GENERAL TERMS AND CONDITIONS OF SALE OF DSM NUTRITIONAL PRODUCTS ASIA PACIFIC

1. GENERAL

1.1 These General Terms and Conditions of Sale ("Conditions") govern the offering, sale and delivery of all goods between DSM and Customer (jointly referred to as "the Products") from or on behalf of DSM Singapore Industrial Pte Ltd, 30 Pasir Panjang Road #13-31, Mapletree Business Sponsorship 179, Singapore 128728, Singapore trading as DSM Nutritional Products Asia Pacific to customer ("Customer") and apply to all transactions between DSM and Customer.

1.2 By contacting on the basis of the Conditions, Customer agrees to the applicability thereof in respect of all future transactions with DSM, explicity or implicitly.

1.3 DSM explicitly rejects the applicability of any general terms and conditions of Customer. Furthermore, DSM has the right to reserve any and all terms and conditions of prior oral and/or written quotations, communications, agreements and understandings of the parties in respect of the sale of Products and the delivery thereof and, in preference to and supersede any and all terms and conditions of any order placed by Customer and any other terms and conditions submitted by Customer.

Failure by DSM to object to the terms and conditions set by Customer shall in no event be construed as an acceptance of any of the terms and conditions of Customer. Neither DSM’s commencement of performance nor DSM’s delivery shall be deemed as acceptance of any of Customer’s terms and conditions.

If the Conditions differ from any of the terms and conditions of Customer, the Conditions and any subsequent communications of DSM shall prevail, unless DSM, including, without limitation, confirmation of any order and delivery of Products, constitute a counteroffer.

Communication or conduct of Customer which confirms an agreement for the delivery of Products and any acceptance by Customer of any delivery from DSM shall constitute an unqualified acceptance by Customer of the Conditions.

1.4 The current version of the Conditions is available at www.dsm-nutritionalproducts.com. DSM reserves the right to amend the Conditions at any time. DSM will notify Customer of any such amendments by sending the amended Conditions to Customer, posting them on the aforementioned internet site or otherwise. The amended Conditions will take effect on the date of notification of such amendments. The amended Conditions shall supersede all previous communications between Customer and DSM as of the day following the date of such notification.

1.5 Any electronic communication between DSM and Customer shall be effective as original and shall be considered to be a “writing” between the parties. The electronic communication system used by DSM will serve as sole proof for the content and time of delivery and receipt of such electronic communications.

2. QUOTATIONS, ORDERS AND CONFIRMATION

2.1 Unless stated otherwise by DSM, quotations made by DSM are non-binding and may be withdrawn or amended at any time. Unless explicitly stated by DSM, any binding order by Customer of any such amendements by sending the amended Conditions to Customer, posting them on the aforementioned internet site or otherwise. The amended Conditions will take effect on the date of notification of such amendments. The amended Conditions shall supersede all previous communications between Customer and DSM as of the day following the date of such notification.

2.2 Price quotations based on estimated or projected quantities are subject to increase in the event that actual quantities purchased during the specified period are less than the estimated or projected quantities.

2.3 Each delivery shall stand as a separate transaction and any failure to deliver shall have no consequences for other deliveries.

3. PRICES

3.1 Prices and currencies of DSM’s Products are as set out in the Confirmed Order. Unless otherwise agreed, DSM’s prices include standard packaging but do not include: Taxes, duties, levies or charges in any jurisdiction levied in relation to the Products or the delivery thereof (“Taxes”). Any Taxes levied in connection with the sale of Products to customer shall be for Customer’s account and shall either be added to each such price or paid by DSM to Customer. If DSM grants a discount, this discount only relates to the delivery specifically mentioned in the Confirmed Order.

3.2 At no event shall any indication of a price by DSM in the Confirmed Order, DSM is entitled to increase the price of the Products still to be delivered if the cost price of the Products has been subjected to any increase. These factors include, but are not limited to, raw and auxiliary materials, energy, products obtained by DSM from third parties, exchange rates, sales, local security contributions, governmental charges, freight costs and insurance premiums. A written notice from DSM notifying Customer of any increase and the effective date of the increase shall be accepted by Customer as conclusive and binding.

