

**PROCUREMENT STANDARD TERMS AND CONDITIONS (GOODS)**  
**Effective July 20, 2016**

The following terms and conditions (hereinafter the "Terms and Conditions") cover all purchases of Goods by Ingenio San Nicolás, S.A. de C.V., Domino Comercio S. A. de C. V., Unión de Productores de Caña de Joachín, S.A. de C.V. or Domino Foods de México, S.A. de C.V. (each a "Buyer") from the entity or individual so identified on the Purchase Order (hereinafter "Vendor"). Only a document signed by Buyer and Vendor shall amend or supersede this document.

**1. CONTRACT FORMATION.**

The Purchase Order and the documentation referred to therein or attached thereto, including, but not limited to, applicable drawings, plans, proposals and specifications (the "Purchase Order"), represents Buyer's offer to purchase from Vendor the goods, materials, supplies, products or equipment identified in the Purchase Order (the "Goods") strictly in accordance with and subject to these terms and conditions. Once Buyer has received Vendor's answer, by the same means through which the Purchase Order was sent to Vendor, Vendor shall be deemed to have read, understood and accepted the Purchase Order and these Terms and Conditions as a binding agreement (the "Agreement") governing the purchase of the Goods.

**2. PACKAGING AND SHIPPING.**

No charge will be allowed for packing or shipping of Goods unless agreed to in writing by Buyer. Shipments will be packed to secure the lowest transportation costs, while protecting the Goods from damage or deterioration during their transport to Buyer's facilities or to the place agreed upon between Buyer and Vendor. Packing lists must be included with all shipments and must reference the applicable Purchase Order number. Shipments not accompanied by packing lists will be conclusively deemed to be in the amount of Buyer's count or weight determined by Buyer. Buyer is not obligated to accept excess quantities, untimely or under-shipments in whole or in part and such shipment may be returned at Vendor's expense and risk.

**3. DELIVERY, RISK OF LOSS, TITLE.**

Unless otherwise specified in the corresponding Purchase Order, the delivery terms for Goods are F.O.B. The delivery of Goods to the Buyer shall be made within five (5) business days of Vendor's receipt of the Purchase Order. Vendor acknowledges that time is of the essence in performance of the Agreement. Title to Goods shall be transferred to Buyer at the F.O.B. point, subject to inspection and acceptance as described herein. Risk of loss shall transfer to Buyer upon acceptance.

**4. INSPECTION AND ACCEPTANCE.**

Prior to delivery, Vendor shall perform all inspections and tests necessary to substantiate that the Goods conform to the requirements of the Agreement. The acceptance of Goods is subject to Buyer's inspection at reasonable times and places. Payment alone does not constitute acceptance of the Goods. No inspection, test, delay or failure to inspect or test, failure to discover any defect, or

payment of invoices relieves Vendor of any of its obligations, or impairs Buyer's rights or remedies, under the Agreement.

**5. TECHNICAL DATA.**

Upon delivery of the Goods and at no additional cost to Buyer, Vendor will furnish Buyer, as applicable: (a) Certificates of Analysis which shall contain the analytical information required by Buyer; (b) six (6) copies of any applicable (i) Material Safety Data Sheets; (ii) installation or operating manuals; and (iii) all maintenance, overhaul, and/or part manuals; and (c) software (if any) associated with Goods, including modifications made thereto and associated software manuals.

**6. SPARE PARTS.**

Upon acceptance of the Goods, and where applicable, Vendor will provide a complete list of spare parts for the Goods. The spare parts lists will be in an electronic spreadsheet format and will be identified in separate columns, by (a) Vendor's identification numbers; (b) manufacturer's identification numbers; (c) UNSPSC identification numbers; (d) complete description of each part; (e) location on the Goods; and (f) quantity on the Goods. Vendor will immediately provide spare parts' price and delivery quotations to Buyer on request, and the reply will be in the same media through which the request was transmitted. Vendor will accept purchase orders from Buyer for spare parts pertaining to the Goods and will immediately act on the purchase orders.

