

EXCLUSIVE SUPPLY AGREEMENT

No. [●] dated [●]

This Supply agreement (the "**Agreement**") is concluded by and between:

1. **JBS S.A.**, a company functioning and organized under the laws of Brazil, having its registered seat at [●], Sao Paulo, registered under the [●] under no. [●], having sole registration code [●], duly represented by [●], in the capacity as [●] ("**JBS**" and/or the "**Supplier**"),

and

2. [REDACTED], a company functioning and organized under the laws of Romania, having its registered seat at 8 Inginerilor Tei Street, Sector 2, registered under the Trade Registry under no. J40/28161/1993, having sole registration code 5052558, duly represented by Mr Dan Minulescu, acting as General Director ([REDACTED]) and/or the "**Distributor**"),

The Supplier and the Distributor shall be collectively referred to as the "**Parties**" and each of them separately as "**Party**".

RECITALS

Whereas the Supplier is a company engaged in meat processing activities worldwide, producing factory processed beef, chicken and pork, also selling by products from the processing of these meats. JBS's famous brands include, among others, Seara, Friboi, Swift, Doriana, Massa Leve,

Whereas the Distributor is one of the most important players from Romanian food industry, operating on controlled temperature food products sector, distributing under its own trademarks, including meat products,

Whereas the Supplier envisages to enter into more countries from the European market whose need for meat products is in high increase, while the Distributor intends to magnify its meat imports, Brazil being the most important importer non-UE of meat products¹,

Whereas both the Distributor and the Supplier intend to expand their business by entering into a mutual commercial relationship entailing acquisition of poultry meat and poultry meat-related products by [REDACTED] from JBS,

Whereas the Distributor possesses the necessary expertise and marketing organization to promote and sell the Products and wishes to undertake significant investments for the setting up and the development of the distribution of the Products in the markets of Romania, Bulgaria, Poland, Czech Republic and Baltic countries (as defined below),

¹ <https://circabc.europa.eu/sd/a/cdd4ea97-73c6-4dce-9b01-ec4fdf4027f9/24.08.2017-Poultry.pptfinal.pdf>

Whereas the Supplier wishes to appoint the Distributor as its exclusive distributor of the Products in the Territory according to the terms and conditions contained herein, in light of the investments performed by the Distributor in order to promote the Products and in order to develop a continuous relation with clients for the Products.

NOW THEREFORE, by this present, the Parties have agreed the following:

Article 1. DEFINITIONS AND INTERPRETATION

1.1. Unless otherwise provided for in this Agreement, the terms below shall have the following meanings:

Active sales actively approaching individual customers by, for instance, direct mail, including the sending of unsolicited e-mails or visits; or actively approaching a group of customers in a specific territory through advertisement in media, on the internet or other promotions specifically targeted at that customer group or targeted at customers in that territory. Advertisement or promotion that is only attractive if it (also) reaches a specific group of customers or customers in a specific territory, is considered active selling to that customer group or customers in that territory;

Confidential Information all information (including all oral and visual information, and all information recorded in writing or electronically, or in any other medium or by any other method) disclosed to, or obtained by one Party from the other Party or a third Party acting on that other Party's behalf, which are marked as "confidential" and without prejudice to the generality of the foregoing definition shall include but not be limited to (i) any information ascertainable by the inspection or analysis of samples, (ii) the information detailed in the Appendices, and (iii) any information relating to a Party's operations, processes, plans, intentions, product information, know-how, design, trade secrets, software, market opportunities, customers and business affairs;

Customer any legal entity or individual (potentially) buying or (potentially) being interested in the Products, regardless of whether such (potential) acquisition is for final consumption / usage or for resale purposes (under whatever the trademark or brand);

EUR euro, the European official currency;

Force Majeure Event war or terrorist activity, civil commotion, nuclear accident or act of God (including flood or lightning), nation-wide

strikes affecting the either Party in a material manner, action taken by government, fire or serious explosion, mechanical breakdown or comparable disturbance, shortages of labour, power, fuel, means of transport or general lack of other necessities affecting the Supplier or the Distributor;

Notice any notice, application, request, and any other communications necessary or approved in accordance with this Agreement, addressed to either Party by the other Party;

Order the orders placed by the Supplier via e-mail, specifying the number of units required for each Product;

Passive sales responding to unsolicited requests from individual customers or group of customers or other similar actions defined by European Union's legislation as "passive sales";

Price / (s) Prices agreed for the Products, stated in **Appendix no. 2** to this Agreement;

Products Poultry meat products of the Supplier, produced at the execution time of this Agreement and/or throughout the Agreement's life;

Territory markets of Romania, Bulgaria, Poland, Czech Republic, Latvia, Lithuania, Greece, Slovenia, Slovakia, Cyprus;

VAT applicable value added tax.

