

These General Purchase Conditions apply to and form integral part of all requests for proposal, quotations and Purchase Orders. Customer expressly rejects the applicability of any other general terms and conditions of Supplier.

## 1. Definitions

In this document, **Agreement** means: the binding contract formed as described in article 2; **Affiliate** of a party means any corporation, joint venture, or other business entity which are affiliated to that party as according to Section 15 AktG; **Customer** means DSM Nutritional Products GmbH, Emil-Barell-Str. 3, 79639 Grenzach-Wyhlen, Germany, or any of its Affiliates, which issues the Purchase Order or request for proposal using these General Purchase Conditions; **DSM (Group)** is the group of companies organizationally connected with Koninklijke DSM N.V, each of them a DSM Group Company; **Goods** are the products, materials, liquids, equipment, design, software, rental properties, stored goods, and all related documentation to be supplied as specified in the Purchase Order. A **Purchase Order** is the order issued by a Customer including all related documentation; **Services** are the services and/or all pertaining deliverables to be provided as specified in the Purchase Order. **Supplier** means each person or entity that enters into an agreement with Customer.

## 2. Acceptance

These General Purchase Conditions, together with the relevant Purchase Order issued by Customer, set forth the terms and conditions for the supply of Services and/or the delivery of Goods by Supplier to Customer and will be binding to Parties at Supplier's acceptance of the Purchase Order (the binding Agreement). **Any changes by Supplier are binding only, if accepted by Customer in writing.** Performance of any part of a Purchase Order by Supplier without reservation will operate as Supplier's unconditional acceptance thereof.

## 3. Commercial conditions

**3.1** Supplier shall perform the Services for the price(s) mentioned in the Agreement. Unless expressly stated to the contrary, prices are (i) fixed and firm (ii) exclusive of any Value Added Tax, but (iii) inclusive of all other taxes, duties, levies, fees (including license fees), charges and inclusive of all costs.

**3.2** Unless explicitly otherwise agreed, DSM shall pay the amount invoiced by Supplier for Goods and/or Services delivered by bank transfer ninety (90) days after the end of the month of the date of receipt of an invoice.

**3.3** Customer may authorize any other DSM Group Company to effect the payment due by Customer. Such payment shall discharge Customer from its respective payment obligation towards Supplier. Supplier has no right to postpone its obligations, unless on the basis of an undisputed claim or a claim recognized by declaratory judgement. Customer has the right to set off amounts it owes to Supplier against amounts which Supplier owes to Customer.

**3.4** To the extent Services are supplied on a reimbursable basis, Supplier shall keep records of all costs, expenditures and hours worked and shall provide Customer access thereto.

## 4. Compliance

**4.1** Supplier complies with all applicable laws, rules and regulations, standards and orders in connection with the performance of the Agreement, 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 ("**Compliance Requirements**").

**4.2** Supplier expressly warrants that employees, agents and subcontractors of the Supplier 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) relating to a product, which would constitute an offence or infringement of applicable Compliance Requirements.

**4.3** Supplier expressly warrants that it has good and marketable title to the Goods and deliverables of the Services supplied, including the right to grant Customer intellectual property right(s). Supplier holds any and all licenses, permits, end-user statements and any other documents, which are required in the country of origin, of transit and of destination to perform its obligations and will immediately notify Customer of any legal restrictions.

## 5. Time

Supplier guarantees that it will supply the Goods and/or Services without delay and interruption. Supplier shall immediately notify Customer of any foreseeable delay.

## 6. Delivery, warranty and acceptance of Goods

**6.1** Unless explicitly agreed otherwise, the goods shall be delivered DDP to the delivery address of Customer as stated in the Purchase Order according to Incoterms 2010.

**6.2** Delivery shall be effected in adequate packaging. Costly and re-usable packaging shall be taken back by Supplier. Supplier shall timely provide Customer with (copies of) all applicable licenses, documents, information, specifications and instructions necessary for safe and proper transport, use, treatment, process and storage of the Goods and with all certificates of analysis/conformity as customarily supplied. If applicable, stored Customer's Goods will be returned in the original quantity, state and condition.