**7. GOODS RELATED SERVICES.**

Upon request of Buyer, Vendor shall provide applicable engineering, installation, training and other technical assistance services in regard to the installation and operation of the Goods immediately following delivery of the Goods ("Technical Assistance"). There will be no charge for Technical Assistance, unless specifically provided for in the Agreement. Technical Assistance shall be considered "Services" and shall be performed in accordance with, and subject to, "Procurement Standard Terms and Conditions (Services)", available at "DOCUMENT DOWNLOADS" in [www.asr-group.com](http://www.asr-group.com).

**8. PRICE AND INVOICING.**

8.1. Buyer shall pay Vendor the price for the Goods as set forth in, and calculated in accordance with, the corresponding Purchase Order (the "Price"). Unless otherwise expressly indicated in the corresponding Purchase Order, the Price includes all taxes except value added tax ("VAT"). Vendor represents that the Price charged to Buyer is no higher than the price charged by it for the same or similar items and quantities to any other buyer.

8.2. Vendor shall invoice Buyer for each payment upon delivery of the Goods. Invoices shall comply with all applicable tax regulations and shall be sent to the billing address indicated in the applicable Purchase Order. Bills of lading must accompany each invoice. Buyer's Purchase Order number must be stated on Vendor's invoice. Invoices which do not comply with all applicable tax regulations or not bearing a Purchase

Order number will be returned to Vendor for re-invoicing. Invoices that comply with all of the applicable tax regulations and that properly bear the Purchase Order number shall be paid within thirty (30) days of Buyer's receipt of such invoice.

8.3. Any discount terms provided by Vendor shall date from the later of the date of delivery of the Goods at destination or the date of the receipt of Vendor's invoice bearing a correct Purchase Order number and that complies with the applicable tax requirements.

## **9. VENDOR'S WARRANTIES AND COVENANTS.**

9.1. In addition to any other warranties set forth in the Agreement, Vendor warrants and covenants that the Goods (a) shall satisfy, and perform in accordance with, the requirements and specifications of the Agreement; (b) are free from defects in quality, design, workmanship and materials; (c) are manufactured and supplied in compliance with all applicable laws, ordinances, rules, codes and regulations of any federal, state, regional and local authorities (collectively, the "Laws"); (d) are new; (e) are free from liens or other title encumbrances; and (f) can be used by Buyer without infringing or violating the rights of any third parties.

9.2. Vendor's warranty for Goods such as roofs, air conditioning units and other major components shall be for such periods of time as is customary for those goods and materials or as otherwise required by the Agreement. For non-food items and all other Goods, Vendor warrants the Goods for the longer of one year or the period set forth in Agreement (the "Warranty Period"). Vendor shall obtain similar warranties as those set forth in this section from each of its subcontractors and suppliers, which warranties shall run in favor of the Buyer.

9.3. Approval of Vendor's designs or specifications, or acceptance of the Goods shall not prejudice Buyer's warranty rights under the Agreement. All warranties express or implied, shall survive inspection, acceptance and payment by Buyer. The establishment of a Warranty Period relates only to the specific obligation of Vendor to correct any breach of the warranties and thus, does not establish a period of limitation with respect to any other obligation under the Agreement.

## **10. FOOD WARRANTY.**

As to Goods which are food grade products ("Food Goods"), Vendor further warrants that (a) as of the date of delivery, the Food Goods (i) will not be adulterated, misbranded or unsafe within the meaning of any state or federal food and drug law or regulation; (ii) will not be an article which may not be introduced into Mexican commerce; (iii) will conform to the Agreement's specifications; and (iv) if required by Buyer, will have Kosher certification; (b) Vendor has obtained and is obliged to maintain valid all necessary permits, registrations and licenses required to manufacture, transport, market, label, package and supply the Food Goods; and (c) Vendor has complied with all applicable Laws relating to the manufacture, transportation, labeling and packaging of the Food Goods in effect from time to time

## **11. INSURANCE.**

11.1. Vendor shall, at its own expense and during the term of the Agreement, purchase and maintain in full force and effect insurance policies covering damages and losses to the Goods, including those caused by Force Majeure or Acts of God, including but not limited to those caused during the transportation or delivery of the Goods, whether on Buyer's facilities or on any other place as indicated on the corresponding Purchase Order. The Vendor shall deliver the corresponding insurance policies to Buyer, which shall be subject to the Buyer's approval. Among the factors that the Buyer may take into consideration in order to approve the policies are the coverage amount and the relevant insurance company of the Vendor.

