

## AGREEMENT

**THIS AGREEMENT** (this “**Agreement**”) is entered into as of the 1<sup>st</sup> day of December, 2016 (“**Effective Date**”), by and between the Union of Orthodox Jewish Congregations of America, Kashruth Division (the “**OU**”), and WW Mexicana S.A. de C.V. (the “**Company**”). OU and the Company shall each also hereinafter be referred to, individually, as a “**Party**” and, collectively, as the “**Parties.**”

### RECITALS:

**WHEREAS**, among other things, the OU performs Kosher (as defined below) certification throughout the world, and is the exclusive owner of the OU Certification Mark (the “**OU Symbol**”), a registered trademark with the U.S. Patent and Trademark Office; and

**WHEREAS**, in connection with its Kosher certification activities, the OU, among other things, inspects, supervises and certifies as Kosher products produced, manufactured, packaged, labeled, or otherwise processed in food processing facilities (the “**OU Services**”); and

**WHEREAS**, the OU and the Company desire for the OU to provide the OU Services to the Company with respect to the Products (as defined below), all in accordance with the terms and subject to the conditions set forth herein.

**NOW, THEREFORE**, in consideration of the premises and covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

#### **I. Certification of Products.**

**(A) Certification.** During the Term (as defined in Section VI), and subject to the terms and conditions set forth herein, the OU hereby agrees that each of the products of the Company listed on Schedule B attached hereto and incorporated herein by reference (each, a “**Product**,” and, collectively, the “**Products**”) shall be eligible for Certification (as defined below). If a Company has more than one Plant, each Plant shall have its own exclusive Schedule B.

For purposes of this Agreement, (1) “**Certification**” shall mean (a) the issuance of a written statement by the OU to the Company, following the OU’s receipt of a written request from the Company and following completion by the OU of the OU Services, that a Product is certified as Kosher by the OU, and (b) the Company and the OU entering into this Agreement, and (2) “**Kosher**” shall mean that a Product complies with the kosher dietary laws, restrictions and regulations, as determined by the OU in its sole discretion.

**(B) Certification Requirements.** In connection with, and as a condition to obtain and maintain, the Certification:

**(1) Production Location.** The Company shall produce, manufacture, process, package and label each Product only at the plant(s) listed on Schedule C attached hereto and incorporated herein by reference (each, a “**Plant**,” and, collectively, the “**Plants**”), and the Company shall not cause or permit any product that is identical or similar to such Product (each, a “**Similar Product**”) to be produced, manufactured, processed, packaged, or labeled at any other plant(s), whether or not such product bears the OU Symbol, without first obtaining the prior written consent of the OU. For the avoidance of doubt, a product with two different labels or brand names shall be considered a Similar Product.

#### **(2) Ingredients.**

**(a)** The Company shall not use or store any ingredient in a Plant, whether or not such ingredient is used in a Product or is used for research and development, unless (i) such ingredient is listed on Schedule A attached hereto, which is hereby incorporated herein by reference (each, an “**Ingredient**,” and, collectively, the “**Ingredients**”), or (ii) the Company has obtained the prior written consent of the OU to store or use

ingredients that are not listed on Schedule A at such Plant, which consent may be granted or withheld in the OU's sole discretion. If Company has more than one Plant, each Plant shall have its own exclusive Schedule A.

(b) The Company shall implement procedures with Plant personnel, which such procedures shall be reasonably acceptable to the OU, to assure that only Ingredients listed on Schedule A are being used or stored at a Plant. The Company shall regularly update the OU with the then-current list of the name(s) of the persons(s) responsible for such compliance.

(c) The Company shall immediately notify the OU in writing of any change to an Ingredient or if an Ingredient is discontinued from use in a Plant.

(d) The OU shall be the sole and exclusive arbiter of whether an ingredient is Kosher. If the OU determines, in its sole discretion, that an ingredient previously approved for use in a Product is no longer Kosher, or is no longer acceptable to the OU for any reason, the OU shall provide prompt notice of such determination to the Company, and the Company shall immediately discontinue use of that ingredient in any Product which carries the OU Certification.

**(3) Use of the OU Symbol.**

(a) The Company may not use the OU Symbol in any manner or on any label of a Product except under the terms and conditions, and in accordance with the procedures, set forth in this Agreement.

(b) The Company shall provide the OU with a proof for each Product label before such label is printed for use with or on a Product. Within [thirty (30)] days following the OU's receipt of a label proof, the OU shall notify the Company whether such label is approved (if approved, such approved label, the "**Approved Label**"). If the Product for which the label proof has been submitted has already been approved by the OU for Certification, the OU shall not unreasonably withhold its approval of such label proof. The Company (i) shall not make any material changes to an Approved Label without first obtaining the prior written consent of the OU, and (ii) shall notify the OU of any change in the name of a Product no later than twenty (20) calendar days prior to the effective date of such name change.

(c) The OU shall not provide Certification for any Product, unless (i) the OU Symbol appears on the Product package, label, or container, along with the name of the Product, and (ii) the specific word or letter listed on Schedule B, such as "D," "Dairy," "Fish," or "Meat," if applicable, appears next to the OU Symbol, however, if the Schedule B specifies that a Product is "Pareve", the word "Pareve" does not need to appear on the package, label or container. If the Company wishes to include the Pareve designation, the word Pareve must be spelled out in its entirety and may not be abbreviated. The use of an OU Symbol that does not comply to this Section I(B)(3)(c) shall be considered a violation of this Agreement and shall be subject to the provisions of Section VII hereof.

(d) The OU Symbol shall be part of the printed Approved Label. The OU Symbol shall not be placed on a label using a rubber stamp, ink-jet, or adhesive sticker unless the Company obtains the prior written consent of the OU.