**6.3** Upon receipt Customer will examine the goods for obvious defects, identity, missing amounts or transport damage. This shall be Customer's sole examination obligations. Customer will notify Supplier of any defects within a reasonable time period upon discovery thereof.

**6.4** Supplier warrants the proper functioning of the Goods and warrants that the Goods will be in conformity with the specifications and requirements of Customer, be unused, of good materials and workmanship, free from any and all defects and from any and all liens, and are not encumbered by third party rights, are his property and suitable for the intended purpose. These warranties shall not be deemed to exclude warranties and/or rights that Customer may have or obtain.

**6.5** Supplier shall promptly repair or replace defective Goods for a period of 2 years from the date of first operational use, but in no event longer than a period of 3 years from the date of delivery, whichever date is later. Repaired or replaced Goods or parts will be warranted for another period of 2 years from the repair or replacement date, unless the efforts in connection with the supplementary performance were negligible or an explicit act of good will by the Supplier.

If requested, Supplier shall as far as possible leave these goods in free use with its user until Supplier has delivered Goods in replacement. The warranty period shall be extended by any period(s) during which the Goods have been out of operation.

**6.6** Customer is entitled to reject any Goods, which are delivered (i) before the agreed time, (ii) not in the agreed volume and/or quantity, (iii) in inappropriate or damaged packaging or (iv) with other defect(s), for risk and account of Supplier and without prejudice to any other rights of the Customer resulting from Supplier's non-compliance.

**6.7** Inspection, testing, acceptance or payment do not constitute a waiver of any of Customers' contractual or statutory rights.

#### **7. Performance and acceptance of Services**

**7.1** Supplier shall perform the Services in accordance with the requirements and specifications of the Agreement, observing due skill and care, using proper and well maintained materials and employing sufficiently qualified staff.

**7.2** Only written confirmation of acceptance shall constitute acceptance of the Services performed.

#### **8. Transfer of title**

**8.1** The title of the Goods and deliverables of the Services shall pass to Customer upon delivery at the delivery point as stated in the Agreement. However, if Customer pays for any Goods prior to delivery, title shall pass to Customer upon payment. Until possession of such Goods is transferred to Customer, the Supplier shall store the goods for Customer free of charge. Supplier shall mark and store the Goods in a way clearly identifying them as Customers' property; Supplier shall use his best endeavors to ensure that the transfer of title is legally valid and enforceable at the place of manufacture or storage.

**8.2** The title and risk of Goods under a rental service agreement remain with Supplier.

**8.3** The title of stored Customer's Goods under a warehousing agreement remains with Customer. The risk of such Goods is transferred to Supplier at acceptance of the Goods and ends after delivery of these Goods to Customer

**8.4** Supplier shall identifiably store any raw materials and semi-finished goods allocated for the manufacture and or production of the deliverables and the finished deliverable itself. The risk of such goods remains with Supplier until acceptance thereof.

#### **9. Opportunity to inspect**

**9.1** Supplier ensures that Customer or its nominee has the opportunity to inspect the Goods or the manufacturing process of the Goods and/or any place where the Services or part thereof may be carried out.

**9.2** Supplier diligently and continuously controls and tests the quality of the Goods and Services as well as the operations during manufacturing, storage and delivery. Supplier shall ensure that Customer, or its nominee, has the opportunity to attend tests and/or inspect the Goods at any time.

**9.3** Inspection and/or testing does not relieve Supplier of any obligation or liability under the Agreement.

#### **10. Changes subject to approval**

The implementation of any and all changes of and/or improvements related to the Goods and/or (performance of the) Services including (business) processes, (raw) materials (including supply source) and/or any other changes that might affect the specifications of the Goods and/or the Services require the prior written approval of Customer. Supplier will inform Customer well in advance of such changes and will enable Customer to control and test the Goods.

