

**GENERAL TERMS AND CONDITIONS OF SALE OF SIME DARBY OILS  
ZWIJNDRECHT REFINERY B.V. WITH REGISTERED OFFICE IN ZWIJNDRECHT,  
THE NETHERLANDS**

These general terms and conditions were filed at the Chamber of Commerce in Rotterdam on 25 September 2014 under number 24328835

**General**

- 1.1 In these General Terms and Conditions of Sale "SDOZR" is understood to mean Sime Darby Oils Zwijndrecht Refinery B.V. and "Buyer" is understood to mean the party who purchases products from SDOZR. SDOZR and the Buyer shall hereinafter be jointly referred to as the "Parties".
- 1.2 These general terms and conditions apply to all arrangements made between the Parties with regard to the purchase and/or delivery of the SDOZR products, including but not limited to the Quotations, Sales Confirmations, Confirmations of Contract, Orders, Order Confirmations, Specifications and Invoices forming part thereof or arising therefrom (hereinafter referred to as the "Agreement").
- 1.3 The applicability of any general (purchasing) terms and conditions of the Buyer is expressly rejected by SDOZR and such terms and conditions do not apply to the Agreement.
- 1.4 The documents "Shelf Life and Storage" and "Supply Chain Management Boxed Products", which may be downloaded from www.unimills.com apply to the Agreement. SDOZR has the right to change these documents from time to time. The Buyer agrees that the most recent version of the documents automatically applies to the Agreement, unless agreed otherwise between the Parties.

**Confirmation of Contract**

- 2.1 Unless explicitly stated otherwise by SDOZR, Quotations of SDOZR are valid until 16:30 hours (GMT +1) on the date on which they have been issued. SDOZR retains the right to withdraw or change the Quotations.
- 2.2 All prices stated by SDOZR are in EURO and per MT and are exclusive of VAT and other levies or costs, unless agreed otherwise. VAT and any other levies and/or costs shall be borne by the Buyer.
- 2.3 The agreed conditions will be laid down in the Confirmation of Contract by SDOZR.
- 2.4 Unless agreed otherwise, the volume to be purchased by the Buyer will be divided equally over the agreed period in the Confirmation of Contract, with the principle of an equal division per week. This division will hereinafter be referred to as the "Allocation". Lead times can vary per product and need to be agreed upfront. The volume and the Allocation, which have to be called off by the Buyer by separate Orders, are binding to the Parties. The Parties can only deviate from this by mutual consent.
- 2.5 The Buyer cannot terminate a (part of the) Confirmation of Contract unilaterally. The Buyer can only terminate the Agreement (partially) due to well-founded and urgent reasons and with the prior written approval of SDOZR, in which case SDOZR will retain the right to compensation of the damage it incurs, which will be calculated as the difference between the agreed sales price plus the interest thereon less the actual sales revenues from the sale of the outstanding volume to a third party. In addition, the Buyer will compensate SDOZR for the costs of the booked production capacity of SDOZR's plant, if any, the price decreases of or any other negative effect on the raw materials, the storage costs, the unearned gross profit and the handling costs, which costs will be calculated by SDOZR. The Buyer will also be held to pay € 100 per MT to SDOZR, without prejudice SDOZR's right to claim damages.

**Orders and Order Confirmation**

- 3.1 The production and delivery of products by SDOZR will be effectuated based on Orders placed by the Buyer and confirmed by SDOZR in the Order Confirmation. Unless otherwise specified by SDOZR, the Orders must be received by SDOZR at the latest on Thursday at 10:00 hours (GMT +1) in the week prior to the agreed date of loading. For the avoidance of doubt, a week starts on Sunday 8.00 hours in the morning. The Orders must state at least the following: SDOZR contract number and price, ordered volume, SDOZR product name, delivery address, date and time of the requested delivery, customs documents, applicable Incoterm and specification of transportation (e.g. FCA, CIP, uncooled transportation) and order number of the Buyer.
- 3.2 The Orders can no longer be changed after receipt by SDOZR and the Buyer cannot enforce delivery by SDOZR before receipt of the Order Confirmation.
- 3.3 Errors, inaccuracies and incompleteness in the Order Confirmation should be communicated to SDOZR in writing within 24 hours, in the absence of which the Order Confirmation is binding. In the event of any conflicts between the Order and the Order Confirmation, the Order Confirmation prevails.
- 3.4 SDOZR reserves the right to suspend the delivery of the products until the Buyer has fulfilled all its payment obligations towards SDOZR.
- 3.5 The Buyer may change or cancel an Order, provided that it compensates all costs incurred by SDOZR as a result of such change/cancellation. SDOZR has the right to charge € 2,500 to the Buyer if the production of the relevant Order has started and € 150 if the production of the relevant Order has not started, without prejudice SDOZR's right to claim damages.
- 3.6 The Buyer is held to place Orders in accordance with the minimum order quantity agreed in the Confirmation of Contract. If and insofar as the delivery of an Order for a smaller volume than the minimum order quantity is confirmed by SDOZR, SDOZR will be entitled to increase the agreed price for transport and to charge the costs of the degradation