4. PAYMENT AND CUSTOMER’S CREDIT

4.1 Unless stated otherwise in the Confirmed Order, payment shall be made on the basis of net cash, to be delivered to DSM or its designated bank. The amount due shall be paid without any deduction on account of any Taxes and free of any other charges, costs or expenses, unless uncontroverted and/or enforceable counterclaims.

With regard to payment for the Products, time is of the essence. In no event shall payment be without prejudice to any contract, DSM, charge interest on any overdue payment at 12% (twelve percent) per annum from the due date computed from the date of delivery thereof, whichever is applicable. Additional amounts due under the Conditions shall be paid in full. All costs and expenses incurred by DSM with respect to the collection of overdue payments (including but not limited to, court costs and court-appointed experts, fees, expert fees, court costs and other expenses of litigation) shall be for Customer’s account.

4.2 Each delivery, in the first place, serve to pay the judicial and extra-judicial costs and the accrued interest and shall afterwards be deducted from the oldest outstanding invoices, regardless of any advice to the contrary from Customer.

4.3 Any complaint with respect to the invoice must be notified to DSM in writing within 20 (twenty) days after the date of the invoice. Thereafter, Customer shall be deemed to have approved the invoice.

5. DELIVERY AND ACCEPTANCE

5.1 Unless stated otherwise in the Confirmed Order, all deliveries will be made ex Works ("EXW") place of destination. The term “CIP” shall have the meaning as defined in the latest version of the INCOTERM published by the International Chamber of Commerce in Paris, France, at the time of the Confirmed Order (see www.iccworld.org/INCOTERMS).

5.2 Unless stated otherwise in the Confirmed Order, any orders or delivery dates for DSM are estimates and shall not be of the essence. DSM is entitled to deliver the Products in one or more batches or production runs in any order and to invoice separately. Delay in delivery of any Products shall not relieve Customer of its obligation to accept delivered Products. DSM is not bound to make reasonably expected to accept such late delivery. Customer shall be obliged to accept the Products and pay the full amount due in the Confirmed Order for the quantity of Products delivered by DSM.

5.3 In case the CIP terms apply, DSM shall effect delivery to the customer in its port of loading, or to such other place as the Parties may agree. The date of DSM’s invoice shall be effective date of the increase shall be accepted by Customer as conclusive and binding.

6. CANCELLATION

Customer’s wrongful non-acceptance or rejection of Products or cancellation of the Confirmed Order shall entitle DSM to recover from Customer, in addition to any other damages caused by such action: (i) in the case of Products which reasonably cannot be resold, the purchase price of such Products as quoted in the Confirmed Order; or (ii) in the case of Products which can be resold by DSM, a sum equal to 50% (fifty percent) of the price for the Products as quoted in the Confirmed Order as liquidated damages.

7. EXAMINATION AND CONFORMITY TO SPECIFICATIONS

7.1 If the correct nature of any batch or run to an independent laboratory for examination, commingling, alteration, incorporation, processing, transportation, storage, impartation and (re)sale of the Products (the “Use”), Customer shall examine the Products and satisfy itself that the Products delivered meet the agreed specifications for the Products as stated in the Confirmed Order or, in the absence of agreed specifications, to the most recent specifications used by DSM at the time of delivery of the Products (the “Spec”). Customer will, if the Products do not meet the Spec, or in case of any alleged non-conformance of Products and, if applicable, the return of the Products, in accordance with Article 7.

8. LIMITS OF LIABILITY

8.1 DSM’s liability for any and all claims arising out of or in connection with the Products and the Use thereof shall per occurrence be limited to direct damages of Customer and shall under no circumstances exceed the same value of the defective batch of the relevant Product supplied to Customer.

8.2 DSM shall not be liable for any indirect, incidental, consequential or punitive damages or loss, cost or expense, including without limitation, loss of profits, losses of business, delay in delivery, work stoppage, production failure, impairment of other goods or based on any other cause, and including without limitation, any claim or right or reflective damage, breach of contract, misrepresentation, negligence or otherwise.