- 1.2. In this Agreement, the headings are inserted for convenience only, and shall not affect the interpretation of Agreement in any way whatsoever.
- 1.3. The terms written with capital letters throughout this Agreement shall have the meanings defined above. Any reference to singular number shall also include a reference to plural number and vice versa; any reference to masculine gender shall also include a reference to the feminine and/or neuter gender(s) and vice versa.
- 1.4. Any reference to an article, paragraph or appendix shall be deemed a reference to the respective article, paragraph or appendix in this Agreement, unless specifically provided for otherwise.
- 1.5. The preamble is an integral part of the Agreement.

Article 2. OBJECT MATTER OF THE AGREEMENT

Exclusive appointment of Distributor in the Territory

- 2.1. Subject to the terms and conditions set out in this Agreement, the Supplier hereby grants to the Distributor and the Distributor hereby accepts the right to exclusively distribute the Products in the Territory.
- 2.2. The Supplier hereby expressly acknowledges that all the countries within the Territory have been exclusively reserved to the Distributor. To this end:
 - 2.2.1. Supplier will ensure that all other (exclusive and non-exclusive) distributors are prohibited Active Sales of the Products outside their reserved territory (being permitted only Passive Sales) and that are notified of the fact that the Distributor has been allocated the countries within the Territory;
 - 2.2.2. Supplier will notify in due time the Distributor with the countries outside the Territory in which other exclusive distributors are appointed or are exclusively reserved to the Supplier.
- 2.3. Outside the Territory, the Distributor shall not make Active Sales of the Products in a territory allocated to an exclusive distributor or exclusively reserved to the Supplier if notified pursuant to art. 2.2.2. Nevertheless, nothing in this Agreement prohibits the Distributor to make Passive Sales of the Products within such territories.

No direct sales

- 2.4. Supplier relinquishes the rights to make offers, or quotations to or negotiate with or sell the Products directly to any customer in the Territory or that intends to actively resell the Products within the Territory without involvement of the Distributor. To this end, the Supplier will notify the Distributor with any requests for Products within the Territory and will redirect any inquiring person to the Distributor. No payment or commission of any nature shall accrue on this kind of transaction.

Independence of the Distributor

- 2.5. The Distributor shall buy the Products from the Supplier as an independent contractor and shall market and sell the Products in its own company name, for its own account and at its own risk, with the Distributor, having the right to market the Products under its own tradename, trademark or brand, this right being at the full and encumbered discretion of the Distributor.
- 2.6. The relationship between the Parties established by the Agreement shall be solely that of supplier and buyer and the Distributor is acting for its own account. Nothing contained in the Agreement shall be construed to make the Distributor the agent of the Supplier for any purpose, and neither Party hereto shall have any right whatsoever to incur any liabilities or obligations on behalf or binding upon the other Party. The Distributor specifically agrees that it shall have no power or authority to represent the Supplier in any manner and that it will solicit orders for the Products as an independent contractor in accordance with the terms of this Agreement.
- 2.7. Nothing in this Agreement shall be construed as a limitation or a prohibition imposed to the Distributor to sell, resell or otherwise distribute similar products from other suppliers in any territory and/or without any restrictions.

Article 3. DURATION

- 3.1. This Agreement is executed for a period of 5 (five) years. Subsequent to this term, Parties undertake to negotiate in good-faith the prolongation of this Agreement under written addendum.

Article 4. PRICES, TITLE, WARRANTY

Prices and Price Amendment

- 4.1. The Prices agreed for the Products are stated in Appendix no. 1 to this Agreement.
- 4.2. The Prices may not be unilaterally changed by the Supplier. Any intention to amend the Prices of the Supplier will be notified to the Distributor and agreed upon, in good-faith, in writing.
- 4.3. In case the Parties agree to amend the Prices, the new Prices will enter into force in [6 (six)] months since Parties' agreement, during which time, the Distributor will be free to place Orders with the non-amended Prices (the Supplier being in the right to refuse application of non-amended Price only to volumes within Orders that exceed the forecast, excess for which amended Prices will apply).

