

General Terms and Conditions of Driessen United Blenders B.V.

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Article 1. Definitions and applicability

1. These general terms and conditions (hereinafter referred to as “General Terms and Conditions”) apply to all offers by, all acceptances by, and all agreements with, the private company with limited responsibility Driessen United Blenders B.V., with registered office and place of business in 5753 RL Deurne, on the Voltstraat 5, Chamber of Commerce (KvK) number: 17058792, hereinafter referred to as “DUB”.
2. These General Terms and Conditions can be consulted on and downloaded from the website <http://www.dub.nl/algemene-voorwaarden/>. The text of the Dutch version of these General Terms and Conditions shall prevail, in case of discrepancies, over that of a different language.
3. In these General Terms and Conditions a “contractor” is someone DUB calls on these General Terms and Conditions.
4. Once these General Terms and Conditions apply, these shall also apply without further statement on new agreements between DUB and contractor.
5. Deviations from these General Terms and Conditions are only valid after written agreement between parties.
In case of a deviation regarding one or more provisions in these General Terms and Conditions, the remaining provisions of these General Terms and Conditions shall still apply in full for the remainder. The contractor cannot derive any rights for the future from possible agreed upon deviations in these General Terms and Conditions.
6. All complaints regarding the handing over of these General Terms and Conditions must be notified in writing to DUB no later than two weeks after the establishment of the agreement, such on pain of forfeiture of rights.
7. All complaints regarding the alleged unreasonably incriminating character on one or more of these General Terms and Conditions must be notified to DUB in writing no later than two weeks after DUB invokes the concerning general term and condition, such on pain of forfeiture of rights.
8. If any provision in these General Terms and Conditions is void, is annulled or is declared inapplicable, the remaining provisions of these General Terms and Conditions shall remain fully in force and a provision will apply instead of the void, annulled or declared inapplicable provision, that will honour the purpose and purport of the void, annulled or declared inapplicable provision as much as possible.
9. DUB is authorised to alter these General Terms and Conditions. The altered General Terms and Conditions are deemed accepted by the contractor if the contractor does not object to the altered General Terms and Conditions in writing to DUB within fourteen days after the altered General Terms and Conditions were sent to him or were made known to him.

10. The applicability of (General) Terms and Conditions that are applied by the contractor are explicitly rejected by DUB.

Article 2. House rules and detailed conditions

1. In addition to these General Terms and Conditions, the "House Rules for Clients of DUB" shall apply, regarding the practical affairs at, and working methods of DUB, which can be consulted on and downloaded from the website <http://www.dub.nl/algemene-voorwaarden/>.
2. In case of **storage** the following will apply in addition to the General Terms and Conditions and the House Rules:
 - The Dutch Warehousing Conditions, deposited by the FENEX, Netherlands Association for Forwarding and Logistics, at the Registry of the District Court at Rotterdam on 15 November 1995, to be consulted on the website <http://www.fenex.nl/fenex-voorwaarden>.
3. In case of **transportation and transportation as forwarder** the following will apply in addition to the General Terms and Conditions and the House Rules:
 - The Dutch Forwarding Conditions, deposited by the FENEX, Netherlands Association for Forwarding and Logistics, at the Registry of the District Courts at Amsterdam, Arnhem, Breda and Rotterdam on 1 July 2004, to be consulted on the website <http://www.fenex.nl/fenex-voorwaarden>.
 - The AVC General Transport Conditions 2002, deposited at the clerk to Amsterdam court (no. 81/2014) and to Rotterdam court (no. 2/2015), dated 2015, to be consulted on the website <https://www.sva.nl/nl/nl/publicaties/algemene-voorwaarden/avc-2002>.In case of discrepancies between the House Rules as intended in paragraph one or the conditions intended in paragraphs 2 and 3 with these General Terms and Conditions, these General Terms and Conditions shall prevail.