#### **11. EU and non EU Chemical Control Regulations**

With regard to chemicals supplied under the Purchase Order within or into the European Union, Supplier shall comply with EC Regulation No. 1907/2006 on Registration, Evaluation, Authorization and Restriction of Chemicals ("REACH"). To the extent that any Goods or any of its substances fall within the scope of REACH, the Goods or any of their substances must be fully compliant with the requirements of REACH. Supplier will provide the (pre-) registration number(s) to Customer. To the extent Goods or any of their substances fall within the scope of other chemical control regulations, the Goods or any of their substances must be fully compliant with these regulations.

#### **12. Sustainability, SHE and Security**

**12.1** The Triple P (People, Planet, Profit) values, as determined in the DSM Code of Conduct, are essential to DSM in creating sustainable value. Supplier agrees to comply with the Code of Conduct which can be found on the DSM website [www.dsm.com/supplier-code-of-conduct](http://www.dsm.com/supplier-code-of-conduct) or will be sent at request.

**12.2** Supplier complies with and acts in accordance with all applicable safety, health and environmental instructions, avoids pollution of the soil and the groundwater, limits air and noise pollution on the Customer site, complies with site and site access regulations as well as DSM (Group) security regulations. Supplier must arrange for proper and safe transport and equipment, as well as skilled and qualified staff, able to speak the local languages of the customer and/or English, in order to work in a safe, healthy and environmentally responsible manner. Customer may audit these aspects of this Agreement. Supplier shall report any irregularity with respect to safety, health and environment and security. In case of an incident Supplier shall, under supervision of DSM, immediately take all measures to clean up, isolate or prevent pollution resulting from such an incident.

#### **13. Indemnification, Liability and Force Majeure**

**13.1** In cases that give rise to liability regardless of negligence or fault, Supplier shall be liable and hold DSM and Customer and their directors and employees ("Indemnified Parties"), harmless from and indemnify them against any and all actual or contingent damage, loss, injury/death, costs and claims suffered by or brought against Indemnified Parties, resulting from or connected with the Agreement, the use and/or sale of Supplier's Goods by Indemnified Parties or any third party, the performance of the Services and the deployment of Supplier's Services by Indemnified Parties or any third party. This shall also apply in cases that give rise to liability on the basis of negligence or fault, except to the extent that this is not caused by Supplier's willful misconduct or gross negligence.

**13.2** Supplier is fully liable for the correct and timely payment of all taxes and levies owed in connection with the performance of the Agreement and to be paid by Supplier, and will indemnify Indemnified Parties against all claims and

damages relating to its obligations concerning taxes, contributions and any claims of third parties, including the Government.

**13.3** In no event shall Customer be liable for any direct and indirect damages (including but not limited to lost revenue, lost profits or other consequential or incidental damages) based upon the Agreement and caused by negligence of Customer, its agents or a person employed by Customer to perform its obligations. This exclusion of liability does not apply where bodily harm is caused or substantial contractual obligations are breached. However, the liability of Customer shall be limited to the foreseeable damages typical to the type of agreement.

**13.4** Neither party shall be liable towards the other party for any non-fulfillment of the Agreement to the extent fulfillment thereof has been delayed, interfered with or prevented by an event entirely beyond the control of the party concerned, was not from its area of accountability and not reasonably foreseeable ("Force Majeure"), provided that the party invoking Force Majeure shall use its best efforts to fulfill its obligations by any means possible. The mere fact of late supply of materials, labor or utilities shall not be deemed Force Majeure. In case a situation of Force Majeure continues for more than 30 days, Customer shall be entitled to terminate or cancel the Agreement in part or in total by written notice. Customer may purchase similar goods and/or services from third parties during any period Supplier is unable to fulfill its obligations. The quantities affected shall be excluded from the calculation from any (minimum) volumes.

#### **14. Confidentiality**

Any and all information provided by or on behalf of Customer shall be treated as confidential and shall only be used by Supplier for the purpose of this Agreement. Disclosing information is only allowed to any of its employees or a third party on a strict need-to-know basis, except in case Supplier is required to disclose the information by virtue of a court order or statutory duty. In all cases the Supplier shall immediately inform Customer of the disclosure. Supplier shall upon demand promptly return to Customer all such information. Supplier shall not retain a copy thereof. Supplier shall treat the existence of the Agreement as confidential. Supplier or its employees will sign an additional confidentiality agreement at request.