Payment is to be done by irrevocable letter of credit open by the Distributor in favour of the Supplier.

Title

- 4.4. Unless otherwise agreed in the Agreement, shipment of the Products sold hereunder will be [CFR Constanta/ Rotterdam] according to Incoterms. Unless otherwise agreed in the Agreement, trans-shipment and partial shipment are allowed.
- 4.5. Ownership over Products transfers to the Distributor at port destination when the Products are unloaded from the vessel and accepted pursuant to art. 5.6 – 5.8. Until ownership over Products changes hands, Supplier is solely responsible for any loss or damage to the Products.

Warranty

- 4.6. Supplier warrants that the Products shall be i) conform to the specifications, if any, and ii) comply with all food regulations applicable to the Territory or otherwise instructed by the Distributor.
- 4.7. Supplier undertakes to warrant and reimburse the Distributor against any claims or sanctions imposed to the Distributor as a consequence of the Supplier non-observing the warranties under 4.12. above.

Article 5. FORECAST, ORDER, ACCEPTANCE, DELIVERY

Forecast

- 5.1. The Distributor shall provide estimated Orders for the next month (M+1) and the forecast for the [following 6 months] by the [1st] of every month. The forecast made by the Distributor shall be treated as nonbinding.

- 5.2. Notwithstanding any of the above, the Distributor is obliged to forecast a minimum of [3] months in advance.

Order

- 5.3. Without any engagement in respect of minimum Orders, the Distributor may order the Products during the term of this Agreement by the issuance of Order. Supplier shall guarantee a delivery period of at least 2 weeks from the time of receipt of Order by the Distributor.
- 5.4. Each Order will specify, at a minimum, i) identification of Products, ii) unit price, iii) quantity, iv) total price, v) delivery date, vi) delivery place, vii) payment terms and viii) other information necessary for the delivery.
- 5.5. Supplier undertakes the obligation to accept or fulfill any Order and agrees that refusal by the Supplier of any Order in whole or in part shall incur liability on the Supplier, its officer or employees or any other person.

Acceptance

- 5.6. On receipt of the Order, the Supplier shall notify the Distributor in writing (by e-mail or fax) whether it accepts the Order, specifying also the expected shipment date.
- 5.7. An Order shall be considered accepted by the Supplier by one of the following means: i) issuance of an acceptance, ii) shipment of any of the Products ordered or iii) failure of the Supplier to reject the Order within [5 working] days from the receipt by the Supplier.
- 5.8. Supplier acknowledges that it cannot refuse any Order from the Distributor (even those outside the forecast margin), unless objective and clear justifications are given and accepted by the Distributor. In such exceptional circumstances, the Parties will collaborate to identify an alternative source of supply of similar Products (with similar commercial conditions).

Delivery and Inspection

- 5.9. The Products shall be delivered to the Distributor in export packing (meaning resistant to long distance transportation package).
- 5.10. Promptly after the receipt of Products, the Distributor shall, or cause its qualified agent to, inspect the Products at its own cost. The Distributor shall immediately notify the Supplier if, during the inspection, any of the Products is found not to be in compliance with quality standards, which will be agreed to in writing by the both parties.
- 5.11. All claims for errors, damages, defects, shortages and non-conformities in any shipment of the Products discovered by the inspection shall be made in writing to the Supplier and be dispatched by the Distributor with particulars within [3 (three) working] days after the receipt of Products.
- 5.12. Failure to make such claim within such period shall constitute acceptance of the shipment, and agreement that such shipment fully complies with the quality standards and any other applicable terms and conditions. This is not applicable for hidden/latent defects (i.e. fault of the Products that could not have been discovered by a reasonably thorough inspection, for which Supplier is liable throughout the entire Products' life).
- 5.13. In case of any inconsistencies with the Order, the Distributor has the alternative to i) ask the Supplier to fulfil the outstanding Order, ii) to amend the Price for the delivered Products.