of the non-purchased volume to the Buyer. The degradation costs will be calculated by SDOZR per product.

- 3.7 If the Buyer fails to comply strictly with the Allocation, SDOZR will be entitled to terminate the Agreement and SDOZR is entitled to compensation of the costs of the volume that has not been called off in accordance therewith (hereinafter referred to as the "Outstandings"), which compensation will be charged on a monthly basis. These costs amount to € 5 per MT per month as well as full compensation of the costs for the storage of raw materials and/or packed goods and/or flakes, due from the month following the month in which the products would have been delivered according to the Allocation.
- 3.8 Notwithstanding Article 3.7 SDOZR will also have the right to sell the Outstandings to a third party immediately after expiry of the time limit, in which case SDOZR shall retain the right to compensation of the damage that it incurs, which will be calculated as the difference between the sales price of the Outstandings agreed with the Buyer plus the interest thereon less the actual sales revenues of the sale from the Outstandings to the third party.

**Production**

- 4.1 SDOZR shall set Specifications for each product, consisting of the Product Data Sheet (hereinafter referred to as "PDS") and the Product Quality & Safety Document (hereinafter referred to as "PQSD"), which apply to the Agreement.
- 4.2 SDOZR warrants that the product will meet the Specifications stipulated in the PDS after the product has been manufactured and made available for shipment at the SDOZR plant in Zwijndrecht, the Netherlands, unless the Parties agree that the values of the products may fall outside the value range stated in the Specifications. SDOZR shall analyze the product prior to shipment according to the parameters as set out in the PDS. The results of this analysis will be reported in the Certificate of Analysis (hereinafter referred to as "CoA"), which will constitute prima facie evidence between the Parties. SDOZR does not bear any risk of any changes to the quality, Specifications or conformity of the Product during or after shipment from the SDOZR plant and excludes all liability for such change. This provision prevails over the other provisions in the sales documents, any general terms and conditions, any applicable Incoterms or any other delivery terms and any other applicable provisions.
- 4.3 SDOZR has the right to change the Specifications from time to time. The Buyer agrees that the most recent version of the Specifications is automatically applicable to the Agreement, unless agreed otherwise between the Parties. Upon request, the Buyer will sign the Specifications. In the absence of such signature, the Specifications are deemed to be accepted after 7 days after the date of dispatch.
- 4.4 Once per year, SDOZR shall send the Buyer a survey of the then applicable Specifications.
- 4.5 SDOZR has the right to invoice any extra costs for production and transport on a Saturday and Sunday and/or on a public holiday in the Netherlands to the Buyer.

**Delivery**

- 5.1 Parties acknowledge and agree that SDOZR may deliver 5% more or less than the ordered volume, unless the ordered volumes is less than 10MT, than the delivered volume may deviate 500 kg.
- 5.2 Upon delivery of the products, the Buyer is obliged to inspect the products and to communicate any complaints, inaccuracies or defects to SDOZR within 48 hours after delivery and by written notice failing which the products will be deemed to be accepted and claims against SDOZR relating to these complaints, inaccuracies or defects will lapse. In the event of a dispute concerning the complaint, an independent expert appointed by the Parties will investigate the products. The result of the investigation will be binding upon the Parties. The party who fails the investigation shall bear all costs of the investigation.
- 5.3 If the Buyer wrongfully refuses the products, SDOZR will be entitled to compensation of all costs that it has incurred and of all damages that it has suffered. The aforementioned does not alter any other right falling to SDOZR in that case.
- 5.4 If the products do not meet the Specifications, this will only constitute a failure on the part of SDOZR to meet its obligations arising from the Agreement once SDOZR has been sent a written notice of default granting it a reasonable period of time in which to repair or replace the relevant products. If SDOZR fails to deliver the repaired or replaced products, the Buyer will have the right to withdraw or terminate the Order relating to said products.
- 5.5 If the Parties have agreed upon a delivery term other than FCA Zwijndrecht or FCA Rijkevoort, SDOZR has the right to charge the Buyer transport costs for any waiting time in excess of two hours after the latest agreed time of delivery, unless the Parties have mutually agreed on a new time of delivery.
- 5.6 If the Parties have agreed FCA Zwijndrecht, FCA Alblasterdam, FCA Ouderkerk a/d IJssel or FCA Rijkevoort as delivery term, the Buyer warrants that the selected carrier will make use of transportation that meets the applicable legislation and that is clean, dry, sealed and exclusively suitable for food products before proceeding to loading the products.

