 Any Specification and/or Service Description supplied by Buyer to Supplier together with the copyright, design rights or any other Intellectual Property Rights in such Specification and/or Service Description shall be the exclusive property of Buyer. Supplier shall not use or disclose such Specification and/or Service Description or Intellectual Property Rights except for fulfilling Supplier’s contractual obligations.

4. QUALITY

4.1 Supplier warrants, represents and undertakes that:

4.1.1 the Goods and Services shall comply with the relevant Specifications and Service Descriptions in all respects and Supplier shall comply with (and ensure the Goods have guaranteed quality and comply with, as applicable) all applicable laws, statutory requirements and regulations relating to the manufacture, packaging, labelling, delivery and sale of the Goods and the performance of the Services in force as at the date of delivery of Goods to Buyer and/or performance of Services (including, without limitation, any and all subjective requirements (Sect. 434 para. 2 German Civil Code (BGB)) and/or objective requirements (Sect. 434 para. 3 German Civil Code (BGB)) as well as any assembly requirements (Sect. 434 para. 4 German Civil Code (BGB) (if applicable));

4.1.2 the Goods shall be free from defects in design, quality, material and workmanship, shall be free from faults, and shall be fit for any purpose held out by Supplier or made known to Supplier or for which they are commonly used;

4.1.3 in respect of Goods with digital elements or other digital content (*Waren mit digitalen Elementen oder sonstigen digitalen Inhalten*), Supplier shall be responsible for the provision and updating of such digital elements and/or digital content in order to comply with the relevant Specifications and Service Descriptions or other product descriptions of the manufacturer; and

4.1.4 the Services will be provided using appropriately qualified, skilled and trained personnel, and with due care and diligence and to such high standard of quality as is reasonable for Buyer to expect in the circumstances and shall be fully completed to Buyer’s reasonable satisfaction by no later than the Service Completion Date.

5. TERMINATION

5.1 Buyer may cancel a Purchase Order prior to its acceptance or deemed acceptance, without liability to Supplier. Following its acceptance or deemed acceptance, Buyer may cancel a Binding Purchase Order in respect of all or part of the Supplies by giving notice to Supplier at any time prior to completion of delivery or performance of the relevant Supplies, in which event (i) Buyer’s sole liability shall be to pay Supplier the value for the work in progress relating to the cancelled Supplies, up to a maximum amount of the price for the cancelled Supplies and (ii) Supplier shall deliver to Buyer any relevant work in progress or, upon agreement with Buyer, sell such work in progress and account to Buyer for any proceeds of sale.

5.2 Buyer may terminate the Agreement immediately by written notice to Supplier and without liability to Supplier if:

5.2.1 Supplier suffers an Insolvency Event;

5.2.2 there is a change in control of Supplier. For the purpose of this Condition, ‘control’ means the ability to direct the affairs of another whether by voting or contractual rights or otherwise and whether directly or indirectly.

5.3 Supplier may terminate the Agreement immediately by written notice to Buyer and without liability to Buyer if Buyer suffers an Insolvency Event.

5.4 Termination of the Agreement (whether in respect of all or part of the Supplies), howsoever arising, shall be without prejudice to the rights and remedies of the parties accrued prior to termination. The Conditions which expressly or impliedly have effect after termination shall remain in effect notwithstanding termination.

6. INDEMNITY & INSURANCE

6.1 Supplier shall indemnify and keep indemnified the Buyer (and shall also pay to Buyer such amounts as would indemnify and keep indemnified the Buyer Indemnified Parties) in full against all Losses incurred or suffered to the extent that such Losses arise as a result of the performance of the Services or the supply of the Goods, or otherwise as a result of any breach of the Agreement by Supplier.

6.2 Supplier shall at all times maintain in force with a substantial and reputable insurance company such insurance as is (i) required by law or (ii) is usual good industry practice to maintain by persons engaged in business of the kind carried on by Supplier.

