

## LOUIS DREYFUS COMPANY EMEA GENERAL TERMS AND CONDITIONS OF PURCHASE

April 2019

### 1. Definitions

In these general purchase conditions, the following definitions apply:

**EMEA:** European Middle East Africa

**LDC:** is to mean any Louis Dreyfus Company Group companies excluding the ones where country specific terms and conditions have been defined.

**Goods:** shall mean both tangible and intangible goods, including software and related documentation, purchased by LDC from the Supplier under the Agreement. References to Goods is to be deemed to include Services, where appropriate.

**Services:** shall refer to any services to be performed or delivered by the Supplier to or for LDC under the Agreement.

**Supplier:** is to mean any party that supplies Goods or provides Services to LDC, that agreed with LDC to do so, or any party to whom LDC has given an assignment of any other nature.

**Agreement:** is to mean any agreement and any specific purchase conditions, in each case between LDC and the Supplier for the purchase of Goods and/or Services by LDC from the Supplier, or for any other project assigned by LDC to the Supplier.

### 2. Applicability

**2.1** These general purchase conditions apply to all Agreements.

**2.2** The Supplier's general terms and conditions are hereby expressly excluded. The Supplier accepts the applicability of these general purchase conditions, any specific purchase conditions and the exclusion of its general terms and conditions.

**2.3** These general purchase conditions and the Agreement may not be modified unless with the express and written prior approval of LDC.

**2.4** If the content of the Agreement differs from the content of these general purchase conditions, then the content of the Agreement will prevail.

### 3. Formation of the Agreement

**3.1** Any offer made by the Supplier is irrevocable within thirty (30) days from its receipt by LDC at least.

**3.2** The Agreement will come into effect upon (a) the Supplier's acknowledgment of LDC's acceptance in writing of the Supplier's offer (b) the Supplier's acceptance of LDC's purchase order, or (c) delivery of any Goods or commencement of performance of any Services ordered by LDC.

### 4. Changes

LDC may notify the Supplier in writing of any changes in the terms of the Agreement or the terms of the Goods and/or Services. If any such changes increase or decrease the Supplier's costs under the Agreement or affect the date of delivery, or the terms concerning the price or both, the Agreement will be adjusted accordingly by agreement and thus modified in writing by the parties.

### 5. Price Warranty

**5.1** All prices are fixed and exclusive of any value added tax (VAT).

**5.2** The Supplier warrants that the prices for all Goods and/or Services are as favorable as the prices that are currently extended to any other buyer for similar qualities and quantities of the same or similar goods and/or services. If the Supplier reduces its price for such goods and/or services during the term of the Agreement, the Supplier will reduce the prices charged to LDC accordingly.

**5.3** The Supplier warrants that prices are complete, and no additional charges of any kind (including, without limitation, charges for shipping, packaging, labeling, custom duties, storage, insurance, boxing and crating, license fees) will be added without LDC's prior express and written consent.

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### 6. Invoices and Payment

- 6.1** Upon final acceptance by LDC of the Goods and/or Services, the Supplier will submit an invoice that is prepared in accordance with the laws of the country where the LDC purchasing entity is registered (the “Purchaser’s Law”).
- 6.2** The invoice is to be accompanied by (a) all manuals or operation books or similar information or documents, and (b) as built drawings of the Supplier’s work.
- 6.3** LDC agrees to pay the invoice within thirty (30) days of receipt of the invoice, together with all attachments and any other required or related documentation. Failure to comply with the requirements under paragraph 6.1 and 6.2 or any other requirements relating to invoice data set out in the Agreement entitles LDC to withhold payment.
- 6.4** LDC is at all times entitled to pay in euros at the exchange rate that applies on the invoice date.
- 6.5** LDC may withhold payment, in whole or in part, to protect itself from loss on account of the following: (a) defective equipment, materials, work, or Goods and/or Services, (b) claims filed by third parties relating to the Goods and/or Services, or (c) damage to LDC or its affiliates caused by the Goods and/or Services, the Supplier, the Supplier’s subcontractors or material suppliers.
- 6.6** LDC may withhold payment, if the Supplier fails to fulfill any of its obligations under the Agreement.
- 6.7** LDC has at all times the right to set off and deduct from any amounts owing from LDC or any of its affiliates to the Supplier or any of its affiliates any amount owing from the Supplier or any of its affiliates to LDC or any of its affiliates, irrespective of the nature of such claim.

