

**GENERAL TERMS AND CONDITIONS OF PURCHASE OF GOODS AND SERVICES  
SD GUTHRIE INTERNATIONAL SPECIALTY INGREDIENTS B.V. (FORMERLY KNOWN AS SIME DARBY OILS  
SPECIALTY INGREDIENTS B.V.) WITH REGISTERED OFFICE IN ZWIJNDRECHT, THE NETHERLANDS**

**1. GENERAL**

- 1.1** In these General Terms and Conditions of Purchase "SDGISI" is understood to mean SD Guthrie International Specialty Ingredients B.V. (formerly known as Sime Darby Oils Specialty Ingredients B.V.) and "Supplier" is understood to mean the party that delivers goods or provides services to SDGISI. SDGISI and the Supplier will hereinafter be jointly referred to as the "Parties". The term "Goods" is understood to mean raw materials, including lecithin, commodities, excipients and ingredients and other movable property, including installations, to be delivered by the Supplier to SDGISI. The term "Services" is understood to mean the services provided by the Supplier under the agreement between the Parties. "Agreement" is understood to mean the agreement for the delivery of Goods and/or the provision of Services between the Parties.
- 1.2** These General Terms and Conditions apply to all arrangements made between the Parties pertaining regarding the purchase of Goods or the provision of Services, including but not limited to requests for a quotation, quotations, (purchase) orders and all agreements.
- 1.3** The applicability of any general terms and conditions (of sale) of the Supplier is expressly rejected by SDGISI and such terms and conditions do not apply to the Agreement. If the Parties agree that both these General Terms and Conditions and the general terms and conditions of the Supplier apply, then these SDGISI's General Terms and Conditions will take precedence.

**2. ORDERS**

- 2.1** The Agreement is concluded on Supplier's acceptance of SDGISI's (purchase) order, purchase request or (e-mail) confirmation (hereinafter: "Order"). The performance of an Order will be the acceptance of that Order.
- 2.2** The Supplier is not entitled to revoke its offer.
- 2.3** If the Supplier's acceptance contains amendments to the Order, then the Agreement will only become effective after SDGISI's approval. If the Supplier starts to perform the Agreement without SDGISI's approval, then the content of the Agreement is the same as the content of the Order.
- 2.4** SDGISI is entitled to cancel an Order at any time by giving the Supplier prior written notice before the relevant delivery date. SDGISI shall not be liable for any (financial) loss or damage whatsoever arising from such cancellation for the Supplier and/or third parties. SDGISI is not entitled to cancel an Order after the delivery date, in which case SDGISI will compensate the Supplier for reasonable and direct costs.
- 2.5** SDGISI is entitled to issue instructions for the execution of the Agreement, for example regarding the date and time at which the Goods or Services are delivered, the packaging or the delivery of the Goods or Services in instalments, even after the Agreement has been concluded, without bearing any liability for (financial) loss incurred by the Supplier and/or third parties.

