

Trademark License Agreement

between

GELITA AG
Uferstraße 7
69412 Eberbach/Germany

– hereinafter referred to as “**GELITA**” or “**Party**” –

and

HERACLES NUTRITION SRL
VIA COSTANZO GUGLIELMI 31,
ROME (RM) ITALY 00166

– hereinafter referred to as “**Licensee**” or “**Party**” –

- GELITA and Licensee jointly also the “**Parties**” –

Preamble:

1. GELITA is the owner of the registered trademarks listed in **Annex 1** concerning the product name VERISOL[®] (hereinafter “GELITA Trademarks”). The term GELITA Trademarks shall also include all other possible rights owned by GELITA concerning the aforementioned product name and logo as specified in Annex 1, in particular trademarks acquired by use, copyrights and design rights concerning the logo and goodwill relating thereto.
2. GELITA and its affiliates according to Sec. 15 et seq. of the German Corporation Act (hereinafter “Affiliates”) use the GELITA Trademarks in connection with the production, promotion and sale of the GELITA product VERISOL[®] (hereinafter “GELITA Ingredient”).

3. Licensee is engaged in the business of producing, promoting and selling the products as described in Annex 2. Licensee intends to purchase the GELITA Ingredient from GELITA and/or its Affiliates on the basis of the conditions agreed between the Parties (“Supply Conditions”) and to use the GELITA Ingredient as an ingredient in the aforementioned products to be produced, promoted and sold by Licensee. The products named in Annex 2 including the GELITA Ingredient as an ingredient shall hereinafter be referred to as “Licensee Products”.
4. Licensee desires to obtain from GELITA a license to use the GELITA Trademarks in connection with the promotion and sale of the Licensee Products and GELITA is willing to grant such a license on the basis of the following terms and conditions:

§ 1 License Grant

- (1) GELITA hereby grants Licensee a non-exclusive, non-assignable, non-sub-licensable, royalty free and revocable license to use the GELITA Trademarks in connection with the promotion and sale of the Licensee Products in the territory as specified in Annex 1 (hereinafter “Territory”).
- (2) Licensee acknowledges and agrees that the foregoing license is expressly limited to the Licensee Product which contains the GELITA Ingredient and that all uses have to comply with the terms and conditions of this Agreement, in particular clauses 2 and 3.

§ 2 Use and quality requirements

- (1) Licensee shall use the GELITA Trademarks only in the form as described in Annex 2 and in particular agrees to make appropriate use of “®” designations or other designations and notifications concerning the trademark ownership if requested by GELITA in Annex 2. Licensee shall, in particular, comply with the uniform logo styles and type styles specified in Annex 2 in all product packaging or promotional materials, advertising, social media and/or any other publication of the Licensee (hereinafter collectively “Licensee Marketing Materials”). Licensee may not integrate any of its and/or any other third party names, trademarks, logos, or designs into the GELITA Trademarks nor may Licensee integrate the GELITA Trademarks into any of its own names, trademarks, logos or designs. Licensee shall furthermore solely use the GELITA Trademarks in direct connection with the Licensee Product including the GELITA Ingredient and solely in such a manner, that it is completely clear that the GELITA Trademarks are being used relating to the GELITA Ingredient. Licensee shall not use the GELITA Trademarks in a manner that creates confusion as to the source of the Licensee Product or that in any way indicates to the public that Licensee is an Affiliate of or otherwise related to GELITA or its Affiliates.

- (2) Licensee acknowledges the good will associated with the GELITA Trademarks and will not bring into disrepute or otherwise damage the GELITA Trademarks. Licensee shall in particular not make misleading or damaging statements concerning the GELITA Ingredients for which the GELITA Trademark is used or other uses of the GELITA Trademarks.
- (3) GELITA does not review the formulations, efficiency, safety, packaging, labeling or other aspects of the Licensee Products, however, Licensee acknowledges that these factors are important to GELITA and Licensee shall ensure that the Licensee Product used in connection with the GELITA Trademarks are of high and consistent quality, comply with all safety standards, have a premium appearance and do not adversely affect the reputation of the GELITA Trademarks.
- (4) Licensee hereby warrants and represents that it shall obtain all necessary approvals or permits for the production, distribution, marketing, sale and labeling of the Licensee Products as well as the License Marketing Material and that all aforementioned uses of the License Products and the License Marketing Material comply in any and all aspects with all applicable laws and regulations in the Territory.
- (5) The composition of the Licensee Product with respect to the GELITA Ingredients shall comply with the requirements as specified in Annex 2. The Licensee warrants that the Licensee Product shall have the effects claimed in the Licensing Marketing Material.
- (6) Licensee shall inform GELITA immediately in writing of any product safety problems, investigations or intended recalls concerning the Licensee Products or the Licensee Marketing Materials. Licensee shall coordinate such possible recalls with GELITA in order to allow GELITA to review communications relating to the GELITA Ingredients.
- (7) Licensee is not entitled to use the GELITA Trademarks or the company name of GELITA in clinical trials, studies, regulatory proceedings or activities preparing such proceedings without the prior written approval of GELITA. A possible approval of GELITA for such use shall not affect the sole responsibility and liability of the Licensee for the Licensee Products, the relating proceedings and uses.