Article 6. OBLIGATIONS OF THE DISTRIBUTOR

- 6.1. Without prejudice to any other obligations provided by the present, the Distributor hereby undertakes to:
- 6.1.1. pay the Prices within agreed terms and in the agreed amounts, as per invoices issued by the Supplier;
 - 6.1.2. use its best efforts to further the promotion, marketing, sale and other distribution of Products in the Territory;
 - 6.1.3. cooperate with the Supplier and promptly respond any inquiry the Supplier may have regarding the market conditions in the Territory;
 - 6.1.4. comply with all applicable regulations of the Territory, as well as obtain all relevant regulatory permits necessary for conducting its business.
- 6.2. The Distributor is responsible for all processing of sales orders on behalf of its customers and for the fulfilment of the customer obligations, services and support, including, but not limited to freight to customer location.

Article 7. OBLIGATIONS OF THE SUPPLIER

- 7.1. Without prejudice to any other obligations provided by the present, the Supplier hereby undertakes to:
- 7.1.1. sell the Products to the Distributor, in accordance with the terms and conditions hereof;
 - 7.1.2. ensure the quality of the delivered Products, in accordance with the Romanian laws, the European laws and the international agreements regarding the packaging, labelling, compliance, consumers' rights, and hand over all the documents regarding the Product quality upon delivery;
 - 7.1.3. make available to the Distributor all the technical specifications and all the commercial information, licenses for the use of registered trademarks and any other relevant data, including without limitation the information about the expiration dates, keeping conditions, etc., and also the delivery notices, quality certificates and any other related documents;
 - 7.1.4. inform in writing the Distributor if one or several Products have an expiration date of less than [10 (ten) months], in which case the Distributor shall submit a written acceptance, adjust the ordered quantity or refuse the delivery of these Products.

Article 8. REPRESENTATIONS AND WARRANTIES

- 8.1. The Distributor hereby represents, warrants and undertakes in favour of the Supplier that it shall use its best efforts for the promotion of the sales of the Products in the Territory and shall protect the interests of the Supplier in the best possible way acting on the basis of good faith and good business ethics.
- 8.2. The Distributor shall under no circumstances be liable for indirect, consequential, special, incidental, or punitive damages, including loss of income or opportunity.
- 8.3. The Parties shall indemnify and hold the other Party and its directors, employees, successors and assigns harmless against all losses, damages or expenses of whatever form

or nature, including attorney's fees and other costs of legal defence, whether direct or indirect that they, or any of them, may sustain or incur as a result of any acts or omissions of the Party in breach or any of its directors, officers, employees, or agents, including but not limited to (a) breach of any of the provision of the Agreement; (b) negligence or other tortious conduct; (c) representations or statements or Product alterations not specifically authorized and (d) violations of any applicable laws and/or regulations.

- 8.4. The Parties declare and guarantee that the person signing the Agreement has the right and full legal authority to conclude this Agreement in the name and on behalf of the entity it represents and to legally engage the entity without restrictions in this respect and have all necessary measures have been taken to authorize the signing of the Agreement.
- 8.5. The Parties declare and guarantee that at the date of signing the Agreement they have all the approvals and authorizations necessary to fulfil the obligations under the Agreement and that the later will remain valid for at least the duration of the Agreement.
- 8.6. The Parties declare and guarantee that by signing the Agreement, each Party, through its legal representative, has fully discussed and understood and, expressly and unambiguously accepts articles 2, 3, 4, 5, 6, 7, 9, 12, 13 of the Agreement.