**3. DELIVERY**

- 3.1** Unless agreed otherwise in writing, the delivery takes place DDP, Lindtsedijk 8, 3336 LE Zwijndrecht, the Netherlands (Incoterms 2020).
- 3.2** The agreed time of delivery of Goods or time to provide the Services is of the essence.
- 3.3** Unless agreed otherwise in writing, the risk of the Goods will be transferred in accordance with the agreed delivery conditions (Incoterms 2020) and the ownership of the Goods will be transferred to SDGISI simultaneously with the transfer of the risk or as soon as 20% of the Goods has been paid for. Without prejudice to the provision in clause 3.2, the Supplier is obliged to notify SDGISI immediately of any delay or anticipated delay in the execution of the Agreement.
- 3.4** SDGISI is entitled to investigate the Goods or the Services within a reasonable period after the delivery or provision thereof. SDGISI will send notice of defaults or non-conformities within a reasonable period after discovery of the default or non-conformity. Failure to carry out an entrance control does not constitute a waiver of the right to make claims or of any of SDGISI's other rights.
- 3.5** The Supplier will permit SDGISI and its representatives at any time and without previous notice to inspect, audit and test the Goods during manufacture, processing or storage at the premises of the Supplier and the Supplier will cooperate with the inspection and provide SDGISI with all facilities required for such inspection and testing. The cost of providing such facilities will be borne by the Supplier.
- 3.6** If requested by SDGISI, the Supplier is obliged to repair or replace the defective or non-conforming Goods and/or to correct Services provided incorrectly, inaccurately or incompletely within the period stipulated by SDGISI. If SDGISI does not stipulate a period, a period of 4 hours with regards to processing aids and 24 hours for all other Goods and/or Services after the request of SDGISI will apply.
- 3.7** Unless otherwise agreed in writing between SDGISI and the Supplier, the Supplier shall not deliver the Goods in instalments. Where SDGISI has agreed in writing that the Supplier shall deliver in instalments (or SDGISI agrees to accept such instalment for the delivery of the Goods), a breach concerning any instalment (however caused or of whatsoever nature) shall entitle SDGISI to terminate the Agreement and to claim damages, without prejudice to SDGISI's other remedies.
- 3.8** SDGISI is entitled to give instructions to the Supplier for the purpose of an orderly and safe delivery of the Goods and/or provision of the Services. The Supplier is obliged to follow the instructions of SDGISI. Upon request, the written instructions will be provided by SDGISI.
- 3.9** The Supplier will never be entitled to suspend its obligations under the Agreement and these General Terms and Conditions without the prior written approval of SDGISI.
- 3.10** The Supplier will deliver packed Goods in proper and original packaging, which complies with all applicable laws and regulations.
- 3.11** Packaging will be deemed to be free of charge. Unless otherwise agreed, SDGISI is entitled, but not obliged, to return the packaging to the Supplier. The Supplier will bear the full cost of the return and destruction of the packaging.
- 3.12** Without prejudice to SDGISI's rights based on this clause 3, SDGISI has the right to claim damages in the event of the Supplier's non-performance.

#### **4. GUARANTEE**

- 4.1 The Supplier warrants that the Goods delivered, and the Services provided are without defaults and are in conformity with the Agreement, including the specifications provided or accepted by SDGISI, and that they are suitable for the use intended by SDGISI, since such use is known or should be reasonably known to the Supplier. The Supplier also warrants that the Goods delivered are traceable to the source and that it can provide all relevant documentation with regards to the Goods, unless agreed otherwise in writing. The Supplier furthermore warrants that (i) it has full and unencumbered title to all the Goods, and (ii) at the date of delivery of any of the Goods will have full and unrestricted rights, power and authority to sell, transfer and deliver all the Goods to SDGISI.
- 4.2 The Supplier warrants that it along with its employees and other parties engaged by Supplier, including but not limited to its subcontractors, agents, invitees and licensees, fully complies with all applicable safety, health, labour, environmental and other laws and sector regulations and that it is sustainable and complies with ethical practices.
- 4.3 The Supplier of raw materials declares and warrants that it is certified Halal and Kosher and that it meets the Sime Darby Code of Conduct and the EPPA Code of Conduct and will continue to be certified and to meet said codes of conduct during the performance of the Agreement. The Supplier will provide proof and/or certification indicating that it meets these requirements upon request.
- 4.4 The Supplier warrants that third parties engaged by the Supplier meet the requirements mentioned in clauses 4.2 and 4.3 and indemnifies SDGISI for claims of other third parties that arise from a breach of these requirements.
- 4.5 The Supplier warrants that the Services and/or the Goods and the use thereof, since such use has been agreed or can reasonably be foreseen:
- do not infringe any national or international law, including but not limited to laws regarding food; and
  - do not infringe any industrial or intellectual property rights.