(e) The OU Symbol shall be the only kosher certification that appears on the label of a Product, unless the Company obtains the prior written consent of the OU. No logo, emblem, symbol, or message from any other kosher supervising person or entity shall appear on any part of the product label of a Product.

(f) Containers of a Product bearing the OU Symbol shall not contain any food in addition to such Product, such as a promotional insert, even if such food is separately wrapped, unless the Company obtains the prior written consent of the OU.

(g) In the absence of obtaining the prior written consent of the OU, the OU Symbol may not be used on a label of a container that can be re-used for other products.

(h) The Company shall maintain an organized, current and accurate record of all labels used in a Plant.

**(4) Production Procedures.** With respect to each Product, the Company shall comply with each of the production procedures listed on Schedule D attached hereto and incorporated herein by reference (each, a “**Production Procedure**”). The Company shall immediately notify the OU in writing (a) if the Company ceases to produce or manufacture any Product, (b) if any material error occurs with respect to the packaging materials, labeling, product name, brand or label name, ingredient statement, or the OU Symbol, (c) in advance, if the Company becomes aware that it will not be able to comply with any Production Procedure for any reason, and/or (d) if the Company fails to comply with any Production Procedure for any reason.

**(5) Unused Labels.** The Company shall not remove unused labels and/or packaging materials bearing the OU Symbol from a Plant without first obtaining the prior written consent of the OU; provided, however, that upon termination of this Agreement in accordance with Section VI, all unused labels and packaging materials bearing the OU Symbol shall be, at the OU’s option, immediately (a) transferred to a new plant which has been certified by the OU, (b) destroyed, or the OU Symbol immediately excised therefrom, in each instance, in the presence of OU Representatives (as defined in Section IV below), or (c) remitted to the OU. The Company hereby agrees to pay the reasonable fees and expenses of the OU for the supervision of the Company’s compliance with this Section I(B)(5) by OU Representatives.

**(6) Annual Certification Fee.** The Company shall pay to the OU the Annual Certification Fee (as defined in Section II) in accordance with Section II.

**(7) Actions.** The Company, at its own expense, shall take any and all actions reasonably required by the OU in connection with obtaining and/or maintaining a Certification.

**(8) Private Label Products.** Certification of Private Label (as defined below) products shall be governed by a separate private label agreement among the OU, the Company and the applicable private label/distribution company. For purposes of this Agreement, “**Private Label**” shall mean a label or brand name that is not owned or controlled by the Company (e.g., a label that the Company uses pursuant to a licensing agreement).

**(9) No Passover Use.** The Certifications contemplated by this Agreement do not include Certifications of the Products for Passover use. Certification of a Product for use on Passover requires a separate agreement between the Company and the OU.

## **II. Fees and Expenses.**

**(A) Annual Certification Fee.** The Company agrees to timely and fully pay to the OU an annual certification fee (the “Annual Certification Fee”) for each year during the Term. The first Annual Certification Fee shall be payable by the Company to the OU on the Effective Date for the period beginning on the Effective Date and ending on the first anniversary of the Effective Date. Thereafter, for each subsequent year during the Term, the Annual Certification Fee shall be paid by the Company to the OU, in full and in advance, at least fifteen (15) days prior to the beginning of each such subsequent year during the Term. The Annual Certification Fee for the initial year during the Term shall be specified in the Schedule C, and shall be paid to the OU in United States Dollars (USD). To the extent that Company shall be required to withhold taxes from any fee or expenses payable to the OU, the amount of such fee or expense shall be increased so that the amount actually remitted to the OU shall equal the amount stated on such invoice from the OU. The amount of the Annual Certification Fee for subsequent years during the Term shall be subject to adjustments by the OU, in its sole discretion. The OU shall attempt to notify the Company of the amount of the Annual Certification Fee for each subsequent year during the Term at least thirty (30) days prior to the beginning of each such subsequent year.

**(B) Other Fees and Expenses.** The Company may be subject to additional fees in addition to the Annual Certification Fee, such as special production fees, Passover certification fees, private label fees, and other fees and expenses referenced herein or contemplated hereby. The Company also shall pay the reasonable travel expenses of the OU Representative(s) in the event that an administrative visit or review by the OU is required or appropriate or as otherwise contemplated hereby. All fees and expenses payable by the Company to the OU hereunder, other than the Annual Certification Fee, shall be paid by the Company to the OU within twenty (20) calendar days following the Company's receipt of an invoice from the OU with respect to such fees and expenses.

**III. Confidentiality.** Except as may otherwise be required by law, the OU shall not disclose to, or use for the benefit of, any other person or entity any trade secrets, formulae or secret processes used or employed by the Company in the connection of the manufacture of a Product (such information, "**Confidential Information**"). The fact of certification of a Product by the OU shall not be deemed Confidential Information, and, in the absence of a written agreement prohibiting such disclosure, the OU may disclose publicly whether a Product and/or a product is or is not certified as Kosher by the OU.

**IV. Inspection and Records.** Representatives of the OU (the "**OU Representatives**") shall be permitted to enter into and to inspect the operations of each Plant at all times during regular business hours and at all times that such Plant is in operation, without prior notification to the Company. The Company shall provide the OU Representatives with access to any and all documents relevant to the Kosher status of a Product, including, without limitation, production records, formula cards, batch sheets, invoices for ingredients and access to personnel involved with research and development of products and ingredients. The Company shall also (A) provide the OU Representatives with reasonable access to governmental regulatory documents related to Plant operations, (B) permit the OU to make copies of such information as shall be reasonably necessary or convenient, as determined by the OU, in its sole discretion, in order for the OU to properly certify the Products, and (C) provide the OU Representatives with adequate instructions pertaining to the safety of the OU Representatives in connection with the inspection of a Plant. The Company shall obtain the prior written consent of the OU before permitting any person or entity (other than an OU Representative) to inspect a Plant in order to determine compliance with Kosher laws.