#### **15. Ownership and intellectual property**

**15.1** Any and all information, property or materials disclosed to Supplier remains the property of Customer. Supplier is not entitled to make use of or refer to any trademark, trade name, domain name, patent, design, copyright, or other intellectual property right of Customer or DSM (Group), unless with prior obtained written consent of Customer. Any authorized use shall be strictly in accordance with the instructions and for the purposes specified.

**15.2** Supplier warrants that the Goods and/or Services, alone or in combination, do not infringe any intellectual property rights of a third party.

**15.3** Supplier hereby assigns to Customer by way of present and future assignment all intellectual property rights, know-how, copyrights and other rights developed by or on behalf of Supplier explicitly for or on instructions of Customer .

**15.4** All intellectual property rights to software, including source code, sub-software and documentation, developed explicitly for Customer or on Customer's instructions shall rest with or be transferred to Customer. Intellectual property rights to other software shall remain with Supplier and Supplier shall grant Customer a non-exclusive, non-transferable, irrevocable, perpetual license not limited to specific equipment or location. Customer is allowed to provide sub-licenses to other DSM (Group) companies.

#### **16. Insurance**

The Supplier shall take out and maintain the insurance policies to cover the risks resulting from or connected with the Purchase Order (liability and transport insurance). At the request of the Customer, Supplier will provide the insurance certificates evidencing Supplier's coverage and keep Customer informed of any changes.

#### **17. Termination and suspension**

Customer is entitled to suspend the performance of its obligations in whole or in part or terminate the Agreement with immediate effect, without prejudice to its right to claim damages (i) in case Supplier is subject to insolvency proceedings, is in a state of liquidation, has ceased or suspended whole or a substantial part of its business, or a liquidator has been appointed on the basis of a court order, (ii) in case of severe non-compliance the Compliance Requirements or the provisions of safety, health, environment and security by Supplier or (iii) in case of not approved changes pursuant to article 10. After such termination Customer may return received Goods and/or Services in whole or partly against repayment to Supplier. Supplier agrees to such an assignment.

#### **18. Miscellaneous**

**18.1** If any provision(s) of these General Purchase Conditions should be or become ineffective or invalid the other provisions will not be affected thereby. **18.2** Failure by either party to require strict performance by the other party of any obligation hereunder shall in no way affect its right thereafter to enforce any obligation, nor shall a waiver by either party of any breach be held to be a waiver of any previous or later breach. No waiver will have any effect unless specific, irrevocable and in writing.

**18.3** Supplier shall not assign any of its rights under the Agreement in whole or in part without Customer's written consent. Such consent shall not relieve Supplier from, and shall be subject to compliance with, any of the obligations under the Agreement. Customer is entitled to assign its rights under this Agreement or any part thereof to any DSM Group company on prompt notice to Supplier, and may also assign its obligations to such a company.

**18.4** Nothing in the Agreement shall be deemed to constitute either party as the agent of the other or create a partnership, joint venture or employment relation between the Parties.

**18.5** This Agreement shall be governed exclusively by the laws of Germany with the exception of its conflict of laws principles. The United Nations Convention on contracts for the International Sale of Goods, concluded in Vienna on 11th of April 1980, shall not be applicable. Any transport of Goods to or from a warehouse which may be part of the Services is subject to the provisions of the treaty governing the transport mode at matter.

**18.6** Any dispute arising from the Purchase Order which the parties are unable to amicably resolve shall be submitted to the competent courts of Freiburg im Breisgau, Germany, without restricting any rights of appeal. Pending a dispute

neither party shall be excused from performing any of its obligations under the Agreement, except for obligations directly affected by the dispute.

**18.7** Expiry, termination or cancellation of the Agreement shall not affect any right or obligation, which expressly or by its nature survives such expiry, termination or cancellation, in particular representations, warranties, confidentiality obligations, intellectual property rights and accrued rights.

These Conditions shall be referred to as “DSM Nutritional Products GmbH General Purchase Conditions for Goods and Services”.