#### **5. LIABILITY AND INDEMNIFICATION**

- 5.1 The Supplier will always be liable for all (consequential) damages, losses and costs incurred as a result of defaults or non-conformities of the Goods delivered and/or the Services provided and/or any (other) breach by the Supplier, the Supplier's employees, agents and/or subcontractor's breach of the terms of the Agreement, these General Terms and Conditions and/or acts or omissions and for all costs and losses incurred by SDGISI as a result of late delivery or non-delivery of the Goods and late provision or non-provision of the Services.
- 5.2 If more than one (1) party is referred to as the Supplier, then their obligations and liability shall be joint and several.
- 5.3 The Supplier indemnifies and hold SDGISI harmless from and against third party claims based any breach by the Supplier (including but not limited to a defect in the Goods or Services), Supplier's employees, agents and/or sub-contractor's breach of the Agreement, these General Terms and Conditions and/or acts or other omissions.
- 5.4 SDGISI will never be liable for any damage or loss on the part of the Supplier due to a breach of Agreement, these General Terms and Conditions or a non-contractual liability, unless the damage or loss has been caused by an intentional act or willful recklessness on behalf of SDGISI or its management.
- 5.5 The Supplier will take out adequate insurance against damage as referred to in clause 5. The Supplier will make sure an annotation is made on the policies to the effect that any compensation payments by the insurance company will be made directly to the person who actually suffered the damage. The Supplier will keep a certificate of insurance duly available for inspection by SDGISI.

#### **6. RECALL**

- 6.1 The Supplier will provide SDGISI with all relevant batch records and product information pertaining to the Goods or products to be recalled and any information that SDGISI requests in order for it to manage the product recall effectively. The Supplier will cooperate with the recall and will bear its own costs for providing information and for cooperating with the recall.

#### **7. FORCE MAJEURE**

- 7.1 "Force Majeure Event" shall mean any event beyond the control of either Party to the Agreement which was not reasonably foreseeable at the time and which prevents or hinders in any material way the carrying out by either Party of its obligations under the Agreement, including but not limited to civil disturbance, war, terrorism, hostilities, revolution, act of God, inclement weather, flood, fuel or transport rationing, outbreak of diseases, epidemic, pandemic, quarantine or by reason of law decree or policy of government, strikes, lockouts or other industrial disputes (except any strikes, lockouts or industrial disputes involving solely a Party's employees).
- 7.2 If either Party is affected by a Force Majeure Event it shall notify the other Party in writing of the nature and extent thereof.
- 7.3 Neither Party shall be deemed to be in breach of the Agreement, or otherwise be liable to the other, by reason of any delay in the performance, or non-performance, of any of its obligations hereunder to the extent that such delay or non-performance is due to any Force Majeure Event of which it has notified the other Party and the time for performance of that obligation shall be extended accordingly.
- 7.4 If the Force Majeure Event in question prevails for a continuous period more than ninety (90) days, the Parties shall enter bona fide discussions with a view to alleviating its effects or to agreeing upon such alternative arrangements as may be fair and reasonable.
- 7.5 If a situation of force majeure lasts for longer than ninety (90) days, then SDGISI has the right to terminate the Agreement unilaterally. Moreover, SDGISI has the right to terminate the Agreement on the same basis if the situation of force majeure lasts for shorter than one month and if SDGISI no longer has any reasonable interest in taking delivery after termination of the situation of force majeure.
- 7.6 Non-performance on the part of SDGISI in a situation of force majeure will not entitle the Supplier to terminate the Agreement.
- 7.7 No appeal to force majeure may be made on the grounds of default by third parties engaged by the Supplier, machine or production break downs or strikes.