**V. Indemnification and Limitation of Liability.**

**(A)** The Company hereby agrees to indemnify and hold the OU (and the OU's directors, officers, employees, stockholders, principals, managers, members, partners, agents and representatives) (each, an "**Indemnified Party**") harmless from and against any demands, claims, losses, costs, damages, liabilities, penalties, fines and expenses (including court costs and reasonable fees of attorneys and other professionals) arising out of, relating to, or resulting from (1) the OU's Certification of any Product of the Company as Kosher, (2) the Company's breach or violation of any of the Company's representations, warranties, covenants, obligations, conditions, and/or requirements hereunder, (3) the Company's breach or violation of any of the OU's rules or regulations regarding operations or certifications, (4) any unauthorized actions, omissions, or violations of laws, rules, or regulations under federal, state, or local law (including, without limitation, with respect to health, sanitation and manufacturing), and/or (5) any Product, including, without limitation, the safety of such Product and/or any effect that such Product may have or may have had on the physical and/or mental health of any person, whether related to or resulting from the certification of such Product by the OU or otherwise.

**(B)** Promptly after receipt by an Indemnified Party of notice of the commencement of any action, such Indemnified Party shall, if a claim for indemnification in respect thereof is to be made against the Company, deliver to the Company written notice of the commencement thereof, and the Company shall have the right to assume and manage the defense thereof (with counsel reasonably satisfactory to the OU), including the right to settle, compromise and/or litigate with respect to any such claim (but only after obtaining the OU's and such Indemnified Party's prior written consent with respect to any proposed settlement, compromise or litigation).

**(C)** In no event and under no circumstances shall the OU be liable to the Company for any damages, including, without limitation, direct, special, incidental, indirect, punitive or consequential damages, loss of use of capital, lost profits, lost revenues, commissions, or compensation of any kind, whether or not such damages were foreseeable or in

any way arising out of, related to, or resulting from this Agreement (including, without limitation, any claim of activity incident to (1) the OU's provision, non-provision or termination of Kosher Certification for a Product, Plant or Ingredient of the Company, (2) the OU's taking of any action under, pursuant to or in connection with this Agreement, including, without limitation, Article VII hereof, (3) any determination or decision made by the OU under, pursuant to or in connection with this Agreement, or (4) the OU's termination of this Agreement (for any reason).

## **VI. Term; Termination.**

(A) Subject to this Section VI, the term (the "**Term**") of this Agreement shall commence on the Effective Date and shall terminate on the 30<sup>th</sup> day of November, 2017 (the "**Initial Termination Date**"); provided, however, that this Agreement shall be renewed and extended automatically for a period of one (1) additional year following the Initial Termination Date, unless a Party terminates this Agreement upon at least thirty (30) calendar days written notice to the other Party prior to the Initial Termination Date.

(B) Notwithstanding Section VI(A) above, the OU, in its sole discretion, may terminate this Agreement immediately upon written notice to the Company in the event:

- (1) The Company ceases to produce or manufacture a Product or closes a Plant;
- (2) The Company fails to perform or observe any of its covenants, obligations, conditions, or requirements under this Agreement, and, to the extent that, in the OU's sole discretion, any such failure can be cured, such failure continues for more than five (5) calendar days after the OU notifies the Company of such failure;
- (3) Notwithstanding Section VI(B)(2) above, with respect to any Product, Plant (including, without limitation, any of the equipment contained in any such Plant) or Ingredient, the Company violates or breaches, or fails to observe, any kosher dietary laws, restrictions and regulations, as determined by the OU in its sole discretion;
- (4) Any representation or warranty made or furnished by the Company in connection with this Agreement shall be false, incorrect, incomplete, or misleading when made or furnished;
- (5) The Company commits any act of fraud or dishonesty or other misrepresentation with respect to its business or in connection with its performance under this Agreement (as determined by the OU in its sole discretion), or the OU determines, in its sole discretion, that termination of this Agreement is in the best interests of the OU; or
- (6) The Company (and/or any of its directors or officers) (a) is accused of, or enters a plea of guilty or *nolo contendere* to, any felony, or to any misdemeanor involving dishonesty or moral turpitude, (b) violates any law, rule or regulation under federal, state or local law (including, without limitation, with respect to health, sanitation and manufacturing), (c) violates the policies and/or procedures of the OU, or (d) takes any action, or omits to take any action, that results in the OU determining, in its sole discretion, that termination of this Agreement is in the best interests of the OU.

(C) The Company may not use the OU Symbol on any Product, advertisement, or otherwise, after the termination of this Agreement.

## **(D)**

(1) Termination or expiration of this Agreement for any reason shall be without prejudice to any rights that shall have accrued to the benefit of any Party prior to such termination or expiration. Such termination or expiration shall not relieve any Party from obligations which survive termination of this Agreement.

(2) If this Agreement is terminated for any reason, all of the Parties' rights and obligations under, and/or the

provisions contained in, Sections I(B)(5), II, III, V, VI(D), VII, VIII, IX and X shall survive the termination or expiration of this Agreement.