### 7. Delivery – Transfer of Title

- 7.1** Time is of the essence. All dates referred to in the Agreement are binding. The mere fact of exceeding the delivery time results in the Supplier being in default.
- 7.2** The Supplier agrees to notify LDC in writing at once if the delivery of the Goods and/or Services are delayed or may be delayed for any cause whatsoever. In the event of delay, LDC may terminate the Agreement by means of a written notice, without liability, and in addition to its other rights and remedies.
- 7.3** Unless expressly agreed otherwise in writing, delivery of the Goods is to be DDP (as defined in the latest version of the Incoterms) point of delivery indicated in the Agreement.
- 7.4** Unless expressly agreed otherwise in writing, the Supplier agrees to not make partial deliveries. If the execution of partial deliveries was agreed upon, then delivery is, for the purposes of these general purchase conditions, also deemed to mean a partial delivery.
- 7.5** The delivery is complete at the moment when the Goods have been received by or on behalf of the Supplier and LDC has signed for its acceptance of the delivery. This signing by LDC does not affect the fact that the goods delivered can be rejected later under the terms of article 8 of these general purchase conditions. The Supplier cannot derive any rights from LDC’s signing for its acceptance of any delivery.
- 7.6** The performance of Services is completed when LDC has confirmed in writing that the Services have been fully performed and approved by LDC. The Supplier cannot derive any rights from this confirmation or approval.
- 7.7** The Supplier is not entitled to suspend its delivery obligation if LDC fails to perform one or more of its obligations.
- 7.8** The Supplier waives any retention rights and rights of revindication that it may have.
- 7.9** The title of ownership of the Goods passes to LDC upon delivery, or earlier if legal transfer of title occurs earlier. If LDC makes advance payments to the Supplier, the transfer of title occurs upon the first payment. Risk of loss or damages passes to LDC upon LDC’s full and final acceptance of the Goods.

### 8. Inspection - Rejection

- 8.1** LDC may at all times count, test and inspect all Goods and/or Services, or have the Goods and/or Services counted, tested, and inspected, and reject any such Goods and/or Services which in LDC’s opinion are in excess of quantities ordered, defective, or nonconforming.
- 8.2** All or part of the rejected Goods may be returned at the Supplier’s risk and expense, including, without limitation, all storage, transportation, and handling costs.
- 8.3** All or part of the rejected Services may be replaced or completed by LDC or a third party at the Supplier’s risk and expense.
- 8.4** For any latent defect or nonconformity in Goods and/or Services LDC may require replacement or repair, at LDC’s choice, as well as payment of damages. In any event, the Supplier agrees to indemnify LDC from any damages and costs incurred (including loss of profit) in relation to the defective Goods and/or Services.

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**8.5** The Supplier cannot derive any rights from the results of testing or inspection as referred to in paragraph 8.1 or from the non-occurrence of testing or inspection. The Supplier is moreover not relieved from its own obligations of testing, inspection, and quality control.

**8.6** LDC shall not be bound by any period set by the Supplier in which LDC should inform the Supplier that the Goods and/or Services have been rejected or after which LDC can no longer lodge a complaint for latent defect or nonconformity.

### **9. Warranty**

**9.1** The Supplier warrants that all Goods and/or Services conform to all samples, specifications, drawings, proposals, and appropriate standards, and are free from latent defects in material and workmanship, and are free of any third party rights.

**9.2** The Supplier warrants that all Goods and/or Services conform to all statements made on the containers or labels or advertisements for such Goods and/or Services, and that all Goods are adequately contained, packaged, marked, and labelled.

