1. Definitions

1.1 ‘Affiliate’ means with respect to a Party, any person which is controlled by or controls the Party. A person shall be considered to control a business entity if it owns, directly or indirectly, the majority of the voting power of the equity capital or capital stock of such business entity or any other comparable equity or ownership interest with respect to a business entity other than a corporation.

1.2 ‘Buyer’ means Belchim Crop Protection NV, directly or indirectly through its Affiliates.

1.3 ‘Commercial Agreement’ means any written agreement of any kind (such as a sales or supply agreement, Distribution Agreements, Distribution Sale Agreements) signed between Buyer and Seller.

1.4 ‘Goods’ means (i) products of any kind and/or (ii) services of any kind.

1.5. Parties: Buyer and Seller

1.6 ‘Seller’ means Belchim Crop Protection NV, directly or indirectly through its Affiliates.

2. Applicability

2.1 Any Buyer who is being supplied by Seller with products and/or any services accepts the applicability of Seller’s ‘Standard Terms and Conditions of Sale’ (‘STCS’), without any restriction upon (i) accepting Seller’s offer, (ii) providing Seller its order, (iii) accepting Seller’s offer of sale by placing an order with Seller, (iv) entering into an Agreement with Seller and (v) the applicability of Seller’s standard terms and conditions is hereby excluded.

2.2 Deviations from the STCS can only be accepted if they are confirmed by Seller in writing. In case of contradictions between the terms of the STCS and the terms of a Commercial Agreement signed between Parties, the terms of the Commercial Agreement shall prevail.

2.3 The STCS have been written in several languages, however only the version in English is binding. Any translation of the STCS should be considered a free translation of the English version of the STCS.

2.4 Seller reserves the right to modify the STCS at any time, in which case they will become applicable 30 days after written notification of the modified STCS to Buyer.

3. Offers, acceptance and binding effect

3.1 All offers made by Buyer are binding and irrevocable. Buyer’s offer will turn into an order when Seller confirms it in writing or when Buyer’s offer of sale is accepted in writing by Seller, unless Seller’s acceptance is qualified by a written offer of sale by Seller, pursuant to which Seller will accept Buyer’s offer, (i) providing Seller its order, (ii) entering into an Agreement with Seller, (iii) the applicability of Seller’s standard terms and conditions is hereby excluded.

3.2 All offers made by Seller, unless otherwise expressly agreed upon, have a validity of 30 days, unless expressly indicated otherwise by Seller in writing.

4. Price and payment

4.1 Unless otherwise mentioned, and unless expressly agreed upon by Buyer, prices are fixed in Euros. Prices are exclusive of (i) VAT and other direct and indirect taxes, (ii) transport and insurance costs, and (iii) all other costs.

4.2 Buyer shall take title for all taxes or charges imposed by any national, state or municipal government related to the Goods. In no event shall Buyer be entitled to deduct or set-off any amount due to Buyer with amounts due by Buyer to Seller.

5. Payment terms

5.1 Buyer shall pay the price indicated by Seller. All payments to Seller will be executed at Seller’s registered office.

6. Risk and title

6.1 After the ‘Due Date’ (as defined below), title to the Goods shall pass to Buyer only (i) upon full payment of Seller’s invoice, (ii) upon full payment of the price for the Goods, and (iii) if the Buyer acknowledges the invoice by the ‘Due Date’ (as defined below), the Buyer will confirm the invoice.

6.2 Property (or title) of the Goods shall pass to Buyer only (i) upon full payment of Seller’s invoice, and (ii) on the date of delivery as evidenced by the delivery document.

6.3 Seller shall take reasonable steps to avoid or mitigate the effect of such event on the performance of its obligations; and

6.4 Any Buyer who is being supplied by Seller with products and/or any services accepts the applicability of Seller’s ‘Standard Terms and Conditions of Sale’ (‘STCS’), without any restriction upon (i) accepting Seller’s offer, (ii) providing Seller its order, (iii) accepting Seller’s offer of sale by placing an order with Seller, (iv) entering into an Agreement with Seller and (v) the applicability of Seller’s standard terms and conditions is hereby excluded.

7. Warranties and liabilities

7.1 Unless explicitly agreed upon otherwise, Seller’s obligations do not guarantee any result. Seller’s obligations are obligations of means only (in Dutch: “verplichtingen van middelen”).

7.2 Seller warranties that at the time of delivery of Seller’s Goods the Seller will meet the specifications of which it has informed Buyer. Seller does not make any other representations nor give any warranties, express or implied. Specifically for products Seller makes no warranties of fitness for a particular purpose and merchantability of its products.