9. FORCE MAJEURE

9.1 Neither party shall be liable in any way for any damage, loss, cost or expense arising out of or in connection with any delay, restriction, interference or failure in performing any obligation towards the other party caused by any circumstances beyond its control, including, without limitation, acts of God, laws and regulations, administrative measures, orders or decrees of any government authority or courts, war, terrorism, riot, sabotage, accident, epidemic, strike, lockout, slowdown, labour disturbances, disturbance of public utility services, lack of or failure of transportation, breakdown of plant or essential machinery, emergency repair or maintenance, breakdown or shortage of utilities, delays in delivery or defects in goods supplied by suppliers or subcontractors ("Force Majeure").

9.2 Force Majeure shall extend to any delay in delivering any of the Products due to strikes, work stoppage, riot, sabotage, accident, epidemic, war, terrorism, riot, sabotage, accident, epidemic, strike, lockout, slowdown, labour disturbances, disturbance of public utility services, lack of or failure of transportation, breakdown of plant or essential machinery, emergency repair or maintenance, breakdown or shortage of utilities, delays in delivery or defects in goods supplied by suppliers or subcontractors ("Force Majeure").
entitled to cancel the affected part of the Confirmed Order without any liability to the other Party.

12 MODIFICATIONS AND INFORMATION: INDEMNITY

12.1 Unless the Specifications have been agreed to be firm for a certain period of time or quantity of Products, DSM reserves the right to change or modify the Specifications and/or manufacture of Products and to substitute materials used in the production and/or manufacture of Products to time without notice. Customer acknowledges that data in DSM’s catalogues, product data sheets and other descriptive publications distributed or published on its websites may accordingly be varied from time to time without notice.

12.2 Customer must utilize and solely rely on its own expertise, knowledge and experience in relation to the Products and Customer’s Use thereof. Consultation provided by DSM shall not give rise to any liability or obligation whatsoever on the part of DSM. Customer shall indemnify and hold DSM harmless from and against any and all damages, losses, costs, expenses, claims, demands and liabilities (including, without limitation, product liabilities) arising out of or in connection with the Products and Customer’s Use thereof.

13 COMPLIANCE WITH LAWS AND STANDARDS

13.1 Customer acknowledges that the Use of the Products may be subject to requirements or limitations under any law, statute, ordinance, rule, code or standard, including, but not limited to, all applicable regulations relating to (i) anti-bribery and corruption and (ii) international trade, such as, but not limited to, embargoes, import and export control and sanctioned party lists (“Laws and Standards”).

13.2 Customer expressly warrants that employees, agents and subcontractors of the Customer shall not directly or indirectly, promise, offer or provide any improper advantage to or (ii) enter into an agreement (a) with any entity or person – including officials of a government or any of its agencies – that would constitute an offence or infringement of applicable Laws and Standards.

13.3 Customer shall be exclusively responsible for (i) ensuring compliance with all Laws and Standards associated with its intended Use of the Products; and (ii) obtaining all necessary approvals, permits or clearances for such Use.

14 INDEPENDENT CONTRACTORS

DSM and Customer are independent contractors, and the relationship created hereby shall not be deemed to be that of principal and agent.

15 NON-ASSIGNMENT AND CHANGE OF CONTROL

15.1 Neither party may assign any of the rights or obligations under the Confirmed Order without the prior written consent of the other party, except that either party may assign such rights and obligations to any of its affiliates or to a third party acquiring all or a substantial part of its assets or business relating to the Products.

15.2 DSM shall have the right to terminate the Confirmed Order with immediate effect if, at any time during the term of the Confirmed Order, a person or group of persons, who are unrelated to the persons controlling Customer as of the date of the Confirmed Order, assumes control, through voting securities or otherwise, over Customer. Customer must notify DSM of such acquisition within 10 (ten) days thereof. DSM may exercise its right to terminate the Confirmed Order by giving Customer written notice of such notice within ten (10) days after the date of receipt of such notice.