The insurance policies that the Vendor must maintain during the term of this agreement include the following (the "Insurances"):

(a) General Civil Liability Insurance: including the following coverage:

- a. Properties and Operations;
- b. Mexican and foreign products;
- c. Civil liability in excess of basic coverage for automobile civil liability.

Such insurance of General Civil Liability will be required for all Goods to be provided to Buyer and the coverage amounts shall be subject at all times to the Buyer's approval.

(b) Automobile Liability Insurance: Such insurance is required for all owned, non-owned and hired vehicles used by Vendor in performance of the Agreement, and will have liability limits of not less than \$4,000,000.00 pesos of insured coverage combined single limit for bodily injury and property and goods damage for each accident.

The aforementioned Policies for the Insurances will (a) be maintained with an insurer that has the sufficient and necessary issued registries by the National Insurance and Bond Commission (*Comisión Nacional de Seguros y Fianzas*) and shall be subject to the Buyer's approval; (b) provide a thirty (30) days prior written notice of cancellation or material change; (c) be primary and non-contributory by any insurance, self insurance or limits maintained by Buyer; and (d) will not reduce or limit Vendor's obligation to indemnify and defend Buyer for claims made or suits brought which result from, or are in connection with, Vendor's performance of the Agreement. Prior to providing any Goods to Buyer, Vendor will furnish Buyer a certificate of insurance showing evidence of the hiring of the aforementioned coverage insurances, which shall also be subject to the Buyer's approval.

## **12. INDEMNIFICATION.**

Vendor agrees to indemnify, defend, and hold harmless Buyer, including its respective officers, directors, employees, Affiliates and agents, from any and all claims, suits, losses, amages, costs and expenses, including but not limited to those resulting from bodily injury, property damage, intellectual property infringement, liens taxes, licenses, legal fees, and costs, to the extent resulting from or arising out of (a) Vendor's (i) negligent acts or omissions; or (ii) breach of Vendor's obligations, covenants and/or warranties provided in the

Agreement, including but not limited to any breach for delay on the delivery of the Goods; (b) Buyer's use of the Goods; or (c) as to Food Goods, (i) any actual or asserted violation of the Act or Law which Goods sold, supplied, or delivered by Vendor shall be alleged or determined to be adulterated, misbranded, mislabeled or otherwise not in full compliance with applicable Law; (ii) the possession, distribution, sale and/or use of the Food Goods; or (iii) the seizure of the Food Goods.

### **13. REJECTION AND CANCELLATION.**

13.1. In addition to the indemnification obligation described in the previous section 12. in the event that Vendor delivers nonconforming Good or Goods that vary from any sample, specification, warranty or other requirements of the Agreement, Buyer may reject the Goods and elect, at its own discretion one of the following remedies at Vendor's expense: (a) return the Goods for full credit or refund, including freight charges; (b) require the Vendor to correct or replace the Goods; (c) correct the Goods and claim Vendor for the expenses ; (d) obtain replacement Goods from another source; or (e) retain the Goods and reduce the Agreement price for loss of value.

13.2. Buyer has the right to return to Vendor Goods that are stock items and otherwise conforming to the Agreement; however, such returns shall be at Buyer's expense and such return must be made within thirty (30) days of acceptance of the Goods.

13.3. As to Custom Made Goods, Buyer has the right to cancel the applicable Purchase Order during the manufacture of these Goods; however, in such event, Buyer shall pay Vendor its out-of-pocket materials and labor charges. "Custom Made Goods" as it is used herein refers to those Goods which are unique, non-stock items, manufactured to Buyer's particular specifications and which can not be readily sold to a third party or otherwise utilized by Vendor.