§ 3 Samples

- (1) GELITA or its Affiliates are entitled to request samples of the Licensee Products and/or Licensee Marketing Materials to ensure that the Licensee is in full compliance with its obligations under this Agreement.

With respect to Licensee Marketing Materials GELITA and its Affiliates have the right to request that Licensee submits copies of all Licensee Marketing Materials, including the packaging of the Licensee Products, to GELITA prior to the final production of said materials for approval. Such approval requirement shall only be applicable if expressly requested by GELITA. If GELITA or its Affiliates make such request with respect to the approval of Licensee Marketing Materials prior to production, the following procedure shall be applicable: Licensee shall provide samples of the Licensee Marketing Materials within a reasonable term prior to final production. GELITA shall accept or reject the License Marketing Materials within five (5) days of receipt, and shall provide suggestions for changes if rejected, but only as it is reasonably necessary for such material to comply with the terms of this Agreement. Under no circumstances shall Licensee publicly disseminate any such Licensee Marketing Materials until such material has been approved by GELITA in writing in accordance with this clause, or GELITA has failed to object within the timeframe set forth herein. Notwithstanding the foregoing, Licensee may make immaterial changes to the Licensee Marketing Material without receiving GELITA's written approval, provided no changes are made to the approved GELTIA Trademarks.

- (2) GELITA and its Affiliates are entitled to inspect the production of the Licensee Products and the Licensee Marketing Materials during normal business hours. Such inspection is subject of strict confidentiality obligations protecting confidential information of Licensee.
- (3) Any review of GELITA Trademarks on Licensee Products, in Licensee Marketing Materials or other uses of the GELITA Trademarks by GELITA do not extend to a review for the compliance with regulatory requirements administered by the regulatory authorities or other applicable laws, regulations and standards, nor does a possible review of the formulations, efficiency, safety, packaging, labeling or other aspects of the Licensee Product or the Licensee Marketing Materials by GELITA result in responsibilities, warranties, liabilities or obligations of GELITA. GELITA will in particular (without being limited thereto) not examine the Licensee Products and their labels for compliance with the provisions of Regulation (EC) No 1924/2006 of the European Parliament and of the council of 20 December 2006, or subsequent and similar regulations. Under no circumstances shall GELITA or its Affiliates be deemed liable to Licensee or third parties for violation of any applicable laws and regulations, including labeling or advertising laws or product safety regulations by virtue of GELITA's review of any Licensee Products or License Marketing Materials hereunder.

§ 4 Ownership and protection of the GELITA Trademarks

- (1) Licensee acknowledges GELITA's exclusive rights in the GELITA Trademarks. Licensee also acknowledges that a valuable reputation and goodwill is connected with the GELITA Trademarks that constitutes a valuable asset of GELITA and its Affiliates.
- (2) Licensee shall not register and/or apply to register the GELITA Trademarks or any other sign that is confusingly similar to the GELITA Trademarks for any product and/or service.
- (3) Licensee acknowledges that any and all uses of the GELITA Trademarks by Licensee inure solely to the benefit of GELITA and that GELITA owns all rights concerning the GELITA Trademarks. Nothing in this Agreement shall obligate GELITA or its Affiliates to register further trademarks or to maintain the GELITA Trademarks. GELITA shall handle the GELITA Trademarks in its own discretion.
- (4) Licensee shall notify GELITA without delay in writing about infringements or possible attacks concerning the GELITA Trademarks. Only GELITA shall be entitled – but not obligated to – to defend and/or enforce the GELITA Trademarks against third parties.