16 SUSPENSION AND TERMINATION

If Customer is in default of performance of its obligations towards DSM and fails to provide to DSM adequate assurance of Customer’s performance before the date of scheduled delivery; or if Customer becomes insolvent or unable to pay its debts as they mature, or goes into liquidation (other than for the purpose of a reconstruction or amalgamation) or any bankruptcy proceeding shall be instituted by or against Customer or if a trustee or receiver or administrator is appointed for all or a substantial part of the assets of Customer or if Customer enters into a deed of arrangement or makes any assignment for the benefit of its creditors; or in case of non-compliance with Laws and Standards, then DSM may, by notice in writing, forthwith without prejudice to any of its other rights:

(i) demand the repayment of any delivered Products which have not been paid for and all costs relating to the recovery of the obligations for whatever reason shall not affect in any respect whatsoever, the validity and enforceability of the remaining provisions between the parties, and shall be severable therefrom. The retaining provisions held to be invalid or unenforceable shall be reformed to meet the legal and economic intent of the original provisions to the maximum extent permitted by law.

(ii) unless otherwise stated hereunder, no action by Customer shall be brought unless Customer first provides written notice to DSM of any claim alleged to exist against DSM within 30 (thirty) days after the event complained of first becomes known to Customer and an action is commenced by Customer within 12 (twelve) months after such notice.

17 WAIVER

The parties agree that any suits, actions or proceedings that may be instituted by any party shall be proceded in accordance with the laws of Singapore, without regard to the conflict of laws provisions thereof. The United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (CISG) shall not apply.

18 SEVERABILITY AND CONVERSION

18.1 The parties’ rights and obligations arising out of or in connection with the Confirmed Order and/or the Conditions shall be governed, construed, interpreted and enforced in accordance with the laws of Singapore, without regard to the conflict of laws provisions thereof.

19 LIMITATION OF ACTION

20 GOVERNING LAW AND VENUE

20.1 The parties’ rights and obligations arising out of or in connection with the Confirmed Order and/or the Conditions shall be governed, construed, interpreted and enforced in accordance with the laws of Singapore, without regard to the conflict of laws provisions thereof.

20.2 The parties agree that any suits, actions or proceedings that may be instituted by any party shall be determined exclusively in the courts of Singapore, without restricting any rights of appeal.

21 SURVIVAL OF RIGHTS

The parties’ rights and obligations shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, directors, officers, employees, agents and legal representatives. Termination of one or more of the parties’ rights and obligations for whatever reason shall not affect those provisions of the Conditions which are intended to remain in effect after such termination.

22 HEADINGS

The headings contained in the Conditions are included for mere convenience of reference and shall not affect the latter’s construction or interpretation.

23 INTELLECTUAL PROPERTY

23.1 All intellectual property rights arising out of or in connection with the Products shall be the exclusive property of DSM.

23.2 DSM has not verified the possible existence of third party intellectual property rights which might be infringed as a consequence of the sale and/or delivery of the Products, and DSM shall not be held liable for any loss or damage in that respect.

23.3 The sale of Products shall not, by implication or otherwise, convey any license under any intellectual property right relating to the compositions and/or applications of the Products, and Customer explicitly assumes all risks of any intellectual property infringement by reason of the Use of the Products, whether singly or in combination with other materials or in any processing operation.

24 NOTICES

24.1 All notices to be given shall be in writing and shall either be delivered personally or sent by first-class or airmail pre-paid post or by telex, cable or facsimile transmission and shall be deemed duly served: (i) in the case of a notice delivered personally, at the time of delivery; (ii) in the case of a notice sent by first-class or airmail pre-paid post 3 (three) business days after the date of dispatch; (iii) in the case of a notice sent by telex, cable or facsimile transmission, if sent during normal business hours, then at the time of transmission and if sent outside normal business hours, then on the next following business day provided (in each case) that a confirmatory copy is sent by first-class pre-paid post or by hand at the end of the next business day.

24.2 Each notice shall be addressed to the address of the party concerned set out in the Confirmed Order or to such other address as that party shall have previously notified to the sender.

25 LANGUAGE

The original version of the Conditions is made in the English language. In the event of any inconsistency or contradiction between the English version and any translation thereof, the English version shall prevail.