

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

The private company **CUBLEND B.V.**, located in 2665 NN, Kwartsweg 40, Bleiswijk, The Netherlands registered at the Chamber of Commerce in Rotterdam under registration number: **63230798**.

Article 1 – General

1.1 These general terms and conditions apply to all invoices, quotations, orders and/or agreements between the CUBLEND and the BUYERS, regarding sale and delivery of products and/or services. Deviations from or amendments to these terms and conditions must be confirmed in writing by CUBLEND and are only valid for the relevant agreement.

The "BUYER" means any (legal-) person to whom deliveries by CUBLEND of products and/or services are supplied, including its representatives, agents, assigns and heirs. The "PRODUCT" means every supplied or (still) delivered goods within the agreement between BUYER and CUBLEND. The "SERVICE" means every service that has to be provided from the agreement between BUYER and CUBLEND as well as all service materials and other matters that are intended for the BUYER.

These general terms and conditions shall also apply to supplied products and/or services to the BUYER when CUBLEND has involved a third party in whole or in part and whether or not modified. Also on products and/or services for the purposes of the agreement or other transaction who are provided a delivered by a third party at BUYER.

1.2 The general terms and conditions of BUYER are not obligatory for CUBLEND, unless CUBLEND has a written agreement with the BUYER.

1.3 If CUBLEND has a written agreement with any changes to a part of the general terms and conditions, the rest of the regular terms and conditions stay unaffected.

Article 2 – Agreements and changes

2.1 CUBLEND will consider a placed order or signed quotation by BUYER as an irrevocable offer.

2.2 CUBLEND is, after a written or email confirmation for the conclusion of the agreement, responsible for fulfilling the placed order by BUYER. CUBLEND expressly reserves the right to determine the delivery date at a later time.

2.3 BUYER must notify any changes in an order to CUBLEND, written or by mail, on time. CUBLEND has the right to evaluate whether the change can take place. Changes to a placed order by BUYER, in any nature, which have higher costs than provided by the original quotation of CUBLEND shall be charged to the BUYER. If such changes reduce costs, no single law relating to BUYER can reduce the purchase price.

2.4 Any changes may cause the indicated delivery time to exceed by the CUBLEND. There is no possible form of compensation by CUBLEND.

2.5 Orders, invoices, order confirmations or other correspondence via email are accepted by parties as legally binding correspondence.

Article 3 – Quotations

3.1 All offers of CUBLEND are non-committal and prices are expressed in Euros, unless explicitly stated otherwise within the quotation. The prices are excluding VAT and/or other Government taxes, as well as excluding transport-freight and delivery costs, unless expressly stated otherwise. CUBLEND's quotations are provided on the information and specifications provided by the BUYER.

3.2 Descriptions and prices in quotations are made under reservation and represent only approximations. The BUYER may not derive any right whatsoever from any mistakes in a quotation. A combined quotation doesn't require CUBLEND to execute a part of the order against a corresponding part of the price.

3.3 CUBLEND is entitled to change the agreed price if market prices changes and/or price increases by suppliers or other developments, such as changes in raw material, material and labor costs, government measures, currency exchange rates, taxes, duties, levies etc., provide the reason to do so. CUBLEND shall inform the BUYER of any price increase as soon as possible with written notice. If the price increase occurs within three (3) months after the conclusion of an agreement and amounts to more than ten (10) % of the original price, the BUYER is entitled to demand with a written notice, within ten (10) days after the written notice of CUBLEND, that the agreement will be rescinded. If this does not occur, the BUYER shall be deemed to agree to the price increase.

3.4 If samples are provided by CUBLEND to BUYER, these samples only count as an indication. The description of the delivered goods can deviate from the samples, unless there is a written agreement in accordance to the provided samples.

Article 4 – Delivery

4.1 In relation to article 2.2, the delivery date is determined by CUBLEND and BUYER. If CUBLEND specified a delivery period, this will only count as an approximate period and not as guarantee.

4.2 CUBLEND shall not be in default by only exceeding the delivery timeframe. If a delay occurs, for whatever reason, the delivery time shall be extended by the length of that delay.

4.3 Unless otherwise agreed in writing and not contrary to the provisions in Article 6 of these Terms and Conditions, products shall be considered delivered to the BUYER in a legal sense from the time that these are put at the disposal of BUYER at the place as agreed upon (DAP Incoterms 2020).

4.4 CUBLEND shall inform BUYER about the date of sending. Products are transported at BUYERS expenses and risk. The BUYER is obliged to receive the products on the announced date. If this obligation is not met, CUBLEND can store the products (or will have them stored). The BUYER shall be responsible for the costs associated with such storage.

4.5 CUBLEND is entitled to deliver products in parts. Each partial delivery can be invoiced separately. In such case, payment must be made in accordance with Article 5 of these Terms and Conditions.

4.6 In regards to the amount of deliveries confirmed by CUBLEND, CUBLEND reserves the right to deviate from this. BUYER is obliged to accept more or less deliveries. In case of less deliveries, CUBLEND is not required to generate more deliveries. The invoices are based on the actual delivered quantities.