#### **8. PRICES, INVOICE AND PAYMENT**

- 8.1 All prices are in Euro and are fixed and inclusive of all costs, including but not limited to costs of transport, packaging, insurance, duties and other costs not specified, and excluding VAT, except where otherwise agreed in writing. The prices shall not be subject to any variation as a consequence of the variation of foreign exchange rates (if applicable).
- 8.2 The Supplier is not entitled to increase the prices without SDGISI's prior written approval.
- 8.3 In the event that there are any withholding tax obligations, other taxes and withholdings of any nature now or hereafter imposed by any applicable laws on all amounts payable to the Supplier under the Agreement, SDGISI shall be obliged to comply with the requirements of such relevant laws and regulations to deduct the withholding tax or other taxes from any and all payments due to the Supplier under the Agreement and to remit the withholding taxes or other taxes to the relevant tax authorities within the permitted time in accordance with the prevailing laws.
- 8.4 Unless agreed otherwise, a payment term of 60 days after the date of invoice applies.
- 8.5 The invoice shall itemize all charges and will meet all legal requirements and will contain at least the following information: order number of SDGISI, price, volume, bank account details including IBAN and BIC, name and, if applicable, number of the Supplier, number of Chamber of Commerce and VAT number of the Supplier, description and number of Goods. The invoice will be for the attention of the Financial Department of SDGISI.
- 8.6 The invoices issued by the Supplier should also be supported by all relevant documentation (including but not limited to delivery order).
- 8.7 SDGISI is entitled to defer its payment obligation if the invoice is disputed or if the Goods or Services are disputed. Such deferral will not result in any obligation on the part of SDGISI to pay interest or any other compensation to the Supplier.
- 8.8 Payment for the Goods and/or Services will never imply a waiver of the right to make claims or of SDGISI's other rights.

- 8.9 SDGISI is entitled to deduct from the amounts which it owes for whatever reason to the Supplier or to other companies forming part of the same group as the Supplier the amounts which SDGISI or other companies forming part of the Sime Darby Group can claim for whatever reason from the Supplier or from other companies forming part of the same group as the Supplier.

## **9 TERMINATION**

- 9.1 Without prejudice to the other provisions in these General Terms and Conditions, SDGISI is entitled to terminate the Agreement unilaterally by means of a written notification to the Supplier:
- a) if the Supplier fails to comply with, does not comply in good time with, or does not comply properly with the obligations resulting from the Agreement or from other Agreements between the Parties and fails to remedy the same within thirty (30) days after receipt of a written notice describing the breach and requiring it to be remedied.
  - b) where a receiver is appointed over any property or assets of the other party.
  - c) where the other party makes any voluntary arrangement with its creditors which materially affects its assets or liability to do business; or
  - d) where the other party ceases, or threatens to cease, to carry on business.
- 9.2 Unless otherwise agreed in writing, SDGISI may terminate the Agreement without assigning any reason whatsoever by giving the Supplier thirty (30) days prior written notice of its intention to terminate, without prejudice to any other right or remedy of SDGISI in respect to any breach of the Agreement.
- 9.3 In the absence of any breach by the Supplier, SDGISI shall pay all outstanding amounts owed by SDGISI to the Supplier for Goods supplied.

## **10 SUSPENSION**

- 10.1 Notwithstanding SDGISI's right to terminate the Agreement due to the Suppliers' breach of the provisions of clause 9.1 (a) above, SDGISI has the option to suspend any orders of the Goods and/or Services or payment of any invoice due to the Supplier for a period of sixty (60) days provided always such suspension shall be notified in writing to the Supplier.

## **11 INTELLECTUAL PROPERTY AND INFORMATION**

- 11.1 All Intellectual Property Rights (hereinafter: "IP rights") are and shall remain the exclusive property of the Party owning them. The Supplier assigns and shall procure the assignment of IP rights that arise in respect of any Goods and/or Services to SDGISI, with full guarantee and free from any third party right.
- 11.2 If SDGISI provides the Supplier with information, such as (digital) data, drawings, models or other (technical) information or such information is collected by the Supplier (hereinafter: "Information"), the following conditions will apply:
- a) The Information will remain the exclusive property of SDGISI. The Supplier will, upon SDGISI's first request thereto, return to SDGISI the Information together with all copies thereof as well as any working documents.
  - b) the Supplier undertakes to treat the Information as confidential in accordance with clause 15.1. The Supplier is only allowed to make Information known to members of its personnel, because this is necessary for the performance of SDGISI's Order, and the Supplier must furthermore in turn oblige said personnel members to treat this Information as confidential; and
  - c) The Information can only be used by the Supplier solely for the performance of SDGISI's Order.

