GENERAL TERMS AND CONDITIONS OF SALE OF DSM NUTRITIONAL PRODUCTS GUATEMALA S.A.

1. GENERAL

1.1 These General Terms and Conditions of Sale (“Conditions”) govern the offering, sale and delivery of all goods and/or services (hereinafter jointly referred to as “Products”) sold by DSM Nutritional Products Guatemala S.A., 16 Av. 3-90 Zona 4, Carretera al Mayan Golf Villas Nueva, Guatemala (“DSM”), to customer (“Customer”) and apply to all transactions between DSM and Customer.

1.2 By contracting on the basis of the Conditions, Customer accepts (“the application”) or behoove DSM that Customer read and understand 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 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.

2. QUOTATIONS, ORDERS AND CONFIRMATION

2.1 Unless stated otherwise by DSM, quotations made by DSM shall not be 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 made in writing will only be 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 that actual quantities purchased during the specified period are less than the estimated or projected quantities.

2.3 Each delivery shall be 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, or other 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 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 grants a discount, these shall be net of Taxes and other applicable taxes, duties, levies or charges in any jurisdiction levied in relation to the Products or the delivery thereof (“Taxes”).

3.2 Unless the prices have been indicated as firm by DSM in the Confirmed Order, it is entitled to increase the price of the Products still to be delivered if the cost price determining factors have been subject to an increase. These factors include but are not limited to, materials, energy, products obtained by DSM from third parties, wages, salaries, social security contributions, governmental levies, freight costs and insurance premiums. DSM shall notify Customer of such increase which shall not exceed the increase in the determining cost factors.

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 received by DSM within 30 (thirty) days following the date of DSM’s invoice. All payments shall be made without any deduction and/or other counterclaims except for set-offs with uncontroverted and/or enforceable counterclaims.

4.2 With regard to payment for the Products, time is of the essence. DSM may, without prejudice to any other rights of DSM, charge interest on overdue payment at 12% (twelve percent) per annum from the due date until the date of payment, in addition to which outstanding amounts are paid in full. All costs and expenses incurred by DSM in respect to the collection of overdue payments, including, without limitation, reasonable attorney’s fees, expert fees, court costs and other expenses of litigation shall be determined by DSM in writing.

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

5. 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 have the meaning as defined in the latest version of INCOTERMS published by the International Chamber of Commerce, Paris, France at the time of the Confirmed Order (see WWW.ICCWEB.ORG/INCOTERMS).

6. CANCELLATION

6.1 Customer’s right to cancel the order due to non-conformance of Products shall be exclusive and in lieu of all other claims or remedies except for the remedies provided by law. Cancellation may only be exercised by the parties in accordance with Art. 4. DSM’s obligation to accept cancellation 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.

7. EXAMINATION AND CONFORMANCE TO SPECIFICATIONS

7.1 On 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 specifications for the Products as stated in the Confirmed Order or, in the absence of agreed specifications, to the most recent specifications published by DSM at the time of delivery of the Products (the “Specifications”).

Complaints about the Products shall be made in writing and must reach DSM not later than 7 (seven) working days from the date of delivery of the Products unless otherwise specified by DSM. Complaints made after the expiration of the aforementioned period may not be considered and shall not entitle Customer to any remedy. Any Use of the Products however shall be deemed to be an unconditional acceptance of the Products as of the date of delivery 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 Incoterms (see Article 5.1).

8.2 The title to the Products shall not pass to Customer and full legal and beneficial ownership of the Products shall remain with DSM unless and until DSM has received payment in full including any and all amounts due to DSM, including costs such as interest, charges, expenses etc.

In the event of termination on the basis of Article 4, DSM shall not be obliged to receive payment in respect of the Products or for credit of the Products.

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 warranties, as determined by 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 the Products which have been returned to DSM at Customer’s expense. If the Products cannot be repaired or replaced within such period, Customer shall be entitled to a refund of the invoice price. Accordingly, DSM’s obligation shall be limited solely to repair or replacement of the Products or for credit of the Products.

DSM’s obligation to repair, replace, 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, at Customer’s expense.

10. LIMITED LIABILITY

10.1 DSM’s liability for any and all claims arising out of the sale of the Products shall be subject to and only exist as specified in the current version of the Conditions of Sale which are available at HTTP://WWW.DSM.COM/EN_US/HTML/ONP/CONTACTS_GUATEMALA.HTML. 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 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 after Customer and DSM after the date of such notification.

Governing law and jurisdiction

These Conditions differ from any of the terms and conditions submitted by Customer. Unless otherwise agreed, Customer agrees to the applicability there of any such amendments by sending the amended Conditions to DSM in writing. The amended Conditions shall in no event be construed as an acceptance of any of the terms and conditions of Customer.
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 value of the defective batch of the relevant Product supplied to Customer.

10.2 DSM shall under no circumstances be liable to Customer or any other person for any kind of special, incidental, indirect, consequential or punitive damage or loss, cost or expense, including without limitation (i) any limitation upon last goodwill, lost sales or profits, delay in delivery, work stoppage, production failure, impairment of other good or reputation, 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 circumstances which, whether arising out of or not 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, orders or decrees of any court, earthquake, flood, fire, explosion, war, terrorism, riot, sabotage, accident, epidemic, strike, lockout, slowdown, labour disturbances, difficulty in obtaining necessary labour or raw materials, lack of or failure to obtain equipment, loss of or damage to 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 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 no event shall any obligation to deliver 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 Conditions of the 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 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. Consultations 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 relating to (i) anti-bribery and anti-corruption laws and 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 with any entity or person including officials of a government or a government-controlled entity -, or (b) relating to a product, which 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 use of the word "shall" in this document shall not be deemed to be 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 any rights to any of its affiliates or to a third party acquiring all or a substantial part of its assets or business relating to the Use of 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. 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 notice of such exercises thereof 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 such 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 repayment and take repossession of any delivered Products which have not been paid for and all amounts owed by Customer for future delivery of 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.

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 rep possessed 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 terms or conditions. No disallowance 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 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

Unless otherwise stated hereunder, no action

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