6.3 Supplier will, on request, provide to Buyer copies of certificates of insurance, together with satisfactory evidence of the payment of premiums, to demonstrate compliance with the above requirements.

7. PRICE

7.1 The price of the Supplies shall be as stated in the Agreement, or as otherwise agreed in writing. Such prices shall be exclusive of any applicable VAT (which shall only be payable by Buyer on receipt of a valid VAT invoice) and shall be inclusive of all charges for packaging, carriage, insurance, and delivery of the Supplies to the Delivery Point and inclusive of any duties, taxes or levies other than VAT.

7.2 Should Supplier reduce its prices or improve its sales conditions for the Supplies in the period between the occurrence of a Binding Purchase Order and the performance/delivery of the Supplies, the reduced prices and conditions valid on the day of performance/delivery shall apply.

7.3 After the occurrence of a Binding Purchase Order, no price increases nor any sales conditions which are less favourable to Buyer shall become effective without Buyer’s express written consent. The provisions of Sect. 313 German Civil Code (BGB) shall remain unaffected by this Condition 7.3.

8. PAYMENT

8.1 Supplier shall invoice Buyer in € Euro (or such other currency specified in the Agreement) (a) after delivery of the Goods or (b) in arrears after performance of the Services, as detailed in the Agreement or otherwise as agreed in writing between Supplier and Buyer. Each invoice (and, where relevant, packing list) shall quote the Binding Purchase Order number, item number(s) and line item number(s). Invoices shall be sent to the ‘Bill To:’ address set out in the Agreement.

8.2 Buyer shall pay undisputed invoices within sixty (60) days (or within such other period as set out in the Agreement) following receipt of a proper and valid invoice. Interest shall apply at an annual rate of 2% above the base interest rate of the European Central Bank in respect of late payment of invoices which fall due for payment under this Condition 8. Buyer may withhold payment of disputed invoices and shall notify Supplier of any such dispute.

8.3 Buyer shall not be obliged to pay any invoice which is received more than six (6) months following delivery of the relevant Supplies.

8.4 Without prejudice to any other right or remedy, Buyer may set off any amount owing at any time from Supplier to Buyer or any Buyer Affiliate against any amount payable by Buyer to Supplier in respect of the Agreement or any other agreement.

8.5 In the event Buyer reasonably considers that any invoice submitted by Supplier is defective or relates to Supplies provided other than in accordance with Supplier’s obligations under the Agreement, Buyer shall be entitled to withhold payment of the disputed amount (without prejudice to any other right or remedy it may have) pending resolution of the dispute between the parties.

9. DELIVERY

9.1 Title in the Goods shall pass to Buyer on delivery to the Delivery Point or, if earlier, on payment for the relevant Goods. Unless agreed otherwise in writing, delivery of Goods shall be made by Supplier, DDP (Incoterms 2020), to the Delivery Point on the date (and, where applicable, within the delivery time window) and in the condition set out in the Agreement. Supplies delivered outside specified times remain at Supplier’s risk and may be refused by Buyer.

9.2 An advice/delivery note quoting Supplier’s name, the Binding Purchase Order number, Supplier’s stock number(s) and any additional information or documentation agreed in writing must accompany each delivery or consignment of Goods and must be

displayed prominently on each delivery or consignment. Any required Certificate of Analysis, manufacturer’s batch number or other manufacturing records should be sent separately to Buyer’s designated Quality Assurance team. Supplier shall retain samples of each batch of Goods delivered to Buyer and shall make a reasonable amount of such retained samples available to Buyer upon request.

9.3 Buyer will not pay for or return packaging materials unless previously agreed between the parties and confirmed in writing.

9.4 Supplier must report immediately to Buyer the occurrence of any event which is likely to affect delivery of the Supplies, setting the reasons for the delay, new delivery date and the actions which have been initiated. Time is of the essence as to the delivery of the Supplies.

