**SALE & PURCHASE CONTRACT N … Odessa, Managua**

**Dated \_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2016 Ukraine, Nicaragua**

**PREAMBLE**

The LIMITED LIABILITY COMPANY “ONISS”, Ukraine, hereinafter referred to as ”the Seller”, represented by its General Director Igor Zadorozhny, acting under the Company Charter, on the one Part, and the LIMITED LIABILITY COMPANY ”MARSA Cia, LTD.”, Nicaragua, hereinafter referred to as ”the Buyer”, represented by its President Mauro Manuel Marti, acting under the Company Charter, on the other Part(both the Seller and the Buyer together hereinafter referred to as “the Parties”) have signed this Contract in the frame of long term validity and exclusive distribution right as follows:

**DEFINITION AND INTERPRETATION OF CERTAIN TERMS AND EVENTS**.

**Products** – items that belong to the Seller as an owner and classified as relating to the meat and cereal canned food tariff codes, corresponding to appropriate approved recipes and packed in packaging as to requirements of regulatory standards and rules of Ukraine(DSTU and TU specifications).The textual information on packaging is to be presented in Spanish.

**Unit of production** – a tin can or glass jar properly labeled, containing the product.

**Order for products delivery** – any kind of the Buyer´s written notification on readiness to purchase a batch of products (letter, fax message),specifying the range and number of products subject to delivery; such message is to be accepted by the Seller as an order for products delivery under this Contract and constitutes a formal basis for the Seller´s shipping bill and invoice issuance with respective payment of total cost for the delivered batch of products.

**Exclusive distribution right** means –

  a. the Seller grants the Buyer the exclusive right to import, distribute and sell his products in the markets of the Central American countries;

 b. the Seller does not undertake activities to offer his products, as the subject of this Contract, to third legal entities and individuals of the jurisdiction of the Central American countries: Mexico, Guatemala, Salvador, Honduras, Nicaragua, Costa Rica, Panama ;

 c. the Seller without the consent of the Buyer does not execute transactions, does not sign agreements, contracts, etc. with third legal entities and individuals of jurisdiction of the above mentioned Central American countries as the subject to sell his products in any form- raw, semi-fabricated, ready-made products and use of technological capabilities- packaging, barter, etc. ;

 d. the Seller agrees not to disclose any information on the schedules, terms, financial, technical, commercial data of the Contract and its Annexes on the weight of the term of the Contract.

3. The exclusive distribution right in the wording of the Contract does not contradict the legislation of the Seller´s country. Legal compliance of the Seller is considered confirmed by signing this Contract.

4. The Seller is not responsible for the violation of the exclusive distribution right of the Buyer with the appearance of contractual products on the Central American markets as

a subject to sales by corporations and individuals not representing the jurisdiction of the Central American countries, and not entering into any Sale and Purchase Contracts with the Seller.

1**. SUBJECT OF THE CONTRACT.**

1.1. The Seller, according to conditions specified herein, undertakes to hand over to the Buyer´s ownership, and the Buyer respectively undertakes to accept the delivered products and cost payment; the product being compliant to invoice by quantity, price, range; every batch delivery specifications constitute an integral part hereto. The specifications´ fax copies are accepted by the Parties as valid until the originals received.

1.2. The delivery terms.

 The Seller delivers the products to the Buyer under CIF terms(any safe sea port, Ukraine – sea port Corinto, Nicaragua).The delivery terms are treated in accordance with INCOTERMS 2010.Parties´ obligations, allocation of costs associated with the execution of this Contract, as well as the determination of the moment when the products are considered lost and the moment when damage risks are considered handed over – all such events are based on the above delivery terms and Contract provisions.

The Seller agrees to provide shipment of products within 15(fifteen) calendar days following 30%-50% advance payment crediting into the Seller´s account under the Buyer´s order for products´ dispatching, or after opening IDLC(irrevocable documentary letter of credit) by the Buyer´s bank to the Seller´s bank.

The Seller provides products´ handling operations, customs clearance for export, loading of a batch of products aboard a ship of first class forwarding/shipping company within the time period, determined in the freight contract, signed between the Seller and the first class forwarding/shipping company.

Unless otherwise agreed bilaterally, the Seller determines an exact delivery date by informing the buyer of the latest delay of 5(five) days prior to the scheduled date of delivery.

The Seller executes delivery of products in one of three loading versions (and that is to be pointed out in the purchase order):

a. products are loaded in 20ft. or 40ft.containers;

b. in the mixed container;

c. on pallets, where products are fixed by shrinkable film and pallets being placed on cargo deck of the forwarding ship.