## **VII. Violations.**

(A) Upon the Company's breach or violation of any of the terms or conditions of this Agreement, as determined by the OU in its sole discretion, the OU shall have the right to demand, and the Company agrees to implement and/or take, without limitation, one or more of the following remedies and/or actions, among others (as directed by the OU):

- (1) Kosherization of affected equipment in a Plant, to be performed under the supervision of OU Representatives;
- (2) Increased supervision by the OU for a probationary period deemed proper by the OU;
- (3) Immediate removal of unapproved ingredients from a Plant;
- (4) Immediate recall of a product from the market;
- (5) Notices to be drafted by the OU to be published, at the Company's expense, in newspapers, magazines and other media and/or distributed by the OU notifying the public of the non-approved status of a Product, with a maximum cost to the Company of \$5,000.00; and/or
- (6) Termination of this Agreement, and destruction of all packaging material in accordance with Section I(B)(5).

(B) Upon the Company's breach or violation of any of the terms or conditions of this Agreement, as determined solely by the OU in its sole discretion, the Company, at its own expense, shall fully cooperate with the OU and take any and all actions reasonably required by the OU to cure or remedy such breach or violation.

(C) The Company agrees and acknowledges that the remedies and/or actions required to be implemented and/or taken by the Company pursuant to this Section VII are reasonable and necessary, and are without prejudice to other actions the OU is permitted to take in the event of a breach of this Agreement or a breach of OU rules or regulations pursuant to this Agreement.

**VIII. Unauthorized Use of the OU Symbol; Liquidated Damages.** If, at any time, the Company (A) uses or displays the OU Symbol in an unauthorized manner or on any label of a product of the Company that is not permitted by the terms and provisions of this Agreement, and/or (B) is not in strict compliance with Section I(B)(5) of this Agreement, the Company hereby agrees to pay to the OU, as liquidated damages, \$750.00 for each day that the Company uses or displays the OU Symbol in such unauthorized manner or fails to strictly comply with Section I(B)(5). The Company hereby agrees that the \$750.00 per day payment amount is (1) a reasonable estimate of the damages that the OU will likely sustain as a result of the Company's unauthorized use or failure of strict compliance, and (2) not intended to constitute a penalty for any purpose. In accordance with Section X(E), the OU's exercise and/or enforcement of any of its rights set forth in this Section VIII shall not preclude and/or prejudice any other rights and/or remedies (in law and/or in equity) that the OU may have in the event that any provision of this Agreement was not performed in accordance with its specific terms or was otherwise breached by the Company.

## **IX. Adding and Removing Products, Plants and Ingredients.**

### **(A) Products.**

(1) **Adding Products.** In the event the Company desires to add a product to Schedule B, the Company shall submit a Product Approval Request Form, substantially in the form attached hereto as Exhibit A (each, a "**Product Approval Request Form**"), to the OU for its consideration. The OU shall either initiate a process

to review and inspect the product, its ingredients and manufacturing process, or determine, in its sole discretion, whether such product is Kosher and whether such product shall be added to Schedule B and become a Product hereunder. If the OU determines, in its sole discretion, that such product is Kosher and shall be added to Schedule B and become a Product hereunder, then the Parties shall amend Schedule B to include such product.

**(2) Removing Products.**

**(1) OU.** The OU has the right, in its sole discretion, to amend Schedule A to remove a Product in the event that (a) such Product is no longer Kosher, as determined by the OU, in its sole discretion, (b) such Product is discontinued, or (c) the product label for such Product does not properly display the OU Symbol. In the event of such amendment, the OU shall promptly notify the Company, in writing.

**(2) Company.** In the event that the Company desires to remove a Product listed on Schedule B, the Company shall submit a Product Termination Form, substantially in the form attached hereto as Exhibit B (each, a “**Product Termination Form**”), to the OU. The Company shall have the right to submit a Product Termination Form to the OU with respect to any Product in the event that (a) such Product is no longer kosher, (b) such Product is discontinued, (c) the product label for such Product no longer properly displays the OU Symbol, or (d) the Company no longer desires for the product label for such Product to display the OU Symbol.

**(B) Plants.**

**(1) Adding Plants.** In the event the Company desires to add a plant to Schedule C, the Company shall submit an Application for Kosher Certification Form, substantially in the form attached hereto as Exhibit C (each, an “**Application for Kosher Certification Form**”), to the OU for its consideration. The OU shall determine, in its sole discretion, whether such plant shall be visited, reviewed, analyzed and processed for certification. If the OU determines, in its sole discretion, that such plant shall be added to Schedule C and become a Plant hereunder, then the Parties shall amend Schedule C to include such plant.

**(2) Removing Plants.** In the event that the Company desires to remove/terminate a Plant from Schedule C, the Company shall notify the OU in writing via the submission of a Termination Form, substantially in the form attached hereto as Exhibit D (each a “**Termination Form**”). This form shall be submitted no less than 20 days prior to the effective termination date.

**(C) Ingredients.**

**(1) Adding Ingredients.** In the event the Company desires to add an Ingredient to Schedule A, the Company shall submit a Request for Ingredient Approval Form, substantially in the form attached hereto as Exhibit E (each, a “**Request for Ingredient Approval Form**”), to the OU for its consideration. The OU shall determine, in its sole discretion, whether such ingredient shall be added to Schedule A and become an Ingredient hereunder. If the OU determines, in its sole discretion, that such ingredient shall be added to Schedule A and become an Ingredient hereunder, then the Parties shall amend Schedule A to include such ingredient.

**(2) Removing Ingredients.** The OU has the right, in its sole discretion, to unilaterally amend Schedule A to remove an Ingredient in the event that such Ingredient is no longer Kosher, as determined by the OU, in its sole discretion. In the event of such amendment, the OU shall promptly notify the Company, in writing.

**X. Miscellaneous.**

**(A) Representations and Warranties.** The Company hereby represents and warrants to the OU that, as of the Effective Date as follows:

(1) The Company has all requisite power and authority to execute this Agreement and perform the Company's obligations hereunder.

