1. GENERAL

These General Terms and Conditions of Sale ("Conditions") apply to all sales and services (hereinafter hereinafter jointly referred to as the "Products") from or on behalf of DSM Nutritional Products Ltd., P.O. Box 17, 4199 VS Wil, Switzerland ("DSM").

2. QUOTATIONS, ORDERS AND CONFIRMATION

2.1 Unless stated otherwise in the Confirmed Order, all offers made by DSM in whatever form are not binding to DSM and merely constitute an invitation to Customer to place an order. All offers and invitations to Customer are subject to change without notice. Orders are only binding if accepted by DSM in writing. Any refusal to accept the written confirmation or an order or notification by Customer shall be considered acceptance of the terms and conditions of DSM. DSM shall not be liable for any injury or damages to Customer resulting from the refusal to accept, to place an order or to make delivery.

2.2 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 highlighting the changes and in addition posting the Conditions on its designated internet sites. Customer may reject the amended Conditions within 30 (thirty) days from notification to DSM. If Customer does not reject the amended Conditions within that period, they will take effect upon its expiry. The amended Conditions will take effect on the effective date. The amended Conditions shall apply only to future transactions between Customer and DSM after the date of such notification.

2.3 Each communication between DSM and Customer shall be effective as actual and shall be considered to have been in writing between the parties. The electronic communication system used by DSM will serve as sole proof for the content and the time of delivery and receipt of such electronic communications.

3. PRICES

3.1 Prices and currencies of DSM’s Products are as set out in the Confirmed Order. The price of DSM’s Products includes standard packaging but do not include Value Added Tax or any other applicable taxes, levies, duties, fees, and customs requirements in relation to the Products or the delivery thereof ("Taxes"). The amount of 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 invoice or separately invoiced by DSM to Customer. If DSM bears any such taxes, duties, fees, and customs requirements, the party shall be required to deliver specifically mentioned in the Confirmed Order.

3.2 Unless the prices have been indicated as firm by DSM, the invoice value for any jurisdiction other than the country of delivery specified specifically mentioned in the Confirmed Order.

4. PAYMENT AND CUSTOMER’S CREDIT

4.1 Unless otherwise in the Confirmed Order, payment shall be made on the basis of net cash, to be received by DSM within 30 (thirty) days following the date of delivery. DSM is entitled to demand payment without any deduction to the account of DSM. DSM may only set off claims from DSM or exercise any rights of retention against an undisputed or adjudicated counterclaim.

5. DELIVERY AND ACCEPTANCE

5.1 DSM is liable for non-performance of its obligations under the Conditions of Customer, the Conditions and any contract or agreement to which DSM is a party. DSM is liable for non-performance of its obligations under the Conditions of Customer, the Conditions and any contract or agreement to which DSM is a party.

5.2 Unless stated otherwise in the Confirmed Order, all times or dates for delivery by DSM are estimates and shall not be binding upon DSM. DSM shall deliver all Products to Customer in accordance with the delivery method specified in the Confirmed Order. DSM is entitled to deliver at any time within the time specified in the Confirmed Order in parts to invoicing separately. Delay in delivery of any Products shall not relieve Customer of its obligation to accept and pay for the Products. DSM is not liable for any reduction of price or in the event of material defects or if DSM is not in a position to perform its obligations, be entitled to claim damages in lieu of fulfillment within the limitations of Article 10.1.

5.3 The limitation period for claims in respect of defects shall be 12 (twelve) months from the date of delivery or the due date for delivery. If Customer fails to pay the judicial and extra-judicial costs and the accrued interest and shall afterwards be deducted from the oldest outstanding claim. In case of a dispute, the Customer shall be deemed to have approved the invoice.

6. CANCELLATION

6.1 Customer’s wrongful non-acceptance or rejection of Products shall entitle DSM to recover damages from Customer:

(i) in the case of Products which reasonably cannot be resold, an amount equal to 50% (fifty percent) of the price for the Products as quoted in the Confirmed Order; or

(ii) in the case of Products which can be resold by DSM, damages equal to 50% (fifty percent) of the price for the Products as quoted in the Confirmed Order.

6.2 The provisions of Article 6.1 shall not apply if Customer can demonstrate that the actual damages incurred by DSM are lower or were not suffered at all.

7. EXAMINATION AND CONFORMITY TO SPECIFICATIONS

7.1 On delivery and during the handling, use, commingling, processing, transportation, storage, importation and (re)sale of the Products (the "Use"), Customer shall examine the Products and deliver to DSM a claim of non-compliance with the specifications used by DSM at the time of delivery of the Products (the "Specifications").

7.2 Complaints about the Products shall be made in writing. Complaints about defects which would be apparent from a reasonable inspection on delivery must be received by DSM within the date of delivery and, in the case of delivery complaints, complaints about hidden defects must reach DSM not later than 7 (seven) days from the date on which the Products reach the place of delivery. If the above time limits are exceeded all claims in respect of liability for defects shall be excluded.

7.3 A deviation of whether or not delivered Products conform to the Specifications shall be done solely by DSM analysing the samples or records retained by DSM and taken from the batches or production runs in which the Products were produced in accordance with the methods of analysis used by DSM. In case of a disaccord between the parties concerning the quality of

8. FORCE MAJEURE

8.1 DSM shall be liable for any delay in delivery due to breakdown or in any event of force majeure. DSM is not liable for any delay in delivery due to breakdown or in any event of force majeure. DSM is not liable for any delay in delivery due to breakdown or in any event of force majeure.