## **12 SOLICITING EMPLOYEES**

- 12.1 The Supplier shall not during the term of the Agreement and for a period of twelve (12) months after the expiry thereof without the prior written consent of SDGISI, directly or indirectly solicit, interfere with or endeavor to entice away from SDGISI any employee of SDGISI, provided nothing herein shall prohibit the solicitation of such employee who has responded to any job vacancies advertisement.

## **13 RECORDS AND AUDITS**

- 13.1 The Supplier shall, for a period of seven (7) years from the date of each order, maintain complete and accurate records of all charges incurred by SDGISI under the Agreement in accordance with generally accepted accounting principles.
- 13.2 SDGISI reserves the right to inspect the Suppliers' records upon giving the Supplier seven (7) days' prior written notice.

## **14 HEALTH, SAFETY AND ENVIRONMENT**

- 14.1 The Supplier along with its employees and other parties engaged by the Supplier including but not limited to its subcontractors, agents, invitees and licensees, shall fully comply with applicable federal, state and local health, safety, environmental and substance abuse laws, regulations and procedures and any other relevant enactments or by-laws pertaining to the occupational safety and health and the environment or any subsequent modifications or re-enactments thereof, which relates to the performance of the Agreement. The Supplier along with its employees and other parties engaged by the Supplier shall also comply with SDGISI's safety, health, environmental and substance abuse policies and procedures (if any). The Supplier is responsible for notifying and training its employees and other parties engaged by the Supplier about such policies, laws, regulations, rules and procedures. Failure by the Supplier or its employees or other parties engaged by the Supplier to comply with this Clause 14.1 shall be deemed as a material breach of the Agreement and SDGISI reserves the right to terminate the Agreement in accordance with Clause 9.
- 14.2 The Supplier shall designate an on-site representative to supervise health, safety, and environmental matters, if necessary. The Supplier shall acquire a copy of SDGISI's safety rules and procedures (if any) and shall require its employees and other parties engaged by the Supplier to attend any safety meetings offered by SDGISI. SDGISI's rules and procedures are not determinative of all safety requirements applicable to the Supplier and other parties engaged by the Supplier. Unless otherwise agreed in writing by SDGISI, the Supplier shall supply all necessary safety and health equipment and materials used in or required by SDGISI while supplying the Goods and/or providing the Services to SDGISI.
- 14.3 SDGISI may inspect and audit the Supplier's compliance to the safety, health and environmental policies, laws, regulations, rules and procedures, if necessary. The Supplier shall make available to SDGISI any documentation required to conduct the said inspections or audits.
- 14.4 The Supplier shall be responsible for training and alerting its employees and other parties engaged by the Supplier concerning safety, health, and environmental hazards pertaining to the supply of the Goods and/or Services.
- 14.5 The Supplier shall familiarize itself with the locations where the Goods and/or Services will be supplied and the hazards that may be encountered and take all appropriate precautions to protect the Supplier's employees and any other persons who are at any time directly or indirectly affected by the supply of the Goods and/or Services.