**9.3** The Supplier warrants that the Goods and/or Services comply with any requirements set by or by virtue of law and/or applicable regulation and/or requirements set by LDC, including, among others, requirements as to quality, health, safety, environment, and advertising, in both the country of delivery and where they are destined.

**9.4** The Supplier warrants that all Goods are merchantable and safe and appropriate for the purpose for which Goods of that kind are normally used or for which the Agreement was concluded.

**9.5** If the Goods and/or Services do not meet the requirements under paragraphs 9.1–9.4, the Supplier agrees, upon having received written notice from LDC, to replace or correct defects of any nonconforming Goods and/or Services, promptly and without additional expenses due by LDC. If the Supplier fails to promptly correct defects in or replace nonconforming Goods and/or Services, LDC may, at the Supplier's expense, make such corrections or replace such Goods and/or Services or have a third party make such corrections or replacement. LDC is in any event entitled to terminate the Agreement in accordance with article 15 of these general purchase conditions without prejudice to any other rights it may have including the right to claim damages.

### **10. Liability - Indemnification**

**10.1** The Supplier is liable for any direct or indirect loss (including loss of profits) that is suffered by LDC and/or any subsequent users, due to the Supplier's failure to meet its obligations under the Agreement and/or due to any act or failure to act by the Supplier, its agents, employees or subcontractors.

**10.2** The Supplier will defend and indemnify LDC against all damages, liabilities, claims, direct or indirect losses (including loss of profits), and expenses (including attorneys' fees and litigation costs) arising or resulting in any way from any defect in the Goods and/or Services, from any failure of the Supplier to meet its obligations under the Agreement, or from any act or failure to act of the Supplier, its agents, employees or subcontractors. This indemnification is in addition to the Supplier's warranty obligations set forth in article 9 of these general purchase conditions.

**10.3** LDC is not liable for any losses suffered on the part of the Supplier unless this loss has been caused with deliberate intent on the part of LDC.

**10.4** LDC is in any event not liable to the Supplier for any loss of revenue, loss of profits or for any incidental and/or consequential damage of any kind howsoever incurred.

**10.5** In no event shall LDC be liable to the Supplier, its successors or assignees for damages in excess of the price of the Agreement, less any amounts already paid to the Supplier by LDC.

### **11. Insurance**

**11.1** The Supplier agrees to effect and maintain insurance that is adequate to cover any liability which may arise under the Agreement, and agrees to fulfil any legal requirements in relation to insurance.

**11.2** The Supplier agrees to effect and maintain, at no additional expense to LDC, insurance covering but not limited to

- Employers' Liability, meaning liability of its own employees, agents, and any other parties with which the Supplier engages for the execution of the Agreement,
- Third Party/Legal Liability;
- Excess/Umbrella Insurance.

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- Any insurance will be on an All risk basis with a financially sound company of International reputation which shall remain in full force and effect throughout the entire term of this Agreement.
- Policies will be with a minimum limit of USD5,000,000.00 and for buildings and other assets at a minimum of the replacement value for the building or the asset.

**11.3** The Supplier agrees to furnish upon request certificates of insurance evidencing the above coverage, which provides that such coverage will not be cancelled or materially reduced without thirty (30) days prior written notice to LDC. The Supplier agrees to obtain from its insurers a waiver of all rights of subrogation against LDC endorsed upon all such policies of insurance. The Supplier agrees to obtain from its insurers a declaration that the insurance applies as primary insurance without any right of contribution by any insurance that may be carried by LDC.

**11.4** In so far as the Supplier's insurance does not protect the Supplier's subcontractors and suppliers, the Supplier agrees, at no additional expense to LDC, to effect and maintain the required insurance or procure that its subcontractors and suppliers have suitable insurance.

