

# UNIMILLS GENERAL TERMS AND CONDITIONS OF PURCHASE

## 1. GENERAL

1.1 These general conditions form part of every purchase agreement concluded between buyer and seller or of any other agreement involving delivery of goods, except where explicitly agreed otherwise in writing.

1.2 The applicability of conditions applied by seller is hereby excluded, except where otherwise agreed in writing. If in the latter case a conflict exists between the present conditions and the conditions applied by the seller, then the present conditions shall take precedence.

## 2. ORDERS

2.1 Orders are only binding on buyer inasmuch as they have been given or confirmed in writing by buyer.

2.2 Buyer is entitled to cancel an order if within 7 days after the order date it has not been accepted by seller by signing and returning the order form that has been provided by buyer or, in the case where no order form has been provided, if it has not been accepted in writing in some other way.

## 3. PRICES

3.1 All prices are fixed and - except where otherwise agreed in writing - are carriage-paid and duty paid at the place of delivery and inclusive of sound packaging.

3.2 Buyer has the right at all times to pay in Netherlands currency at the exchange rate in effect on the invoice date.

## 4. DELIVERY TIME

4.1 Seller is obliged to comply strictly with the agreed delivery time.

4.2 Without prejudice to the provision in the foregoing paragraph, seller is obliged to notify buyer forthwith of any delay or anticipated delay in the performance of the agreement.

## 5. OWNERSHIP/RISK

5.1 Unless agreed otherwise, the ownership of and risk in respect of the goods shall be transferred to buyer as soon as buyer has taken receipt of the goods. In the event of claims by buyer, the risk in respect of the relevant goods shall again be for seller's account as from the date of the relevant notification to seller.

5.2 Seller should for its own account arrange for insurance against transport damage.

## 6. CONFORMITY/LEGAL REGULATIONS

6.1 Seller warrants that the goods delivered are in conformity with the agreement and are suitable for the use intended by buyer, inasmuch as such use is known to seller.

6.2 Failure to carry out a goods inward control limits neither the right to make claims nor buyer's other rights.

6.3 Payment for the goods shall never imply a waiver of the right to make claims or of buyer's other rights.

6.4 Seller warrants that the goods delivered and the use thereof, inasmuch as such use has been agreed or can reasonably be foreseen: (a) do not infringe any food-law or other government regulations in force in the Netherlands or in the agreed country of destination; (b) do not infringe any industrial or intellectual property right existing in the relevant country and having a protective scope which specifically comprises such goods or such use.

6.5 As against buyer and subsequent purchasers or users of the delivered goods (whether in a processed condition or not) seller undertakes to make complete restitution of any damage which they might suffer as a result of seller's non-fulfilment of its obligations.

## 7. PRODUCT LIABILITY

7.1 Seller indemnifies buyer against liability for damage resulting from claims by consumers based on a defect in goods supplied by seller to buyer.

7.2 Seller shall take out adequate insurance against damage as referred to in the foregoing paragraph. Seller shall cause an annotation to be made on the policies to the effect that any compensation payments by the insurance company shall be made direct to the person who actually suffered the damage. Seller shall keep a certificate of insurance duly available for inspection by buyer.

## 8. FORCE MAJEURE

8.1 Non-performance or inadequate performance resulting from a situation beyond seller's control (force majeure) shall be understood to mean that which is understood thereby under the generally valid law of the Netherlands. No appeal to force majeure may be made on the grounds of default by seller's suppliers, machine or production break downs or strikes.

8.2 If a situation of force majeure lasts for longer than one month, then buyer has the right to terminate the agreement unilaterally and without recourse to law by means of a simple notification to seller in so far as the agreement has still not been performed. Moreover, buyer 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 buyer no longer has any reasonable interest in taking delivery after termination of the situation of force majeure.

## 9. INVOICES, CONSIGNMENT NOTES AND PACKING LISTS

9.1 All invoices should be submitted in duplicate.

9.2 Non-compliance with the requirement, as mentioned in the order or otherwise agreed, to send consignment notes and packing lists to the prescribed addresses as well as the incomplete filling-in of such documents with all the necessary information may result in payment being delayed, which delay shall not result in any obligation for buyer to pay interest or any other compensation to seller.

## 10. TERMINATION

Without prejudice to the other provisions in these conditions, parties are entitled to terminate the agreement unilaterally and without recourse to law by means of a written notification to the other party if the agreement has not been performed, or not performed in good time or properly in the following cases: (a) if the other party fails to comply with, does not comply in good time with, or does not comply properly with the obligations resulting from an agreement to which these purchasing conditions are applicable or from further agreements resulting there from; (b) if the other party has been declared bankrupt, has applied for suspension of payment or liquidates its business or transfers it to third parties.

## 11. DRAWINGS/MODELS/TECHNICAL INFORMATION

If buyer provides seller with drawings, models or other technical information, the following conditions shall apply: (a) the drawings and models are and shall remain exclusively the property of buyer. Seller shall, upon first so being requested by buyer, return to buyer the drawings together with all copies thereof as well as any working drawings and models; (b) seller undertakes to treat as confidential these drawings and models as well as the technical information that has been made available to seller. Seller is only allowed to make such known to members of its personnel, inasmuch as this is necessary for the performance of buyer's order and seller must furthermore oblige the said personnel members in turn to treat such as confidential; (c) the drawings and models as well as the technical information that has been made available may be used by seller solely for the performance of buyer's order and seller gives a definitive undertaking not to make use of such in any other way either itself or on behalf of third parties.

## 12. SETTLEMENT CLAUSE

Buyer is entitled, for such time as it forms part of the Sime Darby Group, to deduct from the amounts which it owes for whatever reason to seller or to other companies forming part of the same group as seller the amounts which buyer or other companies forming part of the Sime Darby Group can claim for whatever reason from seller or from other companies forming part of the same group as seller. This provision does not affect any claim that buyer may have to settlement. Parties indemnify each other and each other's group companies against claims for payment of amounts which have been deducted on the founts of the present article.

## 13. APPLICABLE LAW/DISPUTES

13.1 All agreements to which these purchasing conditions are applicable as well as all further agreements which result there from shall be governed by the law of the Netherlands, unless agreed otherwise in writing.

13.2 The provisions of the Uniform Act on the International Purchase of Corporeal Movables (LUVI, The Hague, 1st July 1964) and the United Nations Convention on International Purchase Agreements (CISG, Vienna, 11th April 1980) are not applicable, except where otherwise agreed in writing.

13.3 All disputes between parties shall in the first instance be settled by the competent judge in Rotterdam, except where the dispute falls within competency of the Dutch cantonal judge.