Article 9. OBSERVANCE OF EUROPEAN COMPETITION RULES

- 9.1. The Parties expressly undertake not to initiate or participate in any type of anti-competitive conduct, as defined by European competition legislation, by means including, but not limited to, mentioning, inserting, requesting, addressing, imposing, accepting, setting, approving or agreeing in any type of communication between the Supplier and the Distributor of resale prices, minimum prices selling, conditioning or influencing commercial policy, limiting or disadvantaging competing undertakings or exchanging sensitive information from competition perspective, prohibited by the competition rules.
- 9.2. However, to the extent that the Distributor will be investigated and sanctioned by the competent competition authorities as a result of Supplier's failure to observe the obligations set forth in this chapter, the Distributor shall have the right of recourse against the Supplier in respect to the sanctioning fine and all expenses derived from the investigation.
- 9.3.
- 9.4. The Supplier expressly undertakes to exclusively sell to the Distributor within the market defined by the Territory, without any injunction in the resale prices, commercial conditions or other business matters that should be unilaterally decided by the Distributor itself. For the non-observance of this obligation, the Supplier is obliged to immediately stop any Active sales within the Territory, together with the payment of a compensation owned to the Distributor amounting to EUR 1.5 per kilo of sold Products. The compensation obligation provided for in this article shall become enforceable within 30 days of the date on which the Distributor identifies the Supplier and/or other distributors making Active Sales within the Territory or having executed agreements entailing supply or distribution of the Products within the Territory. In case the Distributor identifies that other distributors from other territories passively sells (*Passive sales*) the Products within the Territory, the above-mentioned compensation is not applicable. However, if the Supplier itself performs Passive sales into the Territory, the compensation obligation of EUR 1.5 per kilo of sold Products is therefore applicable.

- 9.5. In case the Supplier is directly or indirectly approached from clients within the Territory, the Supplier is under the obligation to inform the Distributor of such approach within [●] hours term. As per the above, Passive sales of the other distributors are permitted within the Territory, however the lack of the notification obligation should be sanctionable under this clause. The Supplier is obliged to impose the same notification obligations to its (exclusive or non-exclusive) distributors from all European Economic Area's territories.

Article 10 TERMINATION

- 10.1. This Agreement may be terminated in any of the following cases:
- 10.1.1. with the Parties' consent;
 - 10.1.2. by expiration of duration as per art. 3;
 - 10.1.3. by termination for cause if either Party defaults the following obligations hereunder, and fails to remedy such case of default within 10 (ten) Working days from receiving the other Party's written notice in that regard (commissory pact), provided that the respective case of default can be remedied: (i) Distributor's obligation to pay at due date any invoice raised by the Supplier; (ii) Supplier's obligations under article 7 and 9;
- 10.2. In the cases laid down in article 10.1.3, the Agreement shall be automatically terminated, no other formality and court proceedings being required.
- 10.3. Upon the termination of this Agreement for any reason, the Parties agree to set off their outstanding financial obligations at the Agreement actual termination date.
- 10.4. The termination of this Agreement, regardless of cause, shall not affect the obligations already performed and outstanding between the Parties.
- 10.5. In case any of the Parties terminate this Agreement prior to its expiration (for whatever reason, excluding termination for cause), the defaulting Party will pay damages to the other Party amounting to EUR 0.5 per kilo of Products envisaged to be sold until the expiration of the Agreement, quantity estimated as per the historically sales. For sake of clarity, the Supplier is considered in default under this article and obliged to pay the above damages to the Distributor in case of 2 consecutive refusals of the Orders or inconsistencies in deliveries amounting to less than / equal to 40% of the quantity ordered.

Article 11 FORCE MAJEURE

- 11.1 If the performance or provision of any obligations of each Party is prevented by reason of any, or any combination, of the Force Majeure Events, the affected Party shall be entitled to relief from performing the obligations if the affected Party:
- a) immediately notifies the other Party by telephone of the occurrence of the Force Majeure Event; and,
 - b) give the other Party written notice of the Force Majeure Event within twenty four (24) hours of the occurrence describing in reasonable detail the nature of the Force Majeure Event.

- 11.2 The affected Party shall use all reasonable efforts to mitigate the effects of the Force Majeure Event and shall use all reasonable endeavours to perform its obligations under this Agreement.
- 11.3 If the Force Majeure Event is remedied, the Parties' performance of this Agreement and the Orders shall resume and continue or fulfilment of the Order whichever is later, unless the Force Majeure Event continues for a period of more than thirty (30) days whereby the non-affected Party shall have the right to either terminate the Order and/or Agreement upon three (3) business days' written notice to the affected Party.