(2) This Agreement constitutes a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

**(B) Governing Law; Venue.**

(1) **Governing Law.** This Agreement is deemed to be executed and delivered in the State of New York and shall be construed and enforced in accordance with the laws and decisions of the State of New York applicable to contracts made and performed entirely within the State of New York, without regard to the State of New York's conflicts of law provisions.

(2) **Venue.** Each Party unconditionally and irrevocably submits to and accepts the exclusive jurisdiction of any state or federal court of competent jurisdiction located in the County, State of New York or the City of New York for the purposes of any suit, action or other proceeding between the Parties, whether arising out of, related to, or resulting from this Agreement or otherwise. Each Party further unconditionally and irrevocably waives any objections, including improper venue or based on the grounds of forum non conveniens, which it may have to the bringing of any action, suit or proceeding between the Parties, whether arising out of, related to, or resulting from this Agreement or otherwise, in any state or federal courts located in the County, State of New York or the City of New York, and hereby further and unconditionally and irrevocably waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient or inappropriate forum.

(C) **Waiver; Amendment.** The failure of any Party to insist upon strict performance of any of the terms or provisions of this Agreement shall not be construed as a waiver or relinquishment for the future of any such terms or provisions. Rather such terms or provisions shall continue and remain in full force and effect. No waiver shall be deemed to have been made unless the waiver is made in writing and is signed by the Party making the waiver. Except as otherwise provided in this Agreement (including, without limitation, pursuant to Section IX), this Agreement (including the Schedules and Exhibits attached hereto and incorporated herein by reference) may only be amended or modified by a written instrument signed by each of the OU and the Company.

(D) **Severability.** If any portion of this Agreement shall be declared invalid by any order, decree or judgment of a court having jurisdiction over the Parties and/or the subject matter of this Agreement, this Agreement shall be construed as if such portion had not been inserted herein except when construction under those circumstances would operate as an undue hardship on any Party or constitute a substantial deviation from the general intent and purpose of the Parties as reflected in this Agreement.

(E) **Injunctions.** The Company agrees and acknowledges that irreparable damage will occur to the OU in the event that any of the provisions of this Agreement are not performed in accordance with the specific terms of this Agreement or in the event any material terms of this Agreement are breached by the Company. In the event of any such deficiency in the performance of the provisions of this Agreement or any such breach by the Company, the Company agrees that the OU shall be entitled to an injunction to prevent such deficiencies in performance or such breaches and to enforce the terms and provisions of this Agreement in any court of competent jurisdiction, such remedy being in addition to any other remedy to which the OU may be entitled at law or in equity.

(F) **Attorneys Fees.** Notwithstanding any other provision contained herein or in any other document to the contrary, the Company shall pay all costs, fees and expenses, including attorneys' fees, incurred by the OU (1) in enforcing or implementing its rights and/or remedies under this Agreement, and/or (2) in connection with any litigation or dispute between the Parties arising out of, related to, or resulting from this Agreement.

(G) **Headings.** The headings of Sections are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of the Sections nor in any way affect this Agreement.



**(H) Assignment.** The Company's rights and obligations hereunder may not be assigned by the Company without the prior written consent of the OU, which consent shall not be unreasonably conditioned, withheld, or delayed.

**(I) Relationship of Parties.** No Party is, and no Party shall hold itself out as, an agent, legal representative, partner, subsidiary, joint venturer or employee, of another Party. No Party shall bind or obligate, or attempt to bind or obligate, another Party in any way or manner, nor shall any Party represent that it has any right to do so.

**(J) Symbols; Press Releases.**

(1) Except as otherwise provided for in this Agreement (including Section X(J)(2) below), without the prior written consent of the OU, the Company may not (a) use the names, logos, emblems, symbols, trademarks, service marks and copyright rights of the OU, and/or (b) engage in any advertising; press release or other public communications; web site or internet marketing; electronic mail solicitation or marketing; or direct mail or facsimile transmission or telemarketing campaigns (collectively, "**Advertisement**"), which refer to or mention the OU, the OU Certification, or the OU Symbol.

(2) Notwithstanding Section X(J)(1) above, so long as the Company is in compliance with the terms and conditions of this Agreement, (a) the OU Symbol may appear in the Company's Advertisement of a Product if the Advertisement includes a picture, photo, drawing or other likeness of the packaging of such Product and the OU Symbol is displayed, as it typically and normally appears, on such packaging, and (b) the Company may make reference in its Advertisements of a Product that such Product has OU Certification so long as the Company only states that the Product is "certified as kosher by the OU."

**(K) Notices.** Any notices required or permitted hereunder shall be given to the appropriate Party at the address specified on the signature page hereto or at such other address as the Party shall specify in writing. Such notice shall be deemed given upon personal delivery to the appropriate address, one (1) business day after dispatch if sent by a nationally recognized courier or overnight delivery service, on the date of dispatch if sent by facsimile for which confirmation of transmission is provided, or, if sent by certified or registered mail, three (3) business days after the date of mailing.

**(L) Entire Agreement.** This Agreement (including the Schedules and Exhibits attached hereto and incorporated herein by reference) sets forth the entire agreement among the Parties, and supercedes any other agreements between the Parties with respect to the terms hereof. Any and all preliminary discussions, negotiations, documents and agreements of every kind between the Parties are superseded hereby and of no further force or effect.

**(M) Counterparts.** This Agreement may be executed in any number of counterparts, all of which when taken together shall constitute one original Agreement, and in the event that any signature is delivered by facsimile transmission, such signature shall create a valid and binding obligation of the Party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile signature page were an original thereof.