§ 5 Changes

GELITA remains entitled to make changes to the design of the GELITA Trademarks and/or the requirements according to Annex 2. The changes must be notified to Licensee in writing at least three (3) months before the date on which they are intended to take effect. Licensee is then obligated to effect the change in all areas without delay, but no later than the date indicated by GELITA. Licensee shall be entitled to sell-out Licensee Products or Licensee Marketing Materials that have been produced until the aforementioned notification from GELITA concerning the change of the design of the GELITA Trademarks and/or the requirements according to Annex 2. The aforementioned sell-out period shall be limited to the term specified in the notification from GELITA concerning the change. The determination of the term by GELITA shall reasonably consider the remaining shelf life of the Licensee Product. Should it become necessary to change the design of the GELITA Trademarks or the requirements according to Annex 2 at very short notice because of a trademark dispute, regulatory requirements or some other important reason, GELITA may require Licensee to make the necessary changes within the date notified by GELITA. If the changes result in inconvenience for the Licensee, the Licensee may terminate this Agreement according to clause 8 (4) within one (1) month of being informed of the change in question. However, such termination will not result in a Phase out Period according to clause 8 (5). Licensee has no claims against GELITA or its Affiliates in connection with possible changes, in particular no claims for damages or reimbursement of expenses resulting from such changes.

§ 6 Indemnification

Licensee agrees to indemnify, defend and hold GELITA, its Affiliates, officers, directors, shareholders, employees and agents (hereinafter collectively "Indemnified Parties") harmless from all losses, costs, liabilities and expenses of the Indemnified Parties arising from claims concerning the Licensee's use of the GELITA Trademarks, Licensee Products or Licensee Marketing Materials which are not in conformity with the provisions of this Agreement or due to the manufacture, distribution, marketing, advertisement, promotion, sale or other uses of the Licensee Products or the Licensee Marketing Materials, except where such claims arise solely and directly from the GELITA Ingredient used in accordance with GELITA's specifications.

§ 7 Warranties and liabilities

- (1) Licensee warrants and represents that it has the full power and authority to enter into this Agreement and that its use of the Licensee Products and the Licensee Marketing Material and GELITA Trademarks shall be conducted in accordance with this Agreement and all applicable laws and regulations. Without limiting the generality of the foregoing, Licensee shall in particular ensure that the production, labeling, marketing and distribution of the Licensee Products and the Licensee Marketing Material shall comply with all applicable regulatory requirements and product safety standards and shall not conflict with the applicable law and regulations in the Territory.

The provision of information or samples to GELITA or its Affiliates or the approval by GELITA or its Affiliates on the basis of this Agreement, in particular, according to clause 3, shall in no event affect the responsibilities and warranties of Licensee according to this Agreement, in particular concerning the Licensee Product and the Licensee Marketing Materials. Licensee shall remain fully responsible for the Licensee Products and the Licensee Marketing Materials and its uses.

- (2) Licensee shall maintain during the term of this Agreement and for a period of the permitted use an adequate insurance coverage from an international accepted insurance company, covering in particular product liability cases and other claims for personal injury or death or product recalls. GELITA shall be entitled to request evidences for the existence of such insurance coverage.
- (3) GELITA makes no warranties or representations concerning the GELITA Trademarks, in particular, concerning the protectability, usability or the use of the GELITA Trademarks. GELITA make no warranties or representations concerning the enforceability of GELITA Trademarks against third parties or that the use of the GELITA Trademarks or the GELITA Ingredient does not conflict with rights of third parties. GELITA and its Affiliates shall not be liable for the infringement of rights of third parties resulting from a use of the GELITA Trademarks, the GELITA Ingredient, Licensee Product or the Licensee Marketing Materials.
- (4) Subject to the limitations included in this clause, claims by Licensee against GELITA – regardless of the nature of such claims, including tort, damage – are

excluded. GELITA shall in particular not be liable, whether under contract, tort, indemnity or otherwise, for any loss of profits or revenues or for any other indirect, incidental, special, punitive or consequential loss or damage, anticipated savings, contracts or business relationships or loss of goodwill. The limitation and exclusion of liability shall not apply where GELITA has mandatory liability according to mandatory statutory law, e.g. under Product Liability Laws or in cases of willful misconduct or gross negligence, damage to life, limb or health, or infringement of material contractual obligations. Damages for the infringement of material contractual obligations are limited, however, to the typical foreseeable damages, with the exception of cases of willful misconduct or gross negligence, or where GELITA is liable for damages to life, limb or health or according to mandatory law. Where GELITA's liability is excluded or limited under this Agreement, this shall also apply to the Affiliates and its employees, representatives and agents.

