

KYOWA QUALITY® MARKETING AGREEMENT

This Marketing Agreement is entered into as of January 28 20120 by and between Kyowa Hakko Bio Italia S.r.l. ("Kyowa") with its principal place of business at Viale Piero e Alberto Pirelli 6, 20126 Milano, Italy and "Nutrisystem S.r.l." ("Customer"), a n Italian corporation having its principal place of business at Via Lambro 36 20090 Opera (Mi) - P.I. 12517050154.

WHEREAS, KYOWA HAKKO BIO CO., LTD (hereinafter referred to as "Kyowa Japan") is the manufacturer of ingredients for use in cosmetics, foods, dietary supplements, cell culture media or other chemical ingredient applications (each of them "Kyowa Ingredient", and collectively "Kyowa Ingredients");

WHEREAS, Kyowa Japan is the owner of the trademark name Kyowa Quality® and the KQ logo (collectively, "Mark") as identified in Exhibit B of this Marketing Agreement ("Agreement");

WHEREAS, Kyowa is engaged in the sale and supply of "Kyowa Ingredients" in the territory as described in Exhibit A ("Territory"), and has been granted permission by Kyowa Japan to allow the Customer to use the Mark on behalf of Kyowa Japan on labels, leaflets, catalogues, packaging material, website marketing material and other print or digital media (collectively "Marketing Material") for certain products which incorporate "Kyowa Ingredients";

WHEREAS, Customer wishes to market a product or products displaying the Mark in cosmetics, foods, dietary supplements, cell culture media or other chemical ingredient applications which incorporate "Kyowa Ingredients" for marketing purpose.

Now, therefore, in consideration of the mutual covenants and promises contained herein, and for other good and valuable consideration, the parties intending to be legally bound, agree as follows:

1. Customer is entitled to market a product or products that contain Kyowa Ingredient(s) and entitled to display the Mark on the Marketing Material in connection with the marketing of the products.

2. Customer shall follow the "Kyowa Quality Brand Usage Guide" that will be forwarded as a separate document. Prior to placing the product and any Marketing Material displaying the Mark on the market, Customer must obtain from Kyowa a written approval for all Marketing Material displaying the Mark. Kyowa will review such Customer Marketing Material solely for the purpose of verifying correct

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usage of the Mark. Kyowa will not check whether the Customer Marketing Material and its content complies with applicable legal and official or other regulations; this remains solely the Customer's responsibility. However, Kyowa reserves the right to disapprove any Marketing Material that contains false or confusing statements related or referring to the Mark and/ or "Kyowa Ingredient(s)". All products and Marketing Material to be distributed and marketed by Customer shall display the Mark in a style approved by Kyowa and in accordance with the Kyowa Quality Brand Usage Guide.

3. Since Marketing Material is printed well in advance of use, Kyowa agrees to give Customer 180 days' notice of any and all changes to the usage of the Mark, and to required label and advertising statements, provided that Customer has complied with the obligations in accordance with art. 2 of this Agreement. The foregoing shall also apply, if any Mark is amended or replaced with a new Mark. In such case Exhibit B shall be adapted.

4. All rights, title, and interest in and to the Mark identified in Exhibit B and C shall remain the exclusive property of Kyowa Japan. Customer shall have no ownership rights to the Mark. Customer agrees that all trademark rights that may arise from its use of the Mark will inure to the benefit of Kyowa Japan.

5. Customer agrees to use the Mark only in connection with the marketing and distribution of products that incorporate "Kyowa Ingredient(s)", and further agrees not to use the Mark as part of Customer's trade or corporate name or to identify Customer's business or products. All products sold by Customer which contain a reference to the Mark shall display a house mark of Customer or product mark of Customer which is larger and more prominent in appearance than the Mark.

6. Customer agrees that all Marketing Material must correctly indicate the Kyowa Ingredient(s) used in a finished product with different or more components/substances, without possible errors and/or confusions. Customer shall display the Mark only for the purpose of the identification of Kyowa Ingredient(s) as mentioned in the Kyowa Quality Usage Guide. In addition, Customer shall assure full compliance with the following:

- a) The Mark can only be utilized in connection with Kyowa Ingredient(s) that are manufactured by Kyowa in the Yamaguchi Production Center (YPC), BioKyowa Inc. (BK) or Shanghai Kyowa Amino Acid Co., Ltd. (SK) or in such other manufacturing facility designated by Kyowa Japan.
- b) 100% of the Kyowa Ingredient(s) must be purchased from Kyowa.
- c) Kyowa Ingredient(s) in combination formulations must be further identified on Marketing Material as to which ingredients are "Kyowa Quality" ingredients. Example: L-Valine (Kyowa Quality®).