9.5 The quantity of Goods or type of Services set out in the Agreement may not be changed by Supplier without Buyer’s prior written consent. Upon conclusion of a Binding Purchase Order, Buyer is not obliged to make special inquiries about any defects. In partial deviation from Sect. 442 para. 1 sent. 2 German Civil Code (BGB), Buyer shall also be entitled, without restriction, to claim for defects if the defect remained unknown to Buyer at the time of conclusion of the Binding Purchase Order as a result of gross negligence.

9.7 The statutory provisions (Sect. 377, 381 German Commercial Code (HGB)) shall apply to the commercial duty to inspect and give notice of defects (*Untersuchungs- und Rügeobliegenheit*), subject to the following provisions: Buyer’s duty to inspect shall be limited to defects which become apparent during Buyer’s incoming goods inspection by means of external examination including the delivery documents (e.g. transport damage, wrong delivery and short delivery) or which are identifiable during Buyer’s quality control by means of random sampling. If an acceptance (*Abnahme*) has been agreed, there shall be no obligation to inspect Goods. Notwithstanding Buyer’s obligation to inspect Goods, Buyer’s notice of defects in the Supplies shall be deemed to have been given without undue delay and in good time if it is sent to Supplier within fourteen (14) working days of discovery of the defect or, in the case of obvious defects, of delivery/performance of the Supplies. In this respect, Supplier explicitly waives the objection of delayed notice of defects.

9.8 Buyer shall remain authorized to resell the Goods in the ordinary course of business even before payment of the price with advance assignment of the claim arising therefrom. This excludes all other forms of retention of title, in particular the extended retention of title (*erweiterter Eigentumsvorbehalt*) and the retention of title extended to further processing (*verlängerter Eigentumsvorbehalt*).

10. REMEDIES

10.1 In the event of defects in the Goods (including short or partial delivery or delivery of defective or incorrect Goods), Buyer shall be entitled to the statutory claims for defects in their entirety. In particular, Buyer shall be entitled to demand from Supplier, at Buyer’s option, remedy of the defect (*Nachbesserung*) or delivery of new Goods (*Nachlieferung*) as well as to withdraw from the Agreement (*Rücktritt*) and claim for refund or to reduce the purchase price for the Goods (*Minderung*). The right to claim Losses, also in lieu of performance (*Schadensersatz statt der Leistung*), including loss of profit shall remain expressly reserved.

10.2 If Supplier does not fulfil its obligation of subsequent performance (*Nacherfüllung*) within a reasonable period set by Buyer, Buyer may remedy the defect itself or purchase new Goods and claim reimbursement of Losses incurred (*Aufwendungsersatz*) from Supplier. If subsequent performance by Supplier has failed or is unreasonable for Buyer (e.g. due to special urgency or the threat of disproportionate damage), no period needs be set.

10.3 The obligation of subsequent performance shall also include the dismounting of the defective Goods and the renewed installation if the Goods have been incorporated or installed in another item or attached to another item in accordance with their type and intended use. Any statutory claims for reimbursement of any Losses incurred by Buyer shall remain unaffected.

10.4 In the case of material defects which become apparent within six (6) months of the transfer of risk, it shall be presumed that the Goods were already defective at the time of the transfer of risk, unless this presumption is incompatible with the nature of the item or the defect.

10.5 If Supplier has granted a guarantee (*Garantie*) for the quality or durability of the Goods, Buyer may also assert claims under the guarantee in addition to any warranty rights resulting from these Conditions. This shall not apply to defects or damage to the Goods which are caused due to (i) normal wear and tear and (ii) improper handling on the part of Buyer.

