GENERAL TERMS AND CONDITIONS OF SALE OF DSM NUTRITIONAL PRODUCTS CHILE SA

1. GENERAL

1.1 These General Terms and Conditions of Sale ("Conditions") govern the offering, sale and delivery of any products (hereinafter referred to as the "Products") from or on behalf of DSM NUTRITIONAL PRODUCTS CHILE SA, LODLE LOS CANTAROS, PARCELAR NR. 1 RUTA 5 SUR km. 1010, PUERTO VALLARTA, JAIPUR, MEXICO ("DSM") to all persons, companies, or other legal entities in Chile, and to apply to all transactions between DSM and Customer.

1.2 By contracting on the basis of the Conditions, Customer agrees to the applicability thereof in respect of all future dealings, even if this is not explicitly stated.

1.3 DSM explicitly rejects the applicability of any general terms and conditions of Customer. Furthermore, the Conditions supersede any and all 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 shall apply in preference to and supersede any and all terms and conditions of any other document, correspondence or communication 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 written terms and conditions. If the Conditions differ from any of the terms and conditions of Customer, the Conditions and any subsequent correspondence or communication submitted by Customer shall be considered to be a “writing” between the parties.

2. QUOTATIONS, ORDERS AND CONFIRMATION

2.1 Unless stated otherwise by DSM, quotations made by DSM in whatever form are not binding to DSM and must be accepted by Customer in writing in order to form 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 Confirmation Order"). DSM shall be entitled to refuse an order without indicating the reasons.

2.2 Price quotations based on estimated or projected quantities shall be subject to DSM’s feasibility to deliver the actual quantities purchased during the specified period are less than the estimated or projected quantities.

2.3 Free on Board (FOB) 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 Confirmation Order. Unless otherwise agreed, DSM shall be entitled to include Value Added Tax or any other similar applicable taxes, duties, levies or charges in any jurisdiction levied in connection with the sale of Products to Customer for the purpose of or in respect of any defect, or default or shortage which would be apparent from a reasonable inspection on delivery, and to the extent any such defects, or defaults, or shortages (including any hidden defects) is subsequently ascertained DSM shall be entitled to recover from Customer, in addition to any other remedies DSM may have, the full amount of any additional cost DSM has incurred in respect of any such defects, or defaults, or shortages (including any hidden defects) and to cease delivery of the Products and Customer shall pay the judicial and extra-judicial costs incurred by DSM in respect of such delivery.

4. DELIVERY AND ACCEPTANCE

4.1 Unless stated otherwise in the Confirmation Order, delivery of Products shall be made by DSM to Customer at the place of delivery stated in the Confirmation Order.

5. PAYMENT AND CUSTOMER’S CREDIT

5.1 Unless stated otherwise in the Confirmation Order, payment shall be made on the basis of net cash, to be rendered by Customer to DSM within 20 days from the date of invoice Customer shall be deemed to have paid the invoice.

6. CANCELLATION

6.1 Customer’s wrongful non-acceptance or rejection of Products or cancellation of the Confirmation Order shall entitle DSM to recover from Customer, in addition to any other remedies DSM may have, any costs DSM has incurred in respect of such delivery. (i) in the case of Products which cannot reasonably be resold by DSM to a third party, the price of such Products as quoted in the Confirmation Order and (ii) in the case of Products which can be resold by DSM, damages equal to 50% (fifty percent) of the purchase price of such Products as quoted in the Confirmation Order as liquidated damages, unless Customer can demonstrate that the actual damages incurred by DSM are lower than 50% of the price or were not suffered at all.

7. EXAMINATION AND CONFORMITY TO SPECIFICATIONS

7.1 Upon delivery and during the handling, use, commingling, alteration, incorporation, processing, transportation, storage, importation 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 Confirmation Order or, in the absence of agreed specifications, to the most recent specifications upon which the Confidential Information is based or to the most recent specifications of any of the time of delivery of the Products (the “Specifications”).

7.2 Complaints about the Products shall be made in writing and must be accompanied by DSM not later than 7 (seven) days from the date of delivery in respect of any defect, or default or shortage which would be apparent from a reasonable inspection on delivery, and to the extent any such defects, or defaults, or shortages (including any hidden defects) is subsequently ascertained DSM shall be entitled to recover from Customer, in addition to any other remedies DSM may have, the full amount of any additional cost DSM has incurred in respect of such delivery. Any Use of the Products shall be deemed to be an unconditional acceptance of the Products and a waiver of all claims in respect of the Products.

8. TRANSFER OF RISK AND PROPERTY

8.1 The risk of the Products shall pass to Customer according to the applicable Incoterm (see Article 3).

9. LIMITED WARRANTY

9.1 DSM solely warrants that on the date of delivery the Products shall conform to the Specifications. If and to the extent Products are in breach with such warranty, as determined in accordance with Article 7, DSM may at its own option and within a reasonable time either repair or replace the Products at no charge to Customer, or issue a credit for such Products in the amount of the original invoice price. Accordingly, DSM’s obligation shall be limited solely to repair or replacement of the Products or credit the Products for or in lieu of the Products. DSM’s obligation to repair, replace, or credit shall be contingent upon receipt by DSM of timely notice of any defect, or default, or shortage, or other breaches of warranty, or other terms, express, implied, statutory or otherwise, including, without limitation, any warranty of merchantability, suitability for any purpose, or absence of hidden defects, or to repossess the Products, for which DSM may have a right of retention of title.

10. LIMITED LIABILITY

10.1 DSM’s liability for any and all claims arising out of or in connection with the Products and the Use thereof shall not exceed the amount of any Tax levied in connection with the sale of Products to Customer for the purpose of or to the extent any defect, or default, or shortage, or other breaches of warranty, or other terms, expressed, implied, statutory or otherwise, including, without limitation, any warranty of merchantability, suitability for any purpose, or absence of hidden defects, or to repossess the Products, for which DSM may have a right of retention of title.
incidental, indirect, consequential or punitive
damage or loss, cost or expense, including without
limitation, damage based upon lost goodwill, lost
sales or profits, or for any other reason, whether of
production failure, impairment of other goods or
based on any other cause, and whether arising out of
or 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 God, laws and regulations, administrative measures,
disorders of or in court, earthquake, fire, flood, explosion, war, terrorism,
riot, sabotage, accident, epidemic, 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 ("Force Majeure").

11.2 Upon the occurrence of any event of Force
Majeure, the party shall promptly inform the other
party of such occurrence and shall inform the other
party by written notice thereof specifying the
cause of the event and how it will affect its obligation
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, the event shall continue to be expected to
continue for a period extending to more than 60 (sixty)
days after the agreed delivery date, when the
affected party is entitled to cancel the affected part
of the Confirmed Order without any liability to the
other Party.

12. MODIFICATIONS AND 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. DSM shall not, by implication or otherwise,
convey any license under any intellectual
property right relating to thecomposition of the
Products. 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. 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 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 towards DSM and fails to provide
the premises. Customer shall not, by implication or
otherwise, convey any license under any intellectual
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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.

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 such rights and obligations to
any of its affiliates or to a third party during 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 duration 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. 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
date 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 any
obligations or breaches the terms of the Confirmed
Order, DSM shall have the right to suspend
performance, to terminate the Confirmed Order
without a penalty, to recover any payments made in
advance, and to claim damages for any breach.

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
and DSM shall not be held liable for any loss or damage in that respect.

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.

19. LIMITATION OF ACTION

19.1 Any suit or claim arising 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 Chile, without
regard to the conflict of laws provisions thereof.

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. 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 the Spanish translation thereof, the
Spanish version shall prevail.