**[Signatures appear on the following page]**

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

“**OU**”

**UNION OF ORTHODOX JEWISH CONGREGATIONS OF AMERICA,  
KASHRUTH DIVISION**

By: \_\_\_\_\_  
Title: Rabbinic Administrator

By: \_\_\_\_\_  
Title: Director, New Companies Department

By: \_\_\_\_\_  
Title: Rabbinic Coordinator  
Name: Rabbi Yitzchok Gutterman

By: \_\_\_\_\_  
Title: Joint Kashruth Commission  
Address: 11 Broadway, New York, NY 10004  
Phone Number: (212) 563-4000

“**COMPANY**”

**WW MEXICANA S.A. DE C.V.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_

## Schedules and Exhibits

### SCHEDULES

Schedule A – Ingredients

Schedule B – Products

Schedule C – Plants

Schedule D – Production Procedures

### EXHIBITS

Exhibit A – Product Approval Request Form

Exhibit B – Product Termination Form

Exhibit C – Application for Kosher Certification Form

Exhibit D – Termination Form

Exhibit E – Request for Ingredient Approval Form

**Schedule A**

Company: WW Mexicana S.A. de C.V.  
 Plant: El Diablito-Tepeztlán

Contact Name: Mr. Tony Naumann  
 Contact Phone: (832) 538-9122  
 Contact Email: eldiablitoomezcal@gmail.com

Rabbinical Coordinator: Gutterman, Evan  
 Designated RFR: N/A  
 Plant Status: Pending

Plant Location: La Presa No. 16  
 Tepoztlán, 62520 MEXICO

**GROUP 1:** Currently Approved from any source.

**GROUP 2:** From specified Source .

**GROUP 3:** From specified Source with Kosher Symbol on

**GROUP 4:** Bulk liquid (in tanker, etc.) - from specified Source only. Documentation on last three loads or separate kosher certificate for delivery vehic

**GROUP 5:** Bulk liquid (in tanker, etc.) - from specified source with Certificate of Rabbi who supervised loading.

**GROUP 6:** Non-Kosher - for use in non-kosher products and only as per OU instructions.

NOTE: No ingredient of any group which is of Israeli origin may be used unless this Schedule A specifically states "Israeli Origin".

**STATUS**

Approved: Approved for use in certified products  
 Pending: Ingredient is pending approval

Allowed: Allowed in plant, but NOT approved for use in certified products  
 Not Allowed: Ingredient is NOT ALLOWED in plant

RMC (Raw Material Code)	Ingredient Name	Source	Brand Name	Group	Certification	Plant-Status
	Agave Fruit, Syrup, Nectar	** ANY SOURCE ***		1	Passover	Approved-Pareve
	Caramel Color Liquid	Pure, no additives.	** ANY SOURCE ***	1	N	Approved-Pareve
	Color Caramelo	No additives.	Acelites y Esencias S.A	2	Maguen David	Approved-Pareve
	Extracto Roble (Encino)	Acelites y Esencias S.A	Acelites y Esencias S.A	2	Maguen David	Approved-Pareve
	Water	** ANY SOURCE ***	** ANY SOURCE ***	1	N	Approved-Pareve
	Yeast	El Diablito	El Diablito	2	Y	Approved-Pareve

Additional ingredients:

Plant Total: 6

## Schedule B

Company: **WW Mexicana S.A. de C.V.**  
 Plant: **El Diablito-Tepoztlán**  
 Plant Location: La Presa No. 16  
 Tepoztlán 62520 MEXICO

Certification through: **Mr. Tony Naumann**  
 Contact Name: (832) 538-9122  
 Contact Phone: eldiablitoomezcal@gmail.com  
 Contact Email: **Company Status: Pending**  
**Plant Status: Pending**  
 Rabbinical Coordinator: **Guterman, Eyan**  
 Rabbinic Supervisor(s): **N/A**

GROUP 2: Does not require certified symbol.  
 GROUP 3: Certified when bearing OU symbol.  
 GROUP 4: Certified when bulk shipped in OU approved carriers.  
 GROUP 5: Product is shipped bulk and approved when transported in OU approved carriers.  
 It must be accompanied by a letter with the field Rabbi's signature.  
 NOTE: All comments appearing beneath the product apply to every brand subsequently listed.

LIST Y: The product is listed on OUkosher.org and UKD.  
 LIST N: The product is not listed on OUkosher.org and UKD.  
 LIST U: The product is listed on UKD only.

Product	In-House Label Private Label	(Distributor)	UKD-ID	Status	Symbol	Group	Consumer/ Industrial	List	Comment
Mezcal Blanco Premium	El Diablito		OUV3--A9B958C	Pareve	OU	3	C		

**Schedule C**

**Plants**

El Diablito-Tepoztlán  
La Presa No. 16  
Tepoztlán, 62520 MEXICO

The Company will pay an initial Annual Certification Fee of: \$3,500

## **Schedule D**

### **Production Procedures**

1. The Company affirms and agrees not to use any ingredient unless it is classified as ‘approved’ on the Schedule A (a list of all ingredients found in the facility).
2. The Company affirms and agrees not to place the “®” trademark on any product unless the product is listed on the Schedule B (a list of all certified products made in the facility).
3. The Company affirms and agrees to contact the OU Office in New York for authorization before the Company uses an ingredient that is not on the Schedule A list.
4. The Company affirms and agrees to contact OU’s New York office for authorization before the Plant places the ® trademark on a product that is not on the Schedule B list.
5. The Company affirms and agrees to inform the purchasing staff that all ingredients must conform to the Schedule A.
6. The Company affirms and agrees to inform the personnel in charge of labeling that all certified products must conform to the Schedule B.