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- 10.6 The above provisions of this Condition 10 shall apply mutatis mutandis to Services (including non-performance and incomplete performance).
- 10.7 Supplier's warranty shall also extend to the parts manufactured by Supplier's suppliers or contractors or subcontractors.
- 10.8 If there is any matter which may cause a safety risk to consumers arising from the Supplies or a potential recall or withdrawal of any Goods (or Buyer products which contain the Goods) the Supplier shall give advance notice to Buyer as soon as possible of any action Buyer or Supplier is obliged to take and full details of the underlying issue. Except as required by law, Supplier shall not seek to commence any recall or withdrawal of Goods or Buyer products without the prior written consent of Buyer. Supplier shall indemnify and keep indemnified Buyer (and shall also pay to Buyer such amounts as would indemnify and keep indemnified Buyer Indemnified Parties) in full against all Losses incurred or suffered as a result of recall or withdrawal of a product incorporating the Supplies to the extent that such Losses arise as a result of the Supplies.
- 10.9 The defective Goods shall remain at the disposal of Buyer until they are replaced and shall become the property of Supplier upon replacement.
- 10.10 Supplier's warranty obligations shall not be affected by the acceptance of the Supplies by Buyer.
- 10.11 Buyer's claims for supplier recourse (*Lieferantenregress*) shall apply if defective Goods have been combined with another product or further processed in any other way by Buyer, Buyer's customer or a third party, e.g. by incorporation, mounting or installation.
- 10.12 In all other respects, Supplier shall be liable in accordance with applicable statutory provisions under German law.
- 10.13 If any Binding Purchase Order is not or is only partially fulfilled by the due delivery date/Service Completion Date, Buyer shall be entitled to terminate any other Binding Purchase Orders in whole or in part and require a full refund for the Supplies so cancelled (such refund to be paid forthwith by Supplier), at its discretion and without liability to Supplier.
- 11. ETHICAL AND INDUSTRY SUPPLY CHAIN STANDARDS; SANCTIONS COMPLIANCE**
- 11.1 Supplier warrants, represents and undertakes that:
- 11.1.1 it will comply with (i) applicable industry standards and certifications (ii) any of Buyer's policies and procedures that have been made known to Supplier and that are relevant to the Supplies (including, without limitation, the Buyer Code) and (iii) all human rights and environment related duties of care, in particular as listed in the German Supply Chain Due Diligence Act (*Lieferkettensorgfaltspflichtengesetz- LkSG*) and any other applicable supply chain due diligence legislation. Supplier shall provide regular training to its staff to ensure compliance with its obligations under this Condition 11.1.1 and on request, shall provide Buyer with any required evidence of such compliance;
- 11.1.2 it takes appropriate action to require Supplier's own trading partners to comply with Condition 11.1 (i) to (iii) above (or in the case of Condition 11.1(iii), with such alternative obligations that ensure that each of the principles of the Buyer's policies and procedures (including the Buyer Code) are complied with in materially the same way. Supplier shall do this by agreeing appropriate contractual obligations and control mechanisms with its own suppliers and passing on the obligations in Condition 11.1.1 (i) to (iii) within its own supply chain. In the event of breach of any of the obligations in Condition 11.1 (i) to (iii) by Supplier or its own suppliers, Supplier will immediately notify Buyer; and
- 11.1.3 it complies with all economic and/or trade sanctions laws, regulations and any other binding measures of Germany, the European Union, the United Nations, the United States of America, the UK or any other jurisdiction applicable to the parties.
- 12. LIMITATION**
- 12.1 Any claims made by either of the parties shall become time-barred in accordance with applicable statutory provisions, unless otherwise stipulated below.
- 12.2 Deviating from Sect. 438 para. 1 No. 3 German Civil Code (BGB), the general limitation period for claims for defects in the Goods shall be three (3) years from the passing of risk. Insofar as an acceptance (*Abnahme*) has been agreed, the limitation period shall commence upon such acceptance. The three (3)-year limitation period shall also apply mutatis mutandis to claims arising from defects of title, whereby the statutory limitation period for third parties' in rem claims for return (*dingliche Herausgabeansprüche*) (Sect. 438 para. 1 No. 1 German Civil Code (BGB)) shall remain unaffected. Claims arising from defects of title shall not become time-barred under any circumstances as long as the third party can still assert the right against Buyer - in particular in the absence of a limitation period.