8.2 Claims based on the law of privity (i.e., the party to whom the party suffering thereby shall have been entitled to claim damages) in respect of damage to life, body or health, the violation of obligations is based on willful misconduct or gross negligence of DSM, DSM fraudulently concealed the defect and the defect causes the party suffering thereby more than a reduction of price or in the event of material defects or if DSM is not in a position to perform its obligations, be entitled to claim damages in lieu of fulfillment within the limitations of Article 10.1.

9. LIMITED LIABILITY

9.1 Claims for damages against DSM are excluded, if the damage was caused by simple negligence of DSM, its legal representatives or its agents.

9.2 The above limitation of liability shall not apply in the event of damage to life, body or health, or if DSM accepts in writing to be liable for any damage to life, body or health. DSM shall be liable for any damage to life, body or health if DSM accepts in writing to be liable for any damage to life, body or health. DSM shall be liable for any damage to life, body or health.

9.3 Claims based on the law on product liability shall not be excluded.

10. LIMITED LIABILITY

10.1 Claims for damages against DSM are excluded, if the damage was caused by simple negligence of DSM, its legal representatives or its agents.

10.2 Claims for damages shall be subject to a limitation period of 1 (one) year from the date on which Customer becomes aware of the damage or, in the absence of gross negligence, should have become aware thereof. Claims based on the law of product liability, damage to life, body or health or defects shall remain unaffected.

11. FORCE MAJEURE

11.1 DSM’s liability shall be in any way for any damage, loss, cost or expense arising out of or in connection with any delay, restriction, interference or failure to perform any obligation towards the other party caused by any circumstance beyond its reasonable control, including, without limitation, acts of God, laws and regulations, administrative measures, orders or decrees of any court, earthquake, flood, fire, explosion, war, terrorism, riot, sabotage, accident, epidemic, strike, lockout, slowdown, breakdown or shortage of supplies, difficulties in obtaining necessary labour or raw materials, lack of or failure of transportation, breakdown of plant or machinery in DSM’s or its suppliers’ possession, breakdown or shortage of utilities, delay in delivery or defects in goods supplied by suppliers or DSM’s suppliers, or any other circumstances beyond DSM’s control.

11.2 Upon the occurrence of any event of Force Majeure, the party suffering thereby shall promptly inform the other party of such event. If DSM could reasonably expect to be able to perform its obligations under the Confirmed Order. In the event of any delay, the obligation to deliver shall be
suspended for a period equal to the time loss by reason of Force Majeure. However, should a Force Majeure event continue or be expected to continue for a period extending to more than 60 (sixty) days after the agreed delivery date, either Party is 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 from time 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 utilise and solely rely on its own expertise, know-how and judgment in relation to 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 anti-corruption and (ii) international trade, such as, but not limited to, embargos, 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 (i) accept, 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 a government-controlled entity -, or (b) regarding a product, which would constitute an offense 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  
14.1 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 its 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, acquires control, through ownership of voting securities or otherwise, over Customer and/or Customer’s Use 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 exercise within 10 (ten) days after the date of receipt of such notice.  

16. SUSPENSION AND TERMINATION  
16.1 If Customer is in default of performance of its obligations towards DSM or in any other manner fails to provide 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 of Customer with Laws and Standards, then DSM may by notice in writing forthwith, without prejudice to any of its other rights:  
(i) demand return and take repossession of any delivered Products which have not been paid for and all costs relating to the recovery of the Products shall be for the account of Customer; and/or  
(ii) suspend its performance or terminate the Confirmed Order for pending delivery of Products unless Customer makes such payment for Products on a cash in advance basis or provides adequate assurance of such payment for Products to DSM.  
16.2 In any such event of Article 16.1 all outstanding claims of DSM shall become due and payable immediately with respect to the Products delivered to Customer and not repossessed by DSM.  

17. WAIVER  
17.1 Failure by DSM to enforce at any time any provision of the Conditions shall not be construed as a waiver of DSM’s right to act or to enforce any such term or condition and DSM’s rights shall not be affected by any delay, failure or omission to enforce any such provision. No waiver by DSM of any breach of Customer’s obligations shall constitute a waiver of any other prior or subsequent breach.  

18. SEVERABILITY AND CONVERSION  
18.1 In the event that any provision of the Conditions shall be held to be invalid or unenforceable, the same shall not affect in any respect whatsoever, the validity and enforceability of the remaining provisions between the parties and shall be severed therefrom. The pertaining 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.  

19. LIMITATION OF ACTION  
19.1 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 becomes known to Customer and an action expressly is warranted by Customer within 12 (twelve) months after such notice.  

20. GOVERNING LAW AND JURISDICTION  
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 according to the Laws of Germany, 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.  
20.2 The parties agree that any suits, actions or proceedings that may be instituted by any party shall be initiated exclusively before the competent courts of Freiburg i.B., Germany, without restricting any rights of appeal and without prejudice to DSM’s right to submit the matter to any other competent court.  

21. SURVIVAL OF RIGHTS  
21.1 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  
22.1 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 The violation of third party rights shall only constitute a defect if such rights exist in the Federal Republic of Germany.  
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 expressly 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. LANGUAGE  
24.1 The original version of the Conditions is made in the German language. In the event of any inconsistency or contradiction between the German version and any translation thereof, the German version shall prevail.