# Orthodox Union

## KASHRUTH DIVISION

### Request For New Product Approval

Date: \_\_\_\_\_

Use the Name of the Company as it is known to the OU:

Company: \_\_\_\_\_

Telephone: \_\_\_\_\_

Contact: \_\_\_\_\_

Rabbinic Coordinator: \_\_\_\_\_

Is approval requested for all OU certified plants? Yes  No

If NO, please specify below where Product is to be manufactured:

Plant: \_\_\_\_\_ City/state: \_\_\_\_\_

Plant: \_\_\_\_\_ City/state: \_\_\_\_\_

Plant: \_\_\_\_\_ City/state: \_\_\_\_\_

Give the Name of the Product and Brand name exactly as it appears on the label. Any Number that is part of the product name must be included. Include a copy or mock-up of the label.

Product: \_\_\_\_\_

Brand Name: \_\_\_\_\_

Nature of Product: \_\_\_\_\_

Consumer  Industrial

Product is to be: Packaged  Bulk Shipped  Both

Should Product be listed in: UDB (OU Universal Database)  OU kosher website  Neither

**Note:**

- (1) All ingredients should be listed on an accompanying R.I.A. (Request for Ingredient Approval). Any ingredients that have been previously approved should be indicated with an asterisk.
- (2) If the Product is to be manufactured for Private Label, please include a Request for Private Label Authorization form.

### FOR OU OFFICE USE ONLY

Rabbinic Coordinator: \_\_\_\_\_ Signature: \_\_\_\_\_

Product is approved: Yes  No  Requires Rabbis signature  Group #:

Status of Product: Pareve  Dairy  Meat  Fish

Passover Symbol  Certified for Passover  Rabbi Singer signature: \_\_\_\_\_



# Orthodox Union

## KASHRUTH DIVISION

### Product Termination Form

*This form must be submitted upon termination of any OU certified product.*

Use the Company name as it is known by the OU

Rabbinic Coordinator

Certified Company Name:

Account #

City/State:

Contact:

Telephone:

Are listed product(s) to be discontinued at all of your OU certified plants? Yes  No  If NO, please list in which Plants

Product is to be discontinued:

Plant Name

City/State

Plant Name

City/State

Plant Name

City/State

State the name of the product and brand to be discontinued. (Alternatively, a Schedule B (Product Listing) may be attached with the appropriate product/brand crossed off.)

Product Name:

Brand Name(s):

Unused Labels bearing the OU will be:  Destroyed  Used up  Other (Please detail)

Reason for termination:

\*\*You must specify the last date of OU certified production:

\*\*What is the last Lot#/Code on the OU certified label if the production date is not on the label?

Signature

Date

#### FOR OU OFFICE USE ONLY

Add a Comment to appear on Schedule B Only  Schedule A&B

Is this product being replaced by another OU certified product, If yes please provide the designated product UKD-ID

Other comments

RC Signature

Date



# APPLICATION FOR KOSHER CERTIFICATION ORTHODOX UNION - KASHRUTH DIVISION

11 Broadway ♦ New York, NY 10004

Phone#: 212-613-8249 ♦ Fax: 212-613-0749 -E-mail: [newapp@ou.org](mailto:newapp@ou.org) ♦ <http://www.oukosher.org/>

Date:

COMPANY NAME:

Address:

City:

State:

Zip:

Country:

**Note:** *This form is intended for applications of non-Certified Plants  
Please complete a separate Plant application for each facility.*

PLANT NAME:

Address:

City:

State:

Zip:

Country:

Phone:

Toll Free( ):

Fax:

Plant Contact:

Title:

Phone:

E-mail:

Alternate Contact:

Title:

Phone:

E-mail:

R&D Contact:

E-mail:

If the facility is not located in a major city, please indicate the closest major city and the distance to the facility:

*To continue your application process, need New Products and/ or Ingredients approval please complete the corresponding Product and/or Ingredient request forms.*

Describe all the manufacturing process(es) in the facility:

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**FOREIGN APPLICANTS: PLEASE PROVIDE INFORMATION FOR A US OFFICE AND/ OR CONTACT WHERE AVAILABLE.** Name: Phone:

FOR INTERNAL USE ONLY

Mi

F

E

Approved by RKC

Inspection Frequency

Special Comments

MANUFACTURING PLANT Application Form





# ORTHODOX UNION KASHRUTH DIVISION

Ingredient application instructions:

- Submit a separate form for each plant.
- List all raw materials in the facility (including release agents etc.) even if not intended for kosher use.
- Identify with an asterisk (\*) any ingredients intended for use exclusively in products that you do not wish to certify.

11 Broadway • New York, NY 10004  
Applications Desk: 212-613-8249 • Fax: 212-613-0749  
E-mail: [newapp@ou.org](mailto:newapp@ou.org) • <http://www.ou.org>

Application for  
Kosher Certification

## Plant Raw Material / Ingredient List

Page 7 of 7

Plant name		Form filled out by				Contact phone number
RM#	INGREDIENT NAME	SOURCE	BRAND NAME	BULK	L.O.C.	
654	Non Fat Dry Milk	Crystal Cream #06-01			OU	
655	All Purpose Shortening 101-50	Cahokia Flour	Cahokia Pride	Tankers	OU	
656	Vanilla Pecan F698764	McCormick Flavor			OU	
657	Honey Liquid	Albertson's	Lucky		OU	
RM#	INGREDIENT NAME	SOURCE	BRAND NAME	BULK	L.O.C.	COMMENTS

Use the following examples as guidelines

**L.O.C.**  
(CERTIFYING AGENCY)  
Submit Letter of Kosher certification and clearly identify the exact ingredient being used. If you submit via fax, do not highlight. Where L.O.C is not available, supply process flow diagram. Please note: Both the ingredient name and source name must match the L.O.C.