13.4. In the event of cancellation or return, in no event would the total payments due to Vendor exceed the Price. All prior payments made under the Agreement shall be applied to the amounts that would be due. All materials paid for by Buyer shall be delivered by Vendor to Buyer upon cancellation of the Purchase Order or termination of the Agreement.

### **14. FORCE MAJEURE.**

Vendor shall not be liable for any delay in the delivery of Goods when such delay is caused by fires, floods, earthquakes, hurricanes, riots or war ("Force Majeure"), provided that notice of the Force Majeure is promptly delivered to Buyer. If a Force Majeure occurs, Vendor's time to deliver the Goods shall be extended for a reasonable period under the circumstances but in no event longer than sixty (60) days from the delivery set forth in the Agreement ("Extension Period"). If Vendor fails to make delivery of the Goods to the Buyer before the expiration of the Extension Period, Buyer may terminate the Agreement, and Vendor shall be liable for such breach even when such breach was caused by Force Majeure and thus, the Vendor must indemnify the Buyer in accordance to that provided in section 12 of this document and must refund to Buyer any payments or

deposits Buyer made toward the purchase of the Goods not delivered. Buyer shall not be liable for any delay in taking delivery of Goods when such delay is caused by Force Majeure. If a Force Majeure occurs, Buyer's time to take delivery of and pay for Goods shall be extended for a reasonable period under the circumstances. Notwithstanding the foregoing, Buyer shall be released of any obligation or liability for the failure to purchase any Goods if Buyer cannot accept or use the Goods due to the occurrence of a Force Majeure.

### **15. CONFIDENTIALITY.**

15.1 All disclosures, drawings, specifications, or technical, proprietary or financial information, private or any other trade information, as well as formulas mechanisms, patterns, methods, techniques, analysis processes, registered or not registered trademarks, names or commercial notices, work documents, compilations, comparisons, studies or any other prepared document furnished to Vendor by Buyer (the "Confidential Information") are the sole property of Buyer and shall be held in confidence upon the understanding and agreement by Vendor that they shall not be disclosed or furnished to any third party, shall not be used by Vendor in whole or in part for any purpose except fulfillment of its obligations under the Agreement and shall be returned immediately upon request by Buyer. Vendor shall make no announcement concerning the fact that Vendor has contracted to supply any Goods hereunder without the prior written permission of Buyer.

15.2 In the event that Vendor or any of its employees, subcontractors or personal at its charge that has access to the Confidential Information, breaches the confidentiality obligations provided in this section, Vendor must pay to Buyer the damages and lost profits that such breach causes, notwithstanding other legal actions that may proceed for the violation of intellectual or trade ownership rights, including any corresponding crime provided in the Criminal Code, regardless of the nature of the corresponding breach.

### **16. PERSONAL DATA PRIVACY AND PROTECTION.**

The clauses set forth in the "Personal Data Privacy and Protection Clauses for Vendor Contracts" (the "Personal Data Clauses") are incorporated herein to the extent applicable to the Services or Goods being provided by Vendor to Buyer. The Personal Data Clauses for ASR are located at "DOCUMENT DOWNLOADS" in [www.asr-group.com](http://www.asr-group.com).

### **17. MISCELLANEOUS.**

17.1. Vendor shall (a) comply with all applicable Law in its country or countries in which it does business as are applicable to the Services rendered or Goods being sold, including those concerning the environment, anti-bribery or corruption laws, employee rights to freedom of association, wages, benefits, work hours; (b) provide employees with a safe and sanitary workplace that includes appropriate controls and protective equipment; (c) follow non-discrimination practices in regard to gender, race, age, national origin, disability, citizenship, veteran status, marital status, sexual orientation, or religious beliefs and provide a workplace free from

harassment; (d) refrain from paying or accepting bribes or kickbacks; (e) minimize operational impact to air, water, soil, and surrounding areas; (f) require Vendor's Workforce and Vendor's suppliers to adhere to the same requirements as set forth above. Vendor certifies that it is, and shall remain, in compliance with the ASR Group's Ethical Sourcing Policy and Business Partners Anti-corruption Policy (located at [www.asr-group.com](http://www.asr-group.com) under "DOCUMENT DOWNLOADS"), and that it complies with all Law regarding forced labor, child labor, slavery and human trafficking and requires Vendor's Workforce and Vendor's to adhere to the same requirements.