- 5.7 SDOZR is entitled to give instructions to the carrier selected by the Buyer with a view to facilitating an orderly and safe delivery. The Buyer shall require the carrier to follow the instructions of SDOZR. Upon request, written instructions will be provided by SDOZR.
- 5.8 The tanks belonging to the carrier selected by the Buyer will not arrive for loading more than half an hour before or more than half an hour after the agreed time (hereinafter referred to as the "Margin"). If the tanks are not available within the Margin, SDOZR may determine the time at which the products will as yet be loaded at its sole discretion, without such entitling the Buyer to compensation of its waiting costs. In the event of stagnation of SDOZR's manufacturing process, SDOZR will be entitled to a fixed compensation of € 50 per hour and SDOZR will have the right to store the product of the Buyer elsewhere. In that case SDOZR is entitled to charge the Buyer for the costs thereof. Save the foregoing, the Buyer is liable towards SDOZR for all and any other damage (including consequential damage) and costs arising from the availability of the tanks outside the Margin.
- 5.9 The place of delivery and the transfer of the risk of the products will be determined by the specific Incoterm agreed between the Parties.
- 5.10 If the agreed delivery time is exceeded, this will not in itself constitute default on the part of SDOZR. In such case the Buyer should send SDOZR a written notice requiring that delivery be made within a reasonable period, failing which the Buyer has the right to withdraw or terminate the Order in question (or the unperformed part thereof) by written notice. The Buyer will not have this right if the Buyer is in default for its part.
- 5.11 With the exception of the delivery of lecithin, SDOZR shall load the products that are transported by tank vehicle in accordance with the cross contamination table, which may be downloaded from [www.unimills.com](http://www.unimills.com). The Parties may agree to deviate from the table as a result whereof the cleaning costs will be charged to the Buyer.
- 5.12 The weighed weight of the tank vehicle on the weighbridge at the SDOZR plant is binding between Parties. Regardless of the foregoing, in the event the difference between the weighed weight of the tank vehicle on the weighbridge of SDOZR and the weighed weight on the weighbridge of the Buyer is 150 kg or more up to a maximum difference of 2% of the weighed weight of the tank vehicle on the weighbridge at the SDOZR plant, or represents a value of € 100 or more up to a maximum of 2.5% of the value of the products, the Parties shall start a mutual investigation into the cause of the difference. Depending on the result of the investigation, SDOZR may, at its sole discretion, partially credit the Invoice.
- 5.13 In the event that the crystallised oil remaining in the tank vehicle (hereinafter referred to as the "Residue") weighs more than 150 kg or represents a value of more than € 100, the difference will be credited by SDOZR to the Buyer. A smaller Residue will not be credited.

#### **Invoicing and payment**

- 6.1 In the context of clause 5.1, the Buyer will pay the exact volume delivered.
- 6.2 Unless agreed otherwise, a term of payment applies of 30 days after the Invoice date.
- 6.3 Parties are obliged to provide each other with their correct VAT registration number, failing which SDOZR will automatically increase the Invoice amount by VAT and any other amounts which Seller may owe and SDOZR will have the right to suspend all further deliveries until such time as the Buyer has provided its VAT registration number.
- 6.4 In the event that SDOZR has agreed pre-payment with the Buyer, the pre-payment must be received by SDOZR at the latest 2.5 working days before loading, at 13:00 hours (GMT +1). After receipt of the payment, SDOZR will release the products relating to the relevant Order for production. In the event that the payment is not received or not received in time, SDOZR will have the right not to carry out the Order.
- 6.5 If the Buyer fails to pay the invoiced amounts within the payment term, SDOZR will be entitled to statutory commercial interest as referred to in Article 6:119a of the Dutch Civil Code and to reimbursement of all costs that it incurs to collect its claim, including but not limited to the costs of legal assistance.
- 6.6 Any inaccuracies in the Invoice must be reported to SDOZR within 5 working days after the date of Invoice, in the absence of such a report the Parties will assume the accuracy of the sent Invoice.
- 6.7 In the event of a dispute regarding an Invoice the Buyer must pay the undisputed part of the Invoice within the applicable payment term. As soon as the dispute has come to an end, the Buyer must pay any unpaid portion to SDOZR within applicable payment term after settlement of the dispute.
- 6.8 If, during the Agreement, SDOZR has to make payments such as taxes, import, transit or export duties, product board levies, etc. which result from measures taken by any government or by any other government body or semi-government body and which were not due at the time when the Agreement was concluded or if the said taxes, duties or levies, etc. are modified or rescinded since the Agreement was concluded, SDOZR will be entitled to charge the Buyer for the extra payment.