Article 12 CONFIDENTIALITY

- 12.1 This Agreement is confidential and neither Party will disclose any information relative to or derived under the Agreement or Order without the written consent of the other, except as may be required to ensure performance of its obligations under this Agreement.
- 12.2 Neither Party shall disclose or use for its benefit any Confidential Information of the other which is disclosed to or obtained by it pursuant to or as a result of this Agreement or any Order and will allow access to the same to its own staff only on a "need to know" basis.
- 12.3 Exceptions to Clause 12.2 are as follows: the receiving Party will not be obligated to maintain in confidence or precluded from using information which:
 - 12.3.1 is, or subsequently may become available, to the public through no fault of the receiving Party;
 - 12.3.2 the receiving Party can show was previously known to it at the time of disclosure;
 - 12.3.3 may subsequently be obtained lawfully from a third party who has obtained the information through no fault of receiving Party;
 - 12.3.4 is independently developed by the receiving Party as evidenced by the written records of the receiving Party;
 - 12.3.5 is disclosed to a third party by the disclosing party and/or its affiliated companies without a corresponding obligation of confidence; or
 - 12.3.6 is required to be disclosed pursuant to the requirement, order or directive of a government agency or by operation of law subject to prior consultation with disclosing Party's legal counsel.
- 12.4 Notwithstanding the provisions of clause 12.2. above, the Parties may disclose the contents of the Agreement and the Orders to any of their subsidiaries and affiliates.
- 12.5 The Parties will not advertise or publish the fact that they have contracted with each other or otherwise established a relationship, unless otherwise authorized by each of the Parties, such authorization not to be unreasonably withheld.
- 12.6 The obligations under this Article 12 will remain in effect for a period of one (1) year from termination of the Agreement.

Article 13 APPLICABLE LAW- JURISDICTION

- 13.1 The validity, interpretation and performance hereof, and all the disputes between the Parties arising out of or in connection with this Agreement or referring to any matters

not provided for hereunder but occurring following the performance of the Agreement, shall be governed by the Romanian law.

- 13.2. All the disputes arising out of or in connection with this Agreement which cannot be amicably resolved by the Parties shall be referred for resolution to the courts of jurisdiction in Bucharest, Romania.

Article 14 MISCELLANEOUS

- 14.1. All notices and correspondence relating to this Agreement shall be sent by either party to the other to the following addresses, or any other appropriate address provided prior written notice is given to the other party:

If to the Supplier:

Address:
For the attention of:
Fax:
Email:

If to the Distributor:

Address:
For the attention of:
Fax:
Email:

- 14.2 Any such Notice shall be deemed received as follows:
- 14.2.1. upon delivery by courier provided that it is delivered during the Working Hours of the recipient office, and if delivered outside the Working Hours shall be deemed received at the beginning of the following Business Day;
- 14.2.2. upon receipt in case of a Notice sent by telex, fax or mail, provided that it is sent during the Working Hours of the recipient office, and if received outside the Working Hours shall be deemed received at the beginning of the following Business Day;
- 14.2.3. upon receipt in case of a Notice sent by registered letter or registered letter with return receipt, and in the day following the mailing date if sent by mail.
- 14.3. Each provision hereof shall be deemed independent and distinct. In the event that any provision of this Agreement is found invalid or unenforceable, the remaining provisions hereof shall remain effective and in full force and effect as if the respective provision has not been part of it.
- 14.5 No waiver by either Party of any breach of any provision of this Agreement will constitute a waiver of any other breach of that or any other provision of this Agreement.
- 14.6. This Agreement constitutes the entire agreement and undertaking between the Parties, and supersedes all prior agreements and undertakings, both written and oral, between the Parties with respect to its subject matter.
- 14.7. No time limit or provision of this Agreement may be amended or modified by any previous or subsequent statement, conduct or action of either Party. The Parties may vary this Agreement only by written document signed by or on behalf of the contracting

Parties. The same rules shall also apply with reference to the amendment of the Appendices hereto, which are an integral part hereof.

- 14.8. The Parties agree that upon the occurrence of any specific legislative change this Agreement shall be accordingly amended in accordance with the Parties' agreement at that time. This article institutes an obligation of negotiation in charge of the Parties in respect of any relevant legislative change.

Article 15 APPENDICES

- 15.1. The Appendix hereto are an integral part of this Agreement.
15.2. This Agreement has the following Appendix:

Appendix no. 1 List of Prices

IN WITNESS whereof the Parties have executed this Agreement, today [●], in 2 (two) counterparts in English language, each Party holding one counterpart.

FOR THE SUPPLIER
JBS S.A.

FOR THE DISTRIBUTOR

[REDACTED]

By:

By:

Authorized Signature

Authorized Signature

Name:

Name:

Title:

Title:

APPENDIX NO. 1
List of Prices



DRAFT