§ 8 Term and Termination

- (1) This Agreement shall come into force when it is signed by both Parties and shall automatically end with the expiration or termination of the supply agreement based on the Supply Conditions between Licensee and GELITA or its Affiliates concerning the supply of the GELITA Ingredient to Licensee.
- (2) GELITA shall have the right to terminate this Agreement for cause without a notice period. The cause shall include, but shall not be limited to:
 - (i) if Licensee breaches or violates any of the terms of this Agreement and does not cure such a breach or violation despite a written warning letter of GELITA setting a reasonable deadline of at least three (3) days and a maximum of thirty (30) days; or
 - (ii) if Licensee makes an assignment for the benefit of its creditors, commits any act of bankruptcy, has a receiver appointed, or otherwise admits of its inability to pay its debts.
- (3) GELITA may terminate this Agreement at any time with a three (3) months written notice.
- (4) Licensee may terminate this Agreement at any time with three (3) months written notice. Licensee shall furthermore be entitled to terminate this Agreement with a notice period of one (1) month in the event specified in clause 5.
- (5) After expiration or termination of the Agreement Licensee shall inform GELITA within eight (8) days in writing about the number of existing Licensee Products and existing Licensing Marketing Material in the stock of Licensee. Licensee shall be entitled to sell-out existing Licensee Products and to use existing Licensing Marketing Material as specified by Licensee ("Phase out Period"). During the Phase out Period the provisions of this Agreement shall be applicable. GELITA shall be entitled to verify the information provided by Licensee concerning the existing Licensee Products and existing Licensing Marketing Material and the compliance with the aforementioned obligations. Licensee shall not be entitled to

a Phase out Period if GELITA terminates the Agreement according to clause 8 (2) (i) and the breach or violation of the Agreement relates to a use of the GELITA Trademarks, the Licensee Products and the Licensee Marketing Materials not in compliance with the limitations of the Agreement.

After expiration/termination or – if applicable – the Phase out Period, Licensee shall immediately cease and desist from all uses of the GELITA Trademarks.

- (6) The rights and obligations resulting from clauses 4, 6 and 7 shall remain in force notwithstanding the termination or expiration of this Agreement.

§ 9 General provisions

- (1) Nothing in this Agreement shall be construed to place the Parties in a relationship of partners, joint ventures or principal and agent, and neither Party shall have any power to obligate or bind the other Party in any manner whatsoever. Each Party bears its own costs in connection with the conclusion and the implementation of this Agreement.
- (2) If any provision of this Agreement is or becomes completely or partially invalid or should there prove to be an omission herein, the validity of the remaining provisions shall remain unaffected. In place of the invalid provision, that valid provision which comes closest to meeting the purpose of the invalid one, shall be deemed to be agreed. In the event of an omission, that provision shall be deemed agreed which corresponds to what the Parties would have agreed, judging by the purpose of this Agreement, had they given the matter their consideration at the outset.
- (3) This Agreement constitutes the entire agreement of the Parties concerning the use of the GELITA Trademarks. The Supply Conditions concerning the delivery of the GELITA Ingredients shall remain applicable. In the case of a contradiction between the provisions of the Supply Conditions and this Agreement, the provisions of this Agreement shall prevail.
- (4) This Agreement shall be construed in accordance with and governed by German Law. The UN Convention on Contracts for the International Sale of Goods shall not apply.
- (5) All disputes, controversies or claims arising under, out of or relating to this Agreement and any subsequent amendment of this Agreement, including without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination as well as non-contractual claims, shall be referred to and finally determined by arbitration in accordance with the WIPO Arbitration Rules. The arbitral tribunal shall consist of three (3) arbitrators if the Parties do not agree to appoint only one arbitrator. The language to be used in the arbitration shall be English.

(6) Amendments and supplement to this Agreement shall require a written form. This written form requirement shall also apply to the amendment of this written form clause. Annexes 1 to 2 form an integral part of this Agreement.


Annexes:

Annex 1: GELITA Trademarks

Annex 2: Use of the GELITA Trademarks

Eberbach, 07. Juni 2024

GELITA AG

By: 
Name: Edward Gallagher
Title: Head of Global Business Unit
Nutrition & Health Ingredients

Rome, 07 giugno 2024

HERACLES NUTRITION SRL

By: 
Name: Alessio Santerini
Title: CEO
E-Mail: a.santerini@heraclesnutrition.it

By: 
Name: ppa. Michael Teppner
Title: Head of Global Marketing &
Innovation Management
Business Unit -
Nutrition & Health Ingredients

Annex 1

Trademark(s) (including territory):

VERISOL® - Italy