- d) Kyowa Ingredient(s) that have their own brand name should utilize their own brand(s) and not utilize the Mark in connection with such ingredients. These brands include: Cognizin®, Sustamine®, Setria®.
- e) Finished products bearing the Mark shall contain exactly the claimed amount/ quantity of Kyowa Ingredient(s) as indicated on the respective label and other Marketing Material.

7. Customer warrants that all products sold by Customer which contain a reference to the Mark shall be of good quality and comply with any and all relevant laws and regulations. Further, Customer warrants and shall assure that the Marketing Material referring to the Mark and/ or Kyowa Ingredient(s) does not include any false or confusing statement.

8. Customer shall attribute ownership of the Mark by using the following trademark attribution for all Marketing Material that bear the Mark: **“Kyowa Quality® and the KQ logo are registered trademarks of KYOWA HAKKO BIO CO., LTD.”** or such attribution as otherwise required by Kyowa.

9. This Agreement can be terminated by Kyowa or by Customer at any time, on written notice. Upon termination by either party, Customer shall immediately cease using the Mark on all Marketing Material in any format. Customer shall have three (3) months in which to dispose of inventory, of printed matter or literature, carrying the Mark, packaged and approved prior to the termination. Digital or electronic formats will be discontinued as of the date of termination. The three (3) month disposal period shall not apply if the termination was a result of a breach of this Agreement by Customer. In such case, all use must cease immediately.

10. Kyowa is not aware of any third-party rights which might preclude the registration and use of the trademark and/or the KQ logo in the Territory. No oppositions or requests for cancellation are pending. Furthermore, any warranty, guaranty or liability of Kyowa, its affiliates and subsidiaries, in case the use of the trademark and/or KQ logo in accordance with this Agreement infringes upon a third-party rights shall be excluded, unless caused by intent or gross negligence of Kyowa's management and / or vicarious agents.

With the exception of the foregoing, Customer shall indemnify Kyowa, its affiliates and subsidiaries, and their respective customers, employees and agents against any and all claims brought by virtue of the production, marketing, sale and distribution by Customer of any products and Marketing Material on which the Mark will appear. Customer should review relevant scientific data and make their own determinations regarding making specific claims for their formulations. Ultimately, the customer is responsible for any claims that they make on their product(s) and should review all claims with their legal counsel.

11. This Agreement shall be governed by Italian law.

12. This Agreement is non-exclusive and extends only to the territory of the countries listed in Exhibit A and does not give Customer any rights or create any obligations by Kyowa as to use of the Mark, outside of such territory. Customer is not entitled to assign, sublicense or otherwise transfer this right to any third party, including his affiliates.

13. Any alteration or supplement to this agreement, including this provision, is ineffective unless made in writing.

If the above points are acceptable please sign this Agreement and return it to us electronically (by email or fax) for countersignature. If hard copies are requested, please sign and return two original documents to us by post.

Kyowa Hakko Bio Italia S.r.l.

By: 

Name: Shin Takeuchi

Title: Strategy Manager

Date: 29/01/2020

CUSTOMER "Nutrisystem S.r.l."

By: 

Name: Roberto Vaselli

Title: Amministratore Unico

Date: 29/01/2020

EXHIBIT A

Territory

USA
European Union
Mexico
Switzerland
Macedonia
Georgia
Belarussia
Ukraine
Russia
Philippines
Malaysia
Vietnam
Taiwan
Japan
Korea
UAE
Australia

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EXHIBIT B

1. Identification of Kyowa Ingredient(s) in the Nutritional Profile, Supplements Facts or other ingredient lists:

Example: L-Valine (Kyowa Quality®)

2. Horizontal Version Logo



* Kyowa Quality® and the KQ Logo are registered trademarks of KYOWA HAKKO BIO CO., LTD.

3. Vertical Version Logo



* Kyowa Quality® and the KQ logo are registered trademarks of KYOWA HAKKO BIO CO., LTD.

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