1. GENERAL

1.1 These General Terms and Conditions of Sale ("the Conditions") govern the sale and dispatch of all goods and/or services (hereinafter jointly referred to as the "Products") from or on behalf of DSM Nutritional Products SRB d.o.o. Ruma, Kratkosten 16, 71090, Serbia, and its affiliates ("DSM"), 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 dealings, even if this is not explicitly mentioned.

1.3 DSM explicitly rejects the applicability of any general terms and conditions of Customer. Furthermore, any modification, supplementation or amendments to any terms of prior oral and written quotations, communications, agreements and understandings of the parties in respect of the sale and delivery of the Products, and of any other terms and conditions of order placed by Customer and any other terms and conditions submitted by Customer, shall not apply to the terms and conditions set by Customer in respect of all future dealings, even if this is not explicitly mentioned.

1.4 Any new version of the Conditions is available at http://www.dsm.com/EN/DAFE/SALES- CONDITIONS/SERBIA-EN and www.dsm.com/EN/DAFE/SALES-CONDITIONS/SERBIA-RL. DSM reserves the right to amend the Conditions at any time. DSM will notify Customer of amendments by sending an amended Conditions to Customer by post, posting them on the aforementioned Internet sites or otherwise. The amended Conditions will take effect on the date of notification of these amendments. The amended Conditions shall apply to all transactions concluded between Customer and DSM after the date of such notification.

1.5 Any electronic communication between DSM and Customer shall be effective as originals and shall be considered as written 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.

2. QUOTATIONS, ORDERS AND CONFIRMATION

2.1 Unless stated otherwise by the quotations made by DSM in whatever form are not binding to DSM and merely constitute an invitation to Customer to place an order. All quotations issued by DSM are revocable and subject to change without notice. Orders are not binding until accepted by DSM in writing ("the Confirmed Order"). DSM shall be entitled to refuse an order without indicating the reasons.

2.2 Price quotations based on estimated or projected quantities are subject to increase in the event of any alteration to the purchase order. DSM is entitled to charge the price as specified period are less than the estimated or projected quantities.

2.3 Cash 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 as are set out in the Confirmed Order. Unless otherwise agreed, DSM’s prices include packaging but do not include Value Added Tax or any other similar applicable taxes, duties, levies or charges in any jurisdiction levied in relation to the Products or the delivery thereof ("Taxes"). The amount of any Taxes levied in connection with the sale of Products shall be for Customer’s account and shall either be added to each invoice or separately invoiced by DSM to Customer. If DSM grants a discount, this discount only relates to the delivery specification indicated in the Confirmed Order.

3.2 Unless the prices have been indicated as firm by DSM in the Confirmed Order, DSM is entitled to increase the price of the Products still to be delivered by such an amount as DSM deems appropriate, if any determining factors have been subject to an increase. These factors include but are not limited to: raw and auxiliary materials, energy costs, wages, salaries, social security contributions, governmental charges, freight costs and insurance premiums. DSM shall notify Customer of such increased prices not exceeding the increase in the determining cost factors.

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 the bank account of DSM payable in RSD (calculated on the basis of the middle rate of the National Bank of Serbia in case the prices are expressed in a foreign currency), to be received by DSM within 30 (thirty) days following the date of DSM’s invoice. All payments shall be made without any deduction on account of any Taxes and free of set-off or other counterclaims except for set-offs with uncontested and proven counterclaims.

4.2 With regard to payment for the Products, time is of the essence. DSM may, without prejudice to any other rights or remedies available under the Confirmed Order, charge overdue payment at the higher of (i) 12% (twelve percent) per annum or (ii) the applicable statutory interest rate in Serbia from the due date computed on a part or in full of the Products still to be paid in full. All costs and expenses incurred by DSM with respect to the collection of overdue payments (including, without limitation, any attorney’s fees, expert fees, court costs and other expenses of litigation) shall be for Customer’s account.

4.3 Every payment by Customer shall in the first place serve to pay the judicial and extra-judicial costs and the accrued interest and shall afterwards be deduced from the oldest outstanding claim regarding of any advice to the contrary from Customer.

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

DELIVERY AND ACCEPTANCE

5.1 Unless stated otherwise in the Confirmed Order, all deliveries of Products shall be CIP (Carriage and Insurance Paid To) place of destination. The term CIP shall be as defined in the latest version of INCOTERMS published by the International Chamber of Commerce in Paris, France, at the time of delivery of the Products (see www.iccwbo.org/incoterms). DSM shall, without prejudice to any other rights of DSM, be entitled to require immediate return of the Products, or to repossess the Products, for which it may invoke a retention of title.

5.2 DSM may at any reasonable time either repair or replace the Products at no charge to Customer, or issue a credit for any such Products in the amount of the original invoice price, as adjusted, at DSM’s option.

6. CANCELLATION

6.1 Customer’s wrongful non-acceptance or rejection of Products or cancellation of the Confirmed Order for any reason shall not relieve Customer of its obligation to accept delivery thereof, unless Customer cannot reasonably be expected to accept such late delivery. Customer shall be obliged to accept the Products and pay the rate specified in the Confirmed Order for the quantity of Products delivered by DSM.

6.2 Cancellation

6.3 Customer’s wrongful non-acceptance or rejection of Products or cancellation of the Confirmed Order for any reason shall not relieve Customer of its obligation to accept delivery thereof, unless Customer cannot reasonably be expected to accept such late delivery. Customer shall be obliged to accept the Products and pay the rate specified in the Confirmed Order for the quantity of Products delivered by DSM.