### **12. Intellectual Property Rights**

**12.1** The Supplier grants to LDC a non-exclusive, perpetual, irrevocable, global, and transferable right to use any intellectual property rights regarding the Goods and/or Services. The Supplier warrants that the use of the Goods and/or Services will not infringe any intellectual property rights or other (property) rights of third parties.

**12.2** The Supplier warrants that it owns or has the right to use all intellectual property, including computer software, necessary to perform its obligations under the Agreement, including without limitation the manufacture, delivery, installation, and operation of the equipment, goods, or system for use by LDC, without conflict with the rights of any third party.

**12.3** The Supplier agrees to indemnify and hold harmless LDC and its agents from any third party claim arising from any infringement on the rights as set out in paragraphs 12.1 and 12.2, including, without limitation, claims for alleged patent or copyright infringement and claims arising from similarity in design, trademark or appearance of Goods and/or Services. This obligation of indemnifying and holding LDC harmless extends to all expenses, direct and indirect losses (including loss of profits), royalties, and damages (including, without limitation, litigation costs, attorneys' fees and settlement payments) resulting from any such suit or proceedings, threatened or brought. Upon receipt of notice from LDC, the Supplier will promptly assume full responsibility to defend and to resolve any such suit or proceedings brought or threatened against LDC and its affiliates.

**12.4** If the Supplier, within the scope of the Agreement, develops goods for LDC, then any intellectual property rights to be invoked is to be accrued exclusively to LDC. Insofar as necessary the Supplier agrees to render full assistance in the creation or the transfer of such rights to LDC.

**12.5** Insofar as LDC makes available to the Supplier any means on which LDC possesses an intellectual property right, the Supplier acknowledges that LDC is and will at all times remain the owner of such means and that the Supplier agrees not to obtain any intellectual property rights or title as regards such means. The Supplier agrees to manage all means referred to in this paragraph at its own risk and expenses and keep them in good repair. The Supplier agrees to not use the means for, nor have the means used by third parties, unless the Supplier has obtained LDC's prior express and written consent. Article 13 of these general purchase conditions applies mutatis mutandis to any means referred to in this article.

**12.6** All the obligations set forth in this article will survive the termination of the Agreement.

### **13. Confidentiality**

**13.1** The Supplier will consider all information furnished by LDC to be confidential and will not disclose any such information to any other person without LDC's prior express and written consent.

**13.2** All plans, specifications, and other data furnished by LDC will remain the property of LDC and will be used by the Supplier only in connection with the Agreement.

**13.3** The confidentiality and nondisclosure obligation also extends to plans, specifications, and other data prepared by the Supplier specifically in connection with the Agreement.

**13.4** The Supplier will not disclose the existence of the Agreement or any other information relating to it without LDC's prior express and written consent.

**13.5** The Supplier shall impose the same obligation as referred to in paragraphs 13.1 – 13.4 upon its employees, agents,

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subcontractors, or any third parties it engages in the execution of the Agreement.

**13.6** All the obligations set forth in this article will survive the termination of the Agreement.

### **14. Force Majeure**

**14.1** In the event of force majeure (a non-imputable failure) on the part of one of the parties, the fulfillment of the Agreement is to be suspended for the duration of the force majeure, without any of the parties being liable for compensation as regards the other party, provided that the party involved agrees to use all reasonable endeavours to minimize the effect of such force majeure.

**14.2** In the event that an act of force majeure prevents a party from fulfilling its obligations under the Agreement, that party must promptly notify the other party (“Affected Party”) in writing of the circumstances constituting the force majeure, and of the performance of obligations which are thereby prevented or delayed for as long as the force majeure may continue.

**14.3** If the situation of force majeure should last longer than thirty (30) days, the Affected Party has the right to terminate the Agreement with immediate effect and without court intervention by written notice, without owing any compensation to the other party.

**14.4** Force majeure on the part of the Supplier is in no event to be understood to mean: staff shortage, strikes, non-performance by any third party engaged by the Supplier, transport problems on the part of the Supplier or any third parties engaged by the Supplier, failure of equipment, or liquidity and/or solvency problems of the Supplier.