17.2. Vendor and its subcontractors will abide by all the legal requirements related to labor inclusion, non-discrimination and equality, established in the Mexican Political Constitution (Constitución Política de los Estados Unidos Mexicanos) (articles 1, 5 and 123); Federal Labor Law (*Ley Federal de Trabajo*) ( articles 4, 51 ,86, 132 and 133); Federal Law to Prevent and Eliminate Discrimination (*Ley Federal para Prevenir y Eliminar la Discriminación*) (articles 4, 9 fractions IV, V, XXVI, XXVII); Older Persons' Rights Law (*Ley de los Derechos de las Personas Adultas Mayores*) (article 5); General Law of People with Disabilities (*Ley General de las Personas con Discapacidad*) (articles 9 and 14); General Law of Women's Access to a Life Free of Violence (*Ley General de Acceso de las Mujeres a una Vida Libre de Violencia*) (articles 10 and 11) and NOM-010-SSA2-1993 for the prevention and control of infection by HIV (point 6.3). All these legal commandments are designed to eliminate and / or prevent discrimination against vulnerable groups, and require Vendor's and subcontractors' actions to advance their labor inclusion and permanence without discrimination and equality.

17.3 The Agreement and the Vendor Information Request filled in and delivered to the Buyer by the Vendor, including each and every one of the agreements and policies within such Request, represents the final agreement of the parties with respect to its subject matter, and all prior oral or written undertakings or agreements are completely superseded. Any modification of this Agreement or additional obligation assumed by either party shall be binding only if in writing and signed by each party. In the event of any conflict between the Purchase Order, including these Terms and Conditions, and the other documents which form a part of the Agreement, the Purchase Order shall govern. In the event Vendor's proposal or any other document of Vendor contains terms or conditions which limit Buyer's rights or remedies, such terms or conditions shall not be considered a part of this Agreement. If Vendor uses its own form of acknowledgement, acceptance, confirmation or receipt of Buyer's Purchase Order, said form is used for convenience only and shall not alter the terms of this Agreement.

17.4 Any failure on the part of any of the parties hereto to enforce any provision of this Agreement shall not constitute a waiver of that provision, nor prejudice the right of the parties hereto to enforce the provisions at any time subsequent to any such failure to enforce. The rights and remedies set forth in this Agreement to a non-

defaulting party shall be deemed cumulative, and the exercise of one of such rights or remedies shall not operate to bar the exercise of any other rights and remedies provided to a nondefaulting party under this Agreement or in the applicable laws.

17.5 This Agreement may not be assigned or transferred to any other person or entity without the express, prior, and written consent of Buyer.

17.6 The prevailing party in any action brought to interpret or enforce this Agreement shall be entitled to recover from the nonprevailing party the reasonable attorneys' fees, costs and expenses incurred by the prevailing party in such action.

17.7 This Agreement shall be governed by, construed and enforced in accordance with the applicable laws of the United Mexican States ("*Mexico*"). For all that is related to the interpretation, performance and enforcement of this Letter of Intent, the parties expressly submit themselves to the jurisdiction of the competent courts of Mexico City expressly waiving any other forum to which they might be entitled by reason of their current or future domiciles or by any other reason.

17.8 "*Affiliates*" are any entity or person (including individuals) which controls, is controlled by, or is under common control with Buyer and are intended third party beneficiaries of this Agreement and all rights hereunder. The term "control" means the ownership, directly or indirectly, or the power to direct the voting or disposition, of fifty percent or more of the voting stock or equity interests of the subject entity.

17.9 Those sections of these Terms and Conditions which by their nature are intended to survive the making of the final payment or any termination of the Agreement shall so survive, including, but not limited to Sections 9, 10, 12, and 15.

17.10 All notices to the parties under this Agreement (not including invoices) will be in writing and sent to the mailing address set forth in the Purchase Order.