1.3. The Seller hands over to the Buyer the ownership right on the batch of products from the moment of:

a. products have been loaded aboard the forwarding ship in loading port, Ukraine; and

b. on receiving from the Seller the set of documents, pointed out in cl.3.1.3.The Buyer receives copies of documents mentioned above – by e-mail; originals – by courier service.

1.4. The prices of units of products to be delivered on delivery terms CIF is bilaterally agreed by the Parties and pointed out in specifications, drawn by the Seller.

The payment currency of this Contract is US dollar.

1.5. The prices of units of products to be delivered on delivery terms CIF consist of the following components:

1. Price EXW(Ex-Works – export sale from the seller´s warehouse);
2. Cost of freight;
3. The Cost of insurance of the batch of products to be delivered against delivery risks.

The Buyer accepts expenses for import customs clearance, unloading of the batch of products in destination port.

1.6. Invoices and specifications for each subsequent batch of products, issued under this Contract, are considered as the integral part of the Contract.

2**. PAYMENT SETTLEMENTS.**

2.1. All payments hereunder are carried out by bank transfer remitting the respective amount from the Buyer´s bank account to the Seller´s bank account, pointed out in the Contract.

2.2. The Seller´s invoices represent basis for relevant assets´ transfer by the Buyer.

2.3. The Buyer has the right to determine independently the terms and amounts of transferred sums, subject to final complete payment for respective batch of products to the Seller within the period specified in cl.3.2.2.

2.4.The Buyer´s bank charges related to money transfer are paid by the Buyer, and bank charges imposed by the Seller´s bank are paid by the Seller.(The performance bond claimed by the Buyer´s bank for processing the Letter of Credit is to be paid by the Seller).

2.5.Payment of all taxes, duties, fees and other expenses-is carried out by the Seller, as well as settlement of all arising formalities related to export of products, its delivery to loading point, loading on board of ship, subject to pay in the Seller´s country up to the moment of delivery of products.

2.6. Payment of all taxes, duties, fees, other expenses- is carried out by the Buyer, as well as resolution of all arising formalities, related to the import of a batch of products subject to payment after the delivery has been accomplished.

2.7.The Parties agreed to practice one of two alternative terms of payment and that is to be pointed out in the purchase order:

a. The Buyer executes 30%-50% advance payment under the order of product dispatching and the rest of money pays “at sight” at receiving the shipping documents, immediately after the batch of products has been loaded aboard the forwarding ship;

b. The Buyer opens 100% irrevocable, documentary Letter of credit at sight (payable against shipping documents at loading port),issued by the Buyer´s bank.

 The final text of IDLC (irrevocable documentary letter of credit) to be issued by the Buyer´s bank is subject to prior approval by the Seller´s bank. This condition is to be accepted by the Buyer.

2.8. The procedure of opening IDLC and payment is the following:

 The Buyer issues LOI (Letter of Intentions) with Buyer´s full banking data.

The Seller issues a draft of the Contract with Seller´s banking data on it.

The Buyer makes necessary amendments and sends the contract to the Seller after it´s signing and instructs his bank to work out the draft of LC (Letter of credit) within 3 banking days with the further delivery of it to the Seller for verification.

After the verification, the Seller´s bank contacts the Buyers bank for Letter of Credit to be open.

The Buyer´s bank requests for PB (Performance Bond) from the Seller´s bank.

The Seller´s bank contacts the Seller to proceed with shipment after IDLC (Irrevocable Documentary Letter of credit) is open, and the Buyer´s bank contacts the Seller´s bank for shipping documents.

The Seller ships products and sends copies of shipping documents to the Buyer by e-mail and the originals- by Courier service and, finally, the Seller receives the payment to his bank account.

3. **PARTIES’ OBLIGATIONS.**

3.1. The seller is obliged to:

3.1.1. Hand over products to the Buyer within the delivery period specified in cl. 1.2. above (15 calendar days from purchase order was received).

3.1.2 Hand over products with the quality, completeness, in packaging, that compliant to the respective standards and regulations of Ukraine (DSTU and TU specifications).

3.1.3. The Seller along with products hands over to the Buyer the following documents required to the counter of the Buyer´s bank to execute payment and for customs clearance of products to import to Nicaragua:

-Commercial invoice in one original and five copies indicating the Contract number, name of forwarding company, gross and net weight, commodity;

-Packing list in one original and three copies issued by Seller´s first class forwarding company;

-Certificate of quality in one original and three copies issued by the first class survey company, authorized in inspection, ,certification, showing actual results of tests of chemical composition and all other tests called for in the Contract;

-Bill of Lading in three originals and three copies;

-Certificate of origin;

-Certificate of ownership (Formulary);

Certificate of free trade (Permission to export products to Nicaragua);

-Sanitary (veterinary) certificate (chemical and biological composition, radioactivity tests);

-Insurance certificate.