### **15. Termination**

**15.1** LDC is entitled, at its own discretion, to suspend the execution of all agreements between the parties, including the Agreement, in whole or in part, or to terminate these agreements, including the Agreement, in whole or in part, with immediate effect and without court intervention by written notice, without owing any compensation to the Supplier, in the event of:

- (a) a failure by the Supplier to perform one or more of its obligations under the Agreement or any other agreement between the parties;
- (b) an offer or agreement for extra-judicial debt rescheduling;
- (c) an application for or declaration of bankruptcy or liquidation on the part of the Supplier;
- (d) guardianship or receivership on the part of the Supplier;
- (e) attachment of a major part of the Supplier’s business assets;
- (f) sale or termination of the business of the Supplier;
- (g) change of ownership or control of the Supplier;
- (h) cancellation of any licenses of the Supplier that are required for the execution of the Agreement.

Any claims that LDC may have or come to have against the Supplier, shall be payable forthwith and in full in case of termination pursuant to this paragraph.

**15.2** LDC may terminate the Agreement at any time, in whole or in part, upon thirty (30) days written notice to the Supplier. Upon the receipt of such notice, the Supplier will immediately stop, and will cause its suppliers and its subcontractors to immediately stop, all work hereunder. The Supplier will be paid a reasonable fee for termination of the Agreement: i.e., the percentage of the order price reflecting the amount of the work performed before the termination notice, plus actual direct costs resulting from the termination. The Supplier will not be paid for any work done after termination nor for any reasonably avoidable costs thereafter incurred by the Supplier or the Supplier’s subcontractors.

### **16. Independent Contractor**

**16.1** The Supplier, its subcontractors, employees, or agents are independent contractors for all purposes and at all times.

**16.2** LDC incurs no responsibility or obligation to employees, agents, subcontractors, or other parties used by the Supplier to perform the Agreement. Such employees, agents’ subcontractors, or other parties used by the Supplier to perform the Agreement will remain at all times as employees, agents, or subcontractors of the Supplier.

**16.3** The Supplier is solely responsible for payment of wages, salaries, fringe benefits, and other compensation of, or claimed by, the Supplier’s employees, and is responsible for all payroll taxes. The Supplier is also solely responsible for compliance with the applicable labour law and regulation. The Supplier will indemnify and defend LDC from all

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claims by any person, government, or agency relating to payment of taxes and benefits, including without limitation, any penalties and interest which may be assessed against LDC. The Supplier will similarly indemnify and defend LDC from all claims by any person or governmental agency which arise directly or indirectly from any failure by the Supplier to comply with the applicable labour law or regulation.

**16.4** Nothing in the Agreement is allowed to be deemed to constitute a partnership between the parties. All debts, liabilities, and obligations of any kind imposed upon or incurred by the Supplier in the performance of the Agreement are to be the debts, liabilities and obligations of the Supplier.

### **17. Assignment – Subcontracting**

**17.1** The Supplier is under the obligation to execute the Agreement itself and agrees not to assign, sub-contract (including sub-let) all or any part of its rights, liabilities or obligations under the Agreement, without LDC's prior express and written consent.

**17.2** LDC's consent will not relieve the Supplier from any liability or obligation under the Agreement.

**17.3** LDC may assign, sub-let or pledge the whole or part of its rights, liabilities and obligations under the Agreement to any of its affiliates or to any third party upon the same terms and conditions as those agreed upon between LDC and the Supplier, without the consent of the Supplier.

### **18. Compliance with Laws**

The Supplier will comply with all laws, rules and regulations applicable to its business and operations and the performance of the Agreement.