**BULK**  
Indicate if ingredient is received in tankers, rail cars, trailers or containers which are not normally refilled.

**BRAND NAME**  
List Brand Name exactly as it appears on the label.

**SOURCE**  
Give the manufacturing source exactly as it appears on label. Do not list distributor or broker unless it appears on label. Include all Plant #'s/USDA#'s or other regulatory, plant mfg. codes, where applicable.

TERMINATION FORM

Name of Company:

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Name(s) and location(s) of Plant(s) to be terminated:

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Do any of the labels and/or packaging materials in the plant(s) specified above have an OU symbol? \_\_\_\_\_

Can you please state the reason for termination:

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Please submit this form to the Rabbinic Coordinator of the plant(s).



**Orthodox Union**  
**KASHRUTH DIVISION**

Eleven Broadway, New York, NY 10004  
 (212) 563-4000 • Fax: (212) 564-9058 • [www.ou.org](http://www.ou.org)

T'03

Date \_\_\_\_\_ of \_\_\_\_\_  
 Page \_\_\_\_\_ of \_\_\_\_\_

**Request For Ingredient Approval**

Use the Company Name as is known by the OU  
 Company: \_\_\_\_\_ Is approval requested for all of your OU certified plants? Yes  No

Contact: \_\_\_\_\_ Phone: \_\_\_\_\_ If NO, please list in which Plants ingredient is to be used: \_\_\_\_\_  
 1) Plant Name \_\_\_\_\_ City/State \_\_\_\_\_ 2) Plant Name \_\_\_\_\_ City/State \_\_\_\_\_

Product Name (if ingredient is intended for specific products) \_\_\_\_\_

Please indicate - if you are deleting or updating a previously approved ingredient, or providing information for a pending ingredient:

NAME OF INGREDIENT as it appears on the label. Please include manufacturer's product number if available.	RAW MATERIAL CODE If number varies by plant, please fill in separate forms for each plant.	NAME OF MANUFACTURER as it appears on label or bill of lading.	Is product received as liquid bulk that is transported by trailers, railcars, or ships? Please Check		Is Letter of Kosher Certification and/or flow chart attached? Please Check		FOR OU OFFICE USE ONLY ENTRY STATUS
			YES	NO	YES	NO	

RC Signature \_\_\_\_\_ Date \_\_\_\_\_

# Orthodox Union

## KASHRUTH DIVISION

### Request For Private Label Authorization

Date: \_\_\_\_\_

THIS FORM MUST BE SUBMITTED:

- (A) PRIOR TO PRODUCTION FOR A NEW PRIVATE LABEL COMPANY (WHERE PACKAGING BEARS THE  U SYMBOL.  
(B) PRIOR TO PRODUCTION OF A NEW PRODUCT(S) FOR A PREVIOUSLY APPROVED PRIVATE LABEL COMPANY.

Use the Name of the Company as it is known to the OU:

Manufacturer: \_\_\_\_\_

Contact/Title: Telephone: \_\_\_\_\_

Please specify below where the Private Label Product(s) is to be manufactured:

Plant: \_\_\_\_\_

City/State: \_\_\_\_\_

Plant: \_\_\_\_\_

City/State: \_\_\_\_\_

Private Label Company: \_\_\_\_\_

Address: \_\_\_\_\_

Contact/Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

Has your Company previously been authorized to produce for the above named Private Label Company? Yes  No

Is this product currently  U approved under other brand names? Yes  No

Is this product for  Consumer,  Industrial, and/or  Institutional use?

If "No" please submit a "Request for Product Approval" together with this form.

Please give the Name of the Product and Brand name exactly as it appears on the label. Any number that is part of the product name must be included. Include a copy or mock-up of the label.

Company Product Name

Distributor's Product Name

Brand to Appear on P.L. Product

PLEASE NOTE THAT PRODUCTION FOR A NEW PRIVATE LABEL CANNOT BEGIN UNTIL OFFICIAL APPROVAL HAS BEEN GRANTED TO THE COMPANY BY THE ORTHODOX UNION.

# Orthodox Union

## KASHRUTH DIVISION

### Private Label Termination Form

Manufacturer: \_\_\_\_\_

Date: \_\_\_\_\_

Contact/Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

Private Label Production will be termination for: a)  Entire P.L. Company b)  Certain Products for P.L.C.

Distributor: \_\_\_\_\_

Address: \_\_\_\_\_

*Please list products to be discontinued on an accompanying P.L. letter of authorization if "b)" is checked above.  
Please list plant locations where product(s) is (are) currently manufactured.*

Plant: City/State: \_\_\_\_\_

Plant: City/State: \_\_\_\_\_

Plant: City/State: \_\_\_\_\_

Unused Labels bearing the  will be:

a)  Destroyed - when: \_\_\_\_\_

b)  Used up - by: \_\_\_\_\_

c)  Other - Please detail: \_\_\_\_\_

Approximately how long will the product(s) be available to the public with the  symbol? \_\_\_\_\_

Please attach current letter of authorization.

Current Private Label Letter of Authorization attached.

Letter from/to Distributor informing and attached

Signature \_\_\_\_\_

### FOR OU OFFICE USE ONLY

RC \_\_\_\_\_

DATE: \_\_\_\_\_

- Please delete PL products as indicated.
- Please credit - cc book-keeping
- "Where used" report

- CC to Field Representative
- Copy for file

Invoice # \_\_\_\_\_ Account # \_\_\_\_\_ PL-Fee \_\_\_\_\_