#### **Reservation of title**

- 7.1 As referred to in Article 3:92 (2) of the Dutch Civil Code the ownership of the products delivered by SDOZR will be reserved to SDOZR until the Buyer has paid the purchase price including all costs and taxes due.

#### **Force majeure**

- 8.1 If, as a result of circumstances beyond its control (force majeure),

then SDOZR will be entitled, without being in default, to postpone its obligations such as the delivery of the goods until such time as the situation of force majeure has terminated.

- 8.2 If a situation of force majeure lasts for longer than three months, then both SDOZR and the Buyer will be entitled, by means of a simple notification to the other party, to unilaterally terminate the as yet unperformed part of the Agreement without legal proceedings being required.
- 8.3 Force majeure is hereby understood to mean in any event, but not exhaustively: war, revolution, riots, fire, weather conditions, floods, transport restrictions, illness, government measures including import and export restrictions, crop failure, disruption in the supply or provision of raw materials, energy or required operating resources, including non-performance on the part of suppliers from whom SDOZR obtains goods or services, strike, faults in or damage to machines, as well as any other disruption within SDOZR's business.
- 8.4 Force majeure is further understood to include every circumstance beyond SDOZR's control - regardless of whether this could have been foreseen at the time the Agreement was concluded - which temporarily or permanently prevents the performance of the Agreement or makes it substantially more difficult or more expensive to perform.
- 8.5 The foregoing provisions will also apply in cases where such circumstances have been caused by SDOZR's personnel.

#### **Liability and warranty**

- 9.1 SDOZR will never be liable for any damage or loss on the part of the Buyer due to a breach of Contract or a non-contractual liability, unless the damage or loss has been caused by an intentional act or willful recklessness on the part of SDOZR or its management.
- 9.2 Notwithstanding clause 9.1 any liability on the part of SDOZR for damage, including non-contractual liability, will be limited to an amount equal to the net Invoice value of the products which have not been delivered, not been delivered in good time or which have been delivered in a defective condition. In that case SDOZR's liability will be limited to damage to the Buyer's property and to personal injury. Seller will never be liable for consequential damages and loss of profits or loss of turnover and loss of goodwill.
- 9.3 Unless agreed otherwise, the Buyer is held to initiate any claims on SDOZR by virtue of the Agreement within 2 weeks, on penalty of the right to do so lapsing.

#### **Miscellaneous**

- 10.1 The Buyer is held not to disclose any information of a confidential nature regarding SDOZR for the term of the Agreement and for at least one year after termination of the Agreement. Confidential information is to be understood in any event as the Specifications and the corresponding PDS and PQSD. In the event the Buyer breaches this confidentiality clause, the Buyer will owe to SDOZR a financial penalty of € 1,000 per breach and an amount of € 250 per day that the breach continues, without such prejudicing SDOZR's entitlement to damages.
- 10.2 The Buyer cannot transfer its rights and obligations under the Agreement to a third party without the prior written consent of SDOZR.
- 10.3 Any provisions that are void or voidable will not affect the validity of the other provisions.

#### **Applicable law and jurisdiction clause**

- 11.1 The Agreement has been construed in accordance with and is governed by Dutch law, and the competent District Court of Rotterdam has exclusive jurisdiction on any disputes arising from the Agreement.
- 11.2 The provisions of the Uniform Act on the International Purchase of Corporeal Movables (LUVI, The Hague, 1 July 1964) and the United Nations Convention on International Purchase Agreements (CISG, Vienna, 11 April 1980) do not apply, except where agreed otherwise in writing.

*Version June 2019*