7.3 To the fullest extent permitted by law Seller shall not be liable to Buyer under any circumstances (i) for Buyer’s, Buyer’s Affiliates or a third party’s incidental, indirect or consequential loss or damage, loss of profit, loss of business opportunity, loss of revenue or diminution of goodwill however arising, nor (ii) for any losses to the extent arising from subsequent misuse of the products by Buyer or a third party, including (without limitation) willful damage, loss or destruction of Buyer’s or its Affiliates’, or that of its Affiliates’, its employees’ or customers’, or employers, or losses arising from any failure to follow Seller’s instructions as to use, store or handle the products, the use of the products for any other purpose for which Seller has not given its written consent, or use in any manner liable to cause destruction or damage to Buyer or to the Buyer or the price of the relevant products/services in connection with which Seller may be liable.

7.4 In relation to the products delivered and/or services performed by or on behalf of Seller, Buyer intends Seller against any third party claims.

8. Force majeure

8.1 Neither Party will be liable to the other Party for any delay or non-performance caused by circumstances beyond its reasonable control which could not reasonably have been anticipated by either Party to the Force Majeure Event and which cannot be avoided by reasonable efforts, including (without limitation) force majeure, war, revolution, terrorism, fire, floods, earthquakes, labor disputes or strikes, acts of God, acts or omissions of carriers or public authorities, or acts of nature.

8.2 A Party whose performance is affected by a Force Majeure Event shall: (i) notify the other Party in writing of the Force Majeure Event and the cause and the likely duration of any consequential delay or non-performance of its obligations; and (ii) use reasonable endeavors to avoid or mitigate the effect of such event on the other party and the performance of the affected party’s obligations and resume full performance of its obligations as soon as reasonably possible.

8.3 Where a Force Majeure Event continues for a period of 30 continuous days or more, either Party may by written notice to the other terminate the product delivery obligations governed by the Agreement and be released from any obligation to make performance of its other obligations (other than those obligations arising out of a Force Majeure Event).

9. Product stewardship

9.1 Seller’s products will be warehoused, transported and marketed in such a manner as is necessary for the safety and protection of persons, property, and the environment, and in accordance with Seller’s recommendations and applicable laws and regulations.

10. Intellectual Property Rights (“IPR”) and Confidentiality

10.1 IPR is to be understood as all intangible rights protecting the products of human intelligence and creation, including but not limited to copyrights, patents, models, design rights, trademark rights, sui generis rights, and other possible intellectual property rights and related rights in works, documents, images, publications, creations, computer programs, databases, studies, research, methodologies, and related information, as well as all forms of similar protection throughout the world.

10.2 All IPR related to Seller’s performed services or delivered products remain Seller’s exclusive property. Unless expressly provided for otherwise, Seller does not license, transfer or assign any IPR.

10.3 Information (and in particular Seller’s ideas, developments and technologies) provided by Seller during the course of their cooperation (or of any kind) is to be considered strictly confidential (hereafter “Confidential Information”), except for any Confidential Information that is already in the public domain. Confidential Information is not to be used by Buyer or any third party for any purpose other than the purpose as expressly agreed upon by Buyer and Seller. Buyer and their Affiliates may only take actions to protect the confidentiality of Confidential Information.

11. Miscellaneous

11.1 In the event of any dispute between the Parties or a part of the provisions of the STCS is declared invalid or unenforceable or incompatible with mandatory legal provisions or legal provisions of public order, the remainder of the STCS or the remainder of the provisions of the STCS will remain in full force and enforceable. The void/unenforceable/incompatible provision shall be replaced by a valid one, which in its economic effect complies most with the void/unenforceable/incompatible provision.

11.2 Nothing under the STCS is intended or shall be construed to establish an agency, partnership, or joint venture relationship between Seller and Buyer.

11.3 Buyer is not entitled to assign its respective rights and obligations under the STCS, nor Buyer’s obligations arising under the STCS without Seller’s prior written consent. Buyer is entitled to assign its respective rights and obligations under the STCS, only to the successor in its business activities, or to any other such successor to which Seller is entitled to ask a copy of Seller’s privacy policy.

11.4 Any amendment to the STCS, as well as any additions or omissions, can only take place with the written consent of Seller.

11.5 No failure in exercising any right or remedy hereunder shall be construed as a waiver of any such right or remedy in the future or failure in exercising a right or remedy hereunder due to an instance of breach or default imply acquiescence of such breach or default in similar situations, whether occurring therefore or thereafter.

11.6 The collection of personal data by Seller is subject to Seller’s privacy policy applicable as of May 25th 2018 as published on Seller’s website. Buyer is all times entitled to ask a copy of Seller’s privacy policy.

12. Governing Law

12.1 The STCS shall be governed by and construed in accordance with the laws of Belgium excluding its conflict of law provisions and the Acts of July 27th 1891 on commercial companies (‘Belgian Commercial Code’) and 9 December 2003 (as amended and replaced by articles 26 and 34 of the Belgian Commercial Code), and any possible future legislation to the same effect. Parties further agree that any disputes arising out of or in connection with the STCS shall be settled by the commercial court of Brussels.