LIMITED WARRANTY

9.1 DSM solely warrants that on the date of delivery the Products conform to the Specifications. If and to the extent Products are in breach with such warranty, as determined in accordance with Article 7.3, DSM may at any reasonable time either repair or replace the Products at no charge to Customer, or issue a credit for any such Products in the amount of the original invoice price, as adjusted, at DSM’s option. Additionally, DSM shall notify Customer in writing of the nature of defect or shortage which would be apparent from examination or inspection on delivery and during the handling, use, commingling, alteration, incorporation, processing, transportation, storage, importation and (re)sale of the Products (the “User”). Customer shall examine the User and, at its discretion, report to DSM any defect or shortage which would be apparent from examination or inspection. If and to the extent any of the above described Products delivered meet the agreed specifications for the Products as stated in the Confirmed Order or, in the alternative as agreed between the parties, Customer shall, at its discretion, notify DSM of any defect or shortage which would be apparent from examination or inspection. DSM shall not be liable for any non-compliance of the Products with the Specifications used by DSM at the time of delivery of the Products (the “Specifications”).

9.2 Complaints about the Products shall be made in writing and must reach DSM not later than seven (7) days from the date of delivery in respect of any defect, default or shortage which would be apparent from examination or inspection on delivery and during the handling, use, commingling, alteration, incorporation, processing, transportation, storage, importation and (re)sale of the Products (the “User”). Customer shall examine the User and, at its discretion, report to DSM any defect or shortage which would be apparent from examination or inspection. If and to the extent any of the above described Products delivered meet the agreed specifications for the Products as stated in the Confirmed Order or, in the alternative as agreed between the parties, shall be deemed to be in breach of warranty and Customer shall be entitled to claim damages. In the event of termination on the basis of Article 7.6, DSM shall, within a reasonable time after notice of any alleged non-conformance of the Products, either repair or replace the Products, or to repossess the Products, for which it may invoke a retention of title.

9.3 DSM’s obligation to comply with the Specifications, or credit shall be contingent upon receipt by DSM of timely notice of any alleged non-conformance of Products and, if applicable, the return of the Products, in accordance with Article 9.2.
10. LIMITED LIABILITY

10.1 DSM’s liability for any and all claims arising out of or in connection with the Goods under any contract, and the thereof shall per occurrence be limited to direct damages of Customer and shall under no circumstances exceed the sales value of the determining batch of the relevant Product supplied to Customer.

10.2 DSM shall under no circumstances be liable to Customer for special, incidental, indirect, consequential or punitive damage or loss, cost or expense, including without limitation, damage based upon lost goodwill, loss of sales or profit, delay in delivery, work stoppage, production failure, impairment of other goods or based on any other cause, and whether arising in connection with breach of warranty, breach of contract, misrepresentation, negligence or otherwise.

11. FORCE MAJEURE

11.1 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 circumstance beyond its reasonable control, including, without limitation, acts of Governmental regulatory authorities, administrative measures, orders or decrees of any court, earthquake, flood, fire, explosion, war, terrorism, riot, sabotage, strike, lockout, slowdown, labour disturbances, difficulty in obtaining necessary labour or raw materials, lack of or failure of transportation, breakdown of plant or essential machinery, emergency repair or maintenance, breakdown or shortage of utilities, delay in delivery or defects in goods supplied by suppliers or subcontractors.

11.2 Upon the occurrence of any event of Force Majeure, the party suffering thereby shall promptly inform the other party by written notice thereof specifying the cause of the event and how it will affect its performance of its obligations under the Confirmed Order. In the event of any delay, the obligation of the party affected 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 in total beyond 60 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 amended, no modifications or changes to the Specifications of the Products, DSM reserves the right to change or modify the Specifications and/or manufacture of the Products and to submit any such changes to the Specifications and/or manufacture of the Products from time to time without notice. Customer acknowledges that data in DSM’s catalogues, product data sheets and other descriptive publications contributed 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. Consultation provided by DSM shall not give rise to any additional obligations. Customer shall indemnify and hold DSM harmless from and against any and all damages, losses, costs, expenses, claims, demands and liabilities (including litigation proceedings) 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 domestic, foreign, international or local laws or standards. Customer undertakes to ensure that the Products be used only for the purposes for which they are intended, which shall not be in violation of the law.

13.2 Customer must not do or cause to be done, and 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 shall not, by implication or otherwise, be deemed to be either an independent contractor, 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, acquire control, through ownership of 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 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 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 against Customer or if a trust receiver 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 an arrangement or scheme 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 payment and take repossess of any products which have not been paid for and all costs and charges relating to the delivery of the Products shall be for the account of Customer; and/or
(ii) terminate in whole or in part 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 repurchased by DSM.

17. WAIVER

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

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, binding effect and enforceability of the remaining provisions of the Conditions and shall be severed therefrom. The pertaining provisions held to be invalid, unenforceable or otherwise held not to meet the legal and economic intent of the original provisions to the maximum extent permitted by law.

19. LIMITATION OF ACTION

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.

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 according to the laws of Serbia without regard to the conflict of laws provisions thereof. The United Nations Convention on Contracts for the International Sale of Goods dated 1 November 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 Novi Sad, 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

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 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

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.