All the documents are to be presented in English.

3.1.4. The Seller warrants that the products dispatched and delivered under this Contract do not represent the object of any third parties´ rights or claims.

3.1.5. The Seller guarantees the availability of all relevant permits and compliance with other requirements established by the current law of Ukraine, obligatory to begin the implementation of contractual activities.

3.1.6. The Seller is responsible for appropriate product packaging into carton boxes with proper marking (according to DSTU and TU of Ukraine) and texts presented in Spanish. The symbols, images, marking, are to be approved and confirmed in written by the Buyer.

The Seller gives the Buyer right to accomplish products´ registration in the sanitary departments of the Central American countries under the brand name of the Buyer and at Buyer's expense.

The Seller fabricates contractual products with labels, logo or description of which the Buyer sends the Seller. After the Seller sent the Buyer original labels´ layouts for approval, the Buyer supports serial printing by his seal. The Seller produces labels at his own expense.

The Seller provides the following information on labels bearing responsibility for its adequate presentation: net weight, nutrition, energy value, product components.

The date production marking is to be printed on lids or bottoms of cans or glass jars (format: DD.MM.YYYY, i.e. DAY.MONTH.YEAR).

3.1.7. The products obtained by the Buyer are considered outsourced and are subject to reclamations as to quality of tin cans, glass jars, labels, lids in case of:

a. cans´ or jars´ surfaces are covered with dust, dirt, grease, corrosion ,scratches, cavities and have other mechanical defects;

b. texts and images on surfaces of cans, jars, labels are not printed clearly and are not easy- readable;

c. paper labels are not applied to surfaces of cans and jars smoothly, firmly, failed to be strictly matched at end borders and have different mechanical defects;

d. logos of labels on cans and jars don’t correspond to the approved contractual label layouts.

3.1.8. Product Quality and Complaints.

Product quality must meet the standards of the manufacturer, supported by copies of the relevant certificates;

Products are transferred to the Buyer with a remaining shelf life of at least 2/3 of the total shelf life of the product. Otherwise, the Buyer reserves the right to waive this batch of products, or to request discount;

Products under this contract deemed to be delivered by the Seller and accepted by the Buyer: quantitative - according to the accompanying documents, quality - in accordance with the certificate of quality.

The Seller warrants that the goods will be delivered free from defects and will retain its quality until the expiration date, subject to the correct storage, transportation by the Buyer.

The Buyer has the right to declare a complaint on the quality of products in respect of obvious defects after customs clearance for import 5 calendar days, and in the case of hidden defects- during the entire shelf life of the product.

If the Buyer has complaints, claims about the quality / quantity of goods - the final acceptance of goods is to be executed with the participation of a representative of the Seller for the compilation of the relevant Protocol of acceptance by quantity / quality.

The Seller within 48 hours after a written notice of Defects, must notify the buyer in writing about the possibility of sending his representative to review the claim.

If a representative of the Seller can’t arrive to confirm the validity of the claim the representative of the Buyer only - draws up the Certificate of Acceptance .

Claims on quantity/ quality of products are to be presented in writing, with all the necessary documents proving the claim.

The Seller, in recognition of the complaint on the QUALITY, within 20 working days from the date of claims they were received at his own expense and on his own will:

a) send back money paid for claimed product, or

b) compensate the cost of claimed products at the expense of payment for the subsequent batch (the Seller, as to the accepted alternative, notifies the Buyer within 10 calendar days).

The Seller, in recognition of the complaint on the QUANTITY, in 20-day period from the date of the claim was received at his own expense and on his own will:

- makes additional delivery of products, or

-returns the amount of payment as to the short delivery, or

-includes the value of products in payment for the subsequent batch of products.

 Transport costs, customs clearance and other obligatory costs associated with additional delivery/ refund- the seller produces at his own expense.

4**. PARTIES´ LIABILITY.**

4.1. In case the Party failed to perform or performed its contractual obligations, such Party bears responsibility in accordance with the corresponding current international Law and Tradition.

4.2. The Party having caused damage or losses to another Party by the failure of performance or by improper performance of its contractual obligations reimburses all losses and damages in full to injured Party.