### **19. Compliance with the LDC Supplier Code of Conduct**

**19.1** Reading and acknowledging LDC Supplier Code of Conduct ([https://www.ldc.com/wp-content/uploads/LDC-Supplier-Code-of-Conduct-2023\\_LAYOUT\\_FINAL.pdf](https://www.ldc.com/wp-content/uploads/LDC-Supplier-Code-of-Conduct-2023_LAYOUT_FINAL.pdf)) ("Code") is a prerequisite step for entering into supply contracts with LDC. Supplier hereby acknowledges the principles and requirements of the Code and agrees to abide by the Code, as well as any subsequent modification thereof, in the performance of its obligations under any business relation with LDC.

**19.2** LDC reserves the right to verify Supplier's conformance with the Code, either directly or via the engagement of third parties, and Supplier hereby undertakes to fully cooperate with such verification. Failure to demonstrate compliance with the Code to the satisfaction of LDC can lead to the suspension or termination of any other contract and business relation between the parties or their respective affiliates. The principles in this Code may be periodically reviewed and updated to reflect changes in the standards, laws, regulations and LDC's responsible sourcing requirements.

### **20. Remedies**

The rights and remedies reserved in the Agreement are cumulative and additional to all other or further rights and remedies provided at law or in the Agreement.

### **21. Entire Agreement**

The Agreement constitutes the entire agreement between the parties and supersedes all oral or written proposals, all other communications between parties and any and all prior understandings, representations, warranties, or agreements (whether oral or written) between the parties with respect to the subject matter hereof.

### **22. Severability**

If any provision in the Agreement is held to be illegal, invalid or unenforceable, in whole or in part, under any applicable law, then such provision or part of it is to be deemed as not forming part of the Agreement, and the legality, validity or enforceability of the remainder of the Agreement will not be affected. In such case, each party agrees to use its best efforts to immediately negotiate in good faith a valid replacement provision that is as close as possible to the original intention of the parties and has the same, or as similar as possible, economic effect.

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### **23. Notices**

Any notices or formal communications required by the Agreement are to be sent to LDC's address as designated by LDC at the time of purchase by the procurement department.

### **24. Applicable Law – Dispute resolution**

**24.1** The Agreement shall be governed by and construed in accordance with the Purchaser's Law. No effect is allowed to be given to any other choice-of-law or conflict-of-law rules or provisions. The provisions of the United Nations Convention on International Purchase Agreements (CISG, Vienna, 11 April 1980) are not applicable. Any non-contractual rights and obligations in connection with this Agreement shall be governed by and construed in accordance with the Purchaser's law.

**24.2** In the event of any dispute, controversy or claim arising out of or in relation to the present general purchase conditions, or the breach, termination or invalidity hereof (a "Dispute"), one Party shall serve on the other notice of such dispute (the "Dispute Notice") and the Parties shall attempt in the first instance to resolve such Dispute through friendly consultations. The general purchase conditions shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration ("LCIA") which rules are deemed to be incorporated by reference in this clause. Any provision of the Arbitration Rules of the LCIA relating to the nationality of an arbitrator shall, to that extent, not apply. The number of arbitrators will be one. The seat, or legal place, of arbitration shall be London, UK. The language to be used in the arbitral proceedings shall be English. The arbitration procedure will be conducted in English. Documents introduced as evidence may be in English and in the language of the LDC purchasing entity.

**24.3** Notwithstanding the applicable LCIA rules, any arbitration proceedings below 50 000 Euros shall be held in a summary manner, which shall mean:

- There shall be one set of written pleadings from each Party exchanged in a timely manner as scheduled by the arbitrator, there shall be no discovery of the other Party unless deemed necessary in the sole discretion of the arbitrator. It shall not be necessary for the Parties to observe strict rules of evidence. The final award shall be issued within 100 calendar days from the date of appointment of the arbitrator.
- There shall be one arbitrator appointed in accordance with the applicable LCIA rules.
- The decision of the arbitrator shall be final and binding on the Parties, who shall summarily carry out that decision and either of the Parties shall be entitled to have the decision made an order of any court with competent jurisdiction.
- The arbitration procedure will be conducted in English. Documents introduced as evidence may be in English and in the language of the LDC purchasing entity.