Article 5 – Payment

5.1 The BUYER must pay CUBLEND within fourteen (14) days after the date of invoice unless otherwise agreed in writing and/or confirmed referred to article 2.2.

5.2 The BUYER hereby waives its settlement rights and rights to suspend performance.

5.3 CUBLEND shall ensure invoicing in time. Sub-invoicing is possible at all times, unless this has been excluded in a written confirmation.

5.4 In the event the time period of fourteen (14) days referred to in Article 5.1 of these Terms and Conditions is exceeded, the BUYER – without prejudice to CUBLEND's other rights – shall due monthly interest of two (2) % on the invoice amount (portion still owed) as from the date that the payment time period was exceeded until the time of complete payment of the invoice amount. CUBLEND shall then be entitled to demand immediate payment of all unpaid invoices and to suspend further deliveries until the time the entire invoice amount is paid, or sufficient security has been provided in that regard.

5.5 All legal costs which CUBLEND incurs as a result of the BUYER not meeting his/its payment obligations shall be charged to the BUYER and shall be calculated in accordance with the rates of the Dutch Bar Association.

5.6 Payments made by the BUYER are always applied first to pay all owed costs and interest and then to pay the oldest invoice which is due and payable, even if the BUYER states that the payment relates to a later invoice.

5.7 BUYER can only raise objections to an invoice within 14 days after invoice date.

5.8 Customer specific ingredients/raw materials, can be invoiced against the procurement value in case not used within the shelf life of the specific raw materials.

Article 6 – Retention of ownership

6.1 All delivered products and products still to delivered remain the property of CUBLEND until all claims which CUBLEND has or will obtain on the BUYER, including at least the claims referred to in article 3:92, paragraph 2 of the Dutch Civil Code, are paid completely.

6.2 When the full payment has not occurred, the BUYER is not entitled to pledge, encumber or dispose the products to third parties, other than in connection with his/its normal business operations. The BUYER will be obliged to cooperate upon CUBLEND's first request in a pledge on behalf of CUBLEND regarding payment obligations towards the BUYER, that arise or will arise from the resale of products by the BUYER.

6.3 BUYER is obliged to keep the products, which have been delivered under retention of ownership, with care and in a way that they can be identified and recognized as the property of CUBLEND.

6.4 If the BUYER remains in default after a written demand by CUBLEND with respect to any payment obligation in respect of products already delivered, CUBLEND shall be entitled to remove the delivered products (or have them removed) from the BUYER or his/its holders. The BUYER hereby irrevocably grants permission to CUBLEND to enter the places where the items are located. The BUYER shall be responsible for the costs associated with such retrieval of the products.

6.5 The conditions as laid down in article 6.1 until article 6.4 leave other rights of CUBLEND unimpeded.

Article 7 – Obligations of the buyer

7.1 BUYER will ensure that CUBLEND can have all the necessary information and relevant specifications on time for the execution of the agreement.

7.2 If the start or progress of the execution of the agreement is delayed by factors which are attributable to BUYER; BUYER shall bear responsibility for the ensuing damage and costs for CUBLEND.

Article 8 – Engaging third parties

8.1 CUBLEND is entitled to engage third parties to execute an agreement at BUYER expense, if there is reason to do so in CUBLEND's judgement or when this ensues from the agreement.

Article 9 – Reclamation

9.1 BUYER has the obligation to immediately check if the products meet the agreement when BUYER receives the products. If the BUYER does not agree with the delivered products, the BUYER must object within 24 hours after the products are received, in writing or by e-mail with a motivation to object.

9.2 If the objection is justified by CUBLEND, CUBLEND is obliged to replace the products free of charge to which the objection relates or to reimburse to BUYER. This is CUBLEND's choice. Any consequential damages are expressly excluded.

Article 10 – Return of delivered products

10.1 Delivered products by CUBLEND to BUYER may only be returned to CUBLEND after written permission from CUBLEND and under conditions to be set by CUBLEND. Return costs will be charged to BUYER, with the exception of the return costs as to which it has been established for CUBLEND that these products contain mistakes and/or defects falling under the guarantee or for which CUBLEND is liable.

Article 11 – Warranty

11.1 CUBLEND gives a warranty on all products which have been delivered by CUBLEND until the expiration date of the products that is displayed. Defects falling under the warranty shall be replaced by CUBLEND or the purchase price of the concerned part is credited. This is CUBLEND's choice.

11.2 CUBLEND has not got any guarantee obligation if the BUYER has not fully, properly or timely fulfilled any obligation towards CUBLEND.

11.3 Any warranty shall expire if the BUYER makes changes to the products, or if the products are used for purposes which are not common for the business, or if the BUYER has handled the products in a careless or injudicious manner.

11.4 In regards to third-party products, CUBLEND does not give any other warranty conditions than those held by its own suppliers.

Article 12 – Liability

12.1 CUBLEND is insured for corporate liability for damages suffered by the PURCHASER and third parties as a result of an act or omission by CUBLEND in the sale and delivery of products and/or services and the execution thereof. The corporate liability policy and the insurance conditions are available for inspection at the request of the PURCHASER.