- 12.3 The limitation periods of the law on sales including the above extensions shall apply - to the extent provided for by applicable law - to all contractual claims for defects in Goods. Insofar as Buyer is also entitled to extra-contractual claims for damages due to a defect, the standard statutory limitation period (Sect. 195, 199 German Civil Code (BGB)) shall apply, unless the application of the limitation periods of the law on sales leads to a longer limitation period in individual cases.
- 13. MISCELLANEOUS**
- 13.1 Supplier will not assign, transfer or subcontract (or grant any security over) the whole or any part of its rights, remedies or obligations in connection with the Agreement without the prior written consent of Buyer. Where assignment, transfer or subcontracting occurs, with or without consent, Supplier shall retain liability for the acts and omissions of any such assignees, transferees or subcontractors as fully as if such acts or omissions were the acts or omissions of Supplier.
- 13.2 Any waiver by Buyer of any breach or default by Supplier shall only be effective if granted in writing, and if so granted not be deemed a waiver of any subsequent or other breach or default.
- 13.3 If any provision of the Agreement is held to be invalid or unenforceable it shall, to the extent of such invalidity or unenforceability be deemed severable and the remaining provisions, and the remainder of such provision, shall continue in full force and effect.
- 13.4 Upon prior and reasonable written notice, Supplier will permit Buyer and any of its authorised representatives to have access to Supplier's premises, personnel and records (relevant to the Supplies) to verify Supplier's compliance with the Agreement. To the extent possible under applicable law, Supplier shall also ensure that such audits can be carried out by Buyer or its authorised representatives on Supplier's sub-suppliers. If any non-compliance with these Conditions is revealed by Supplier's notification under Condition 11.1.2 or any audit carried out pursuant to this Condition 13.4 (without prejudice to the Buyer's termination rights under Conditions 5 and 10.1), Supplier will cooperate with Buyer to determine and take such designated remedial measures to end or (where this is not possible) to minimise the impact of such non-compliance.
- 13.5 The Agreement will not be enforceable by any person other than Buyer and Supplier.
- 13.6 Any notice required or permitted to be given by either party to the other shall be in writing addressed to the other at its registered office or principal place of business. Notice (save for commencement of proceedings) may also be sent by email, to an approved e-mail address recipient (as notified by the recipient party in writing), provided that no failed delivery or out of office message is received.
- 13.7 Each party acknowledges that it may have access to confidential information relating to the business/affairs of the other party. Each party will keep confidential, and will not use for any purpose other than the performance of (or the exercise of rights in respect of) the Agreement, and will not, subject to Condition 13.8, without the prior written consent of the other, disclose, directly or indirectly, to any third party, any confidential information of the other party.
- 13.8 Buyer may disclose confidential information received from Supplier to Buyer Affiliates, service providers and professional advisors under conditions of confidentiality.
- 13.9 Nothing prevents use or disclosure by either party of information which is already in the public domain (other than due to default of such party) or which such party acquires independently of the other party and without restriction on disclosure or use, or prevents disclosure to the extent required by law or regulation.
- 13.10 The Agreement contains the whole agreement between the parties in respect of the applicable subject matter and shall supersede all prior written or oral agreements, arrangements and understandings between the parties relating to such subject matter.
- 13.11 The place of performance (*Erfüllungsort*) (i) for delivery of Goods and provision of Services shall be the Delivery Point, and (ii) for payments shall be Darmstadt.
- 13.12 If Supplier is a merchant, the sole place of jurisdiction for all disputes arising directly or indirectly out of or in connection with the Agreement shall be Darmstadt. However, Buyer is also entitled to take legal action at Supplier's place of business. The Agreement shall be governed by German law with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and the provisions of private international law.