4.3 In case of:

- The delay or late delivery of the batch of products to the Buyer as to agreed schedule, or

- The failure to load the batch of products aboard the forwarding ship on agreed day (as to CIF terms) due to the fault of the Seller, the later should pay:

- a penalty of 0.5% of the value of a batch of products failed to be delivered or loaded for each day of delay up to the date of actual delivery of this batch to the Buyer, but not in an amount more than 10% of total value (as to invoice) of undelivered products.

 In case of impossibility or failure to perform delivery of the batch to the Buyer due to the fault of the Seller, but prepaid money for this batch has already been remitted by Buyer´s bank to Seller´s bank account , such money should be returned to the Buyer within 10(ten) banking days from the date of crediting to Seller´s bank account, as well as the amount of penalties for late delivery.

4.4. The payment of penalty does never release the guilty Party from its contractual obligations.

5. **FORCE MAJEURE**

5.1. The circumstances(force majeure FM)arising independently of the Parties´ will, that the Party under FM couldn´t avoid nor eliminate their consequences, exempt such Party from liability if FM occurred after signing of this Contract and prevent full or partial execution of this Contract.

5.2.The following events are recognized as force majeure: war and military events, mobilization, embargo, lockout, epidemics, fires, natural disasters, acts of state authorities and administration that affect the performance of obligations under this Contract, as well as all other events and circumstances of the same impact, the arrival of which is confirmed by relevant documents, emitted by competent authorities specifying the event and proving the existence of circumstances which led to exemption of the Party from guilt.

5.2.1. Such circumstances´ occurrence, given the proper conduct of the Party under FM, shall be recognized by respective jurisdiction body stating the case of force majeure.

5.2.3. The FM circumstances onset, given the proper conduct of exposed Party, shall result in prolongation of the fulfilment of contractual obligations with the deadline extended for the period which corresponds to the duration of occurred FM circumstances, plus a reasonable period for the elimination of such circumstances.

5.2.4. In case FM circumstances last more than one month the Parties resolve and coordinate their future activities as to the Contract by mutual agreement. If the Parties do not reach mutual agreement on the matter, the Party subjected to FM action has right to terminate the Contract without resorting to courts, but sending to other Party a notice in written within 30 days prior to the expected termination.

5.2.5. In the event of termination of the Contract according to cl. 5.2.4., the Parties are obliged to fulfill their contractual obligations having arisen prior to such termination.

6. **ARBITRATION**.

6.1. The Parties endeavor to resolve all arising disputes through mutual negotiations. In case such procedure of settlement of problems failed, and the Parties failed to reach agreement within 30 days from the beginning of negotiations- the dispute subject is referred to the International Commercial Arbitration Court at the Chamber of Commerce and Industry(hereinafter “Arbitration Court”) of Ukraine.

Procedural language is Russian.

 The Arbitration Court consists of three arbitrators, each Party appointing one arbitrator, and further these two appointed arbitrators elect a presiding judge.

6.2. The Parties agree that the judicial procedure as to disputes´ settlement applies the norms and rules established by the Rules of the Arbitration Court along with the substantive law of Ukraine.

6.3. The above mentioned Court resolution announces final solutions, binding upon both Parties.

7. **DURATION OF THE CONTRACT**.

7.1. The Contract comes into force upon its signing and is valid during 49 years, up to 31 DECEMBER 2065 with meaning that on the above-mentioned date both Parties would have fulfilled completely mutual contractual obligations.

Provided neither of Parties expresses the intention of premature termination of Contract by means of written notice to another Party within 30 calendar days prior to the expiration date – the effect and validity of the Contract are considered prolonged for the next year.

7.2. The Contract may be terminated:

a. upon bilateral consent of both Parties;

b. upon the decision of the Arbitration Court.

In the case of termination of the Contract upon bilateral consent of both Parties, the initiating Party notifies the other Party on its intention with notifying the expected date of such termination at the latest deadline of 30 calendar days prior to the termination of the Contract. For that reason, the Parties would sign an agreement on termination of the Contract.

7.3. All amendments, changes, additions to the present Contract are formalized as Annexes with its subsequent number and are valid and considered such as entered into force on the date of its signing by both Parties(unless the different procedure is specified and exposed in the form of the Annex to the Contract constituting an integral part of the Contract).

7.4. The Parties acknowledge that the Contract as well as its Annexes and other documents formalized in writing, signed by authorized persons with respective official seals when sent by fax- are valid equal to originals and binding on the Parties.

7.5. This Contract is issued in two originals and in two languages: Spanish and Russian. Both originals have equal and legal force. Each Party holds one original.

Both Parties agree and confirm that Spanish and Russian versions of the Contract are free of discrepancies subject to any textual misunderstanding or trial deal.

8. **PARTIES´ ADDRESSES AND BANK DATA.**