12.2 The liability of CUBLEND is limited in scope to the payment made in the relevant claim by the insurer of CUBLEND on the basis of the company liability policy.

12.3 The limitation of liability as referred to in Article 12.2 does not apply in the case of intent or deliberate recklessness on the part of the management/company management of CUBLEND, not being executive personnel.

12.3 Any claim against CUBLEND shall expire twelve (12) months after the claim arises, with the exception of claims that have been recognized by CUBLEND and if legal action has since been brought against CUBLEND in the matter.

12.4 The Buyer is obliged to indemnify and hold CUBLEND harmless against any claims made against CUBLEND by third parties engaged by the Buyer, except in cases of corporate liability as referred to in Article 12.1.

12.5 Employees of CUBLEND or auxiliary persons engaged by CUBLEND for the execution of the agreement can also invoke the provisions of article 12.4 if they were involved in the execution of the agreement between CUBLEND and the PURCHASER.

Article 13 – Intellectual and industrial property rights

13.1 CUBLEND retains all intellectual and industrial property rights with respect to quotations drawings, software, descriptions, recipes and models produced or provided, as well as with respect to all information contained in or forming the basis for these. The delivery of goods and / or services does not extend to any transfer of intellectual and industrial property rights.

13.2 The BUYER guarantees that the items referred to in Article 13.1 shall not be reproduced, disclosed, stored or otherwise used, except as necessary to execute the agreement and with CUBLEND's written permission.

13.3 All designations, logos, labels, etc., whether protected by intellectual or industrial property rights or not, which are found on, in or at the products delivered by CUBLEND, may not be changed, removed, copied or used for other products by BUYER, except with CUBLEND's written permission.

13.4 BUYER shall directly notify CUBLEND if they breach the intellectual property rights of CUBLEND. CUBLEND has the right, at its option, to replace or modify the offending products, or to terminate the agreement with BUYER. In these cases, the BUYER has no right of compensation.

Article 14 – Provision of security

14.1 If there is reason for CUBLEND to suspect that the BUYER will not be able to perform its obligations under the agreement, then BUYER shall be obliged at CUBLEND's first request to provide sufficient security for the performance of all its obligations in respect of the finished agreements or still to be finished in whole or in part by CUBLEND, in a manner to be indicated by CUBLEND.

Article 15 – Suspension, dissolution, force majeure

15.1 If the BUYER in any way commits a breach of contract with CUBLEND in respect of the performance of any obligation, as well as in the event of a request for suspension of payments, (temporary) suspension of payments, bankruptcy/involuntary liquidation petition, declaration or claim, bankruptcy/involuntary liquidation, liquidation or cessation of (part of) the business of the Buyer, CUBLEND shall, without prejudice to the other rights which it has and without any obligation to pay compensation, be entitled, without a notice of default or judicial intervention:

- to suspend the execution of the agreement until payment of all that which the BUYER owes to CUBLEND has been sufficiently secured;
- to suspend all of its own potential payment obligations to Buyer;
- to rescind any agreement with BUYER in whole or in part;
- the obligation of BUYER to pay for already delivered products and/or performed services;
- retrieval of delivered products which have been delivered under retention of ownership.

15.2 If CUBLEND is impeded from executing the agreement due to force majeure, CUBLEND shall be entitled to suspend the execution of the agreement without legal intervention or to rescind the agreement in whole or in part, without being obliged to pay any compensation. If the BUYER under this article terminates the contract, BUYER is obliged to pay in full the services provided up to that point and the reserved raw materials and stock products for BUYER.

15.3 There is an instance of force majeure in the case of a circumstance beyond CUBLEND's control which results that the performance of the agreement being permanently or temporarily impeded, if it is not already included in this, the case of war, threat of war, civil war, riots, strikes, fire and every other disruption in the business of CUBLEND or its suppliers. There is also an instance of force majeure if a supplier from whom CUBLEND purchases products with regard to the execution of the agreement with the BUYER remains in default as to timely and/or proper delivery.

Article 16 – Transfer of rights and obligations

16.1 BUYER may not endorse its rights and/or obligations ensuing from any agreement with CUBLEND to third parties, or allow these to serve as security for third party claims, without CUBLEND's written permission.

Article 17 – Applicable law, competent court

17.1 Dutch law governs these Terms and Conditions, as well as the legal relationships between CUBLEND and the BUYER.

17.2 If the law does not mandatory provide otherwise, the District Court in Rotterdam shall have exclusive jurisdiction in the first instance to hear disputes which may arise in connection with (the execution of) any agreement between CUBLEND and BUYER, as well as disputes concerning (any and all articles of) these Terms and Conditions, also with regard to obtaining provisional relief.

Article 18 – Dutch text prevails

18.1 In the event of a conflict between this version and the Dutch version of these General Terms and Conditions, the Dutch version shall prevail.

Article 19 – Depot

19.1 These terms and conditions have been filed at the Chamber of Commerce in Rotterdam The Netherlands under registration number: **63230798**.