- 14.6 “Substance” shall include alcohol, controlled substances (i.e. illegal drugs and prescribed drugs), over-the-counter medication and any other substance that may be inhaled, injected, absorbed or taken by mouth that may, in SDGISI’s opinion, impair the Supplier from safely supplying the Goods and/or Services and in continuing to do so, may cause any harm or hazard, whether known or unknown to the Supplier at the point of supplying the Goods and/or Services, to SDGISI, SDGISI’s property or reputation or the environment. The use, sale or possession of any Substance by the Supplier in SDGISI’s premises or during supplying the Goods and/or Services to SDGISI, is strictly prohibited. While supplying the Goods and/or Services, the Supplier shall also act to eliminate any prohibited items and use of Substance which may increase the risk for accidents, absenteeism, poor performance, poor morale or damage to SDGISI, SDGISI’s property or reputation. The Supplier shall remove from SDGISI’s premises any employee, agent, invitee, licensee or other person engaged by the Supplier who is in violation of this Clause 26 and shall notify SDGISI of any actions taken. SDGISI may subsequently notify the relevant law enforcement authorities as deemed appropriate.
- 14.7 The Supplier shall take all reasonable and necessary precautions in the processing, handling, transportation and disposal of material, product and waste generated by its operations and equipment while supplying the Goods and/or Services to SDGISI.
- 14.8 If SDGISI notifies the Supplier of any non-compliance in relation to this Clause 14, the Supplier shall immediately make all reasonable efforts to correct the non-complying condition. If the Supplier fails to do so, SDGISI reserves the right to terminate all or any part of the supply of Goods and/or Services. Notwithstanding SDGISI’s decision to terminate all or any part of the supply of Goods and/or Services, the Supplier shall not be eligible to use this as a basis to claim from SDGISI any extension of time to supply the Goods and/or Services, additional compensation or any other damages whatsoever arising from the termination. SDGISI may also terminate the Agreement immediately if the Supplier fails to rectify any non-compliance within seven (7) days or any other timeframe as agreed in writing by SDGISI, following the notice to the Supplier.
- 14.9 Notwithstanding SDGISI’s right to terminate the Agreement in Clause 14.1 above, the Supplier shall indemnify SDGISI and keep SDGISI fully indemnified from and against all actions, claims, proceeding costs, damages and expenses incurred arising out of the Supplier’s breach of this Clause 14.
- 15. MISCELLANEOUS**
- 15.1 The Supplier is held not to disclose any information regarding SDGISI with a confidential character for the term of the Agreement and for at least 10 years after termination of the Agreement, unless agreed otherwise. Confidential information is to be understood in any event as information of a confidential nature, including but not limited to sensitive company information, information about innovation projects, SDGISI’s methods or procedures, information related to IP rights and the Information. In the event of the Supplier’s breach of this confidentiality clause, the Supplier will owe a financial penalty of € 25,000 per breach and an amount of € 2,500 per day that the breach continues, without prejudice to SDGISI’s entitlement to damages.
- 15.2 All notices given under the Agreement shall be in writing (unless stated otherwise) and shall be sent to the recipient’s address set out in the Agreement or any other address that the recipient may designate by notice in accordance with the Agreement. Notice may be delivered personally, by post or facsimile transmission. Notices shall be deemed to have been received by hand delivery – at the time of delivery:
- a) if by post – within 48 hours.
- b) if by facsimile transmission – immediately on transmission upon receipt of transmission OK.
- 15.3 The Supplier cannot transfer its rights and obligations under the Agreement to a third party without the prior written approval of SDGISI.
- 15.4 Each party shall perform the Agreement in compliance with any applicable Sanction laws. “Sanction laws” means all applicable laws concerning economic sanctions (including embargoes, export controls, freezing or blocking of assets of targeted entities) of any jurisdictions including the United Nations; Malaysia; European Union; the United Kingdom and the United States.
- 15.5 If personal data are processed for the execution of the Agreement, parties will comply with the applicable data protection laws and regulations, such as but not limited to the General Data Protection Regulation (“GDPR”). If necessary, under the GDPR or other applicable laws and regulations, parties will adopt the appropriate agreement(s).
- 15.6 SDGISI is entitled to amend or supplement these General Terms and Conditions. Any change and/or supplement shall be binding upon the Supplier, but not before the Supplier has been notified thereof in writing.
- 15.7 Any provisions that are void or voidable will not affect the validity of the other provisions.
- 16. APPLICABLE LAW/DISPUTES**
- 16.1 The Agreement and these General Terms and Conditions are subject to Dutch law and the competent Court of Rotterdam has exclusive jurisdiction on any disputes arising from the Agreement and/or General Terms and Conditions.
- 16.2 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 were agreed otherwise in writing.