Article 3. Establishment/termination agreement/order

1. All offers by DUB are non-binding and are valid during the specified term. Images depicted, descriptions, calculations, colour indications, (technical) specifications, models, sizes, weights, speeds, website- and advertisement materials do not bind DUB.
2. DUB reserves the right to withdraw/ revoke or alter offers at any time through a single notification to the contractor, despite the offer mentioning a set term for the acceptance. In any case an offer lapses without further notification after thirty days pass, calculated from the moment the offer was issued, except if DUB extends the validity period of the offer in writing.
3. The provision of the information provided in the offer, including for instance quotations, to third parties (for inspection) is prohibited without prior written approval by DUB.
4. The contractor is responsible for the correctness and completeness of the information provided to DUB, on which DUB bases its offer.
5. All complaints regarding the order confirmation must be notified to DUB in writing within 24 hours after the date of the confirmation, such on pain of forfeiture of rights.
6. The information pertaining to offers, acceptances, and contracts as recorded in the systems of DUB constitute conclusive evidence thereof. It is not possible to rely on rebuttal evidence. This provision constitutes an agreement on evidence as defined by Article 153 of the Dutch Code of Civil Procedure.
7. Exclusively applies between the parties that which they agreed upon in writing, including these General Terms and Conditions and the intended House Rules and detailed conditions as intended in article 2.
Verbal commitments or agreements do not bind DUB.
DUB is only bound in case of a written order (re)confirmation that includes the production date and/or date of service, accompanied by a unique internal reference.
8. Fixed period agreements between parties cannot be terminated by the contractor in the meantime.

9. The fixed period agreement between the parties will be tacitly renewed each time with the duration of the agreed upon period, unless the contractor terminates the agreement in writing, with due observance of a notice period of three months before the end of the ongoing period.
10. Agreements with an indefinite period between parties can be terminated by the contractor in writing with due observance of a notice period of three months.
11. If an order is cancelled in whole or in part by the contractor, DUB is authorised to bill all costs of all purchased packaging materials, as well as all purchased or produced machines, instruments, parts, components or devices, after which the contractor is bound to pay these costs. A cancellation occurs if the contractor makes a downward adjustment or completely reduces to zero the already planned number of products, or does not or not completely purchases an agreed upon contract/purchase volume within the agreed upon period. If an order is cancelled in whole or in part by the contractor, DUB is also authorised to bill the following amounts:
 - (I) 60% of the total amount of the order if the execution of the order already started;
 - (II) 50% of the total of the total amount of the order if the execution of the order had to be started within one week after the cancellation;
 - (III) 40% of the total of the total amount of the order if the execution of the order had to be started between one to three weeks after the cancellation.

Article 4. Prices and payment

1. Unless expressed otherwise in writing, the prices used by DUB are in euros, in accordance with the prevailing prices at the time of the offer, excluding VAT, other taxes of levies, import and export duties and excise duties.
2. Unless expressed otherwise in writing, the prices are ex-works, at company location of DUB.
3. If the prices of calculated prices of suppliers to DUB and/or other cost price factors increased at the time of execution of the agreement of a part thereof, DUB is at all times authorised to increase the agreed upon price, after which the contractor is bound to pay this price, without this giving the contractor the right to dissolve, cancel or annul the agreement. In case of a price decrease of raw materials or materials purchased by DUB, the contractor is never credited for the arisen price difference towards raw materials or materials purchased at a higher price in the past.
4. If the contractor consists of multiple (legal) entities, each of those (legal) entities is severally liable to DUB for the compliance of all obligations.
5. Payment shall take place without offset or suspension for any reason whatsoever, except insofar as a final judicial decision determined that the contractor has a deductible counterclaim or a ground for postponement.
6. Unless expressed otherwise in writing, the invoices sent by DUB need to be paid within fourteen days after the invoice date following the method indicated by DUB. Each payment term is a strict deadline in the sense of the law.
7. If the contractor does not pay the amount owed to DUB within the payment term, by operation of law the contractor is in default and the contractor owes a contractual interest of 1.5% per month of the gross invoiced amount, starting from the expiration date until the time of full payment.
8. All costs arisen as a result of extrajudicial collection of the amount owed are borne by the contractor. The extrajudicial costs are set to be at least 15% of the gross invoiced amount, with a minimum of € 500.00 excluding VAT.
9. All complaints regarding the invoices must be notified in writing to DUB no later than two weeks after the date of the invoice, such on pain of forfeiture of rights.
10. Despite prior made term agreements regarding the payment, the receivables by DUB on the contractor are immediately due – and DUB is authorised to dissolve the agreement through a single writing notification – if the goods of the contractor are in full or in part seized, in case of suspension of payments, bankruptcy, or debt restructuring has been requested or announced or if the contractor is in

suspension of payments, bankruptcy or is in a debt restructuring or if at any moment a full or partial seizure, suspension of payments, bankruptcy or a debt restructuring is deemed inevitable.

11. DUB is at all times authorised to desire collateral from the contractor for the compliance with the obligations of the contractor. If this requested collateral is not provided, DUB is authorised to suspend its obligations or terminate the agreement, without being liable to pay any compensation to the contractor.

Article 5. Information and execution of the agreement

1. The contractor is responsible for the correctness, completeness and reliability of the data and information provided to DUB. The contractor needs to notify DUB about any special demands about the product in writing before the establishment of the agreement.
2. For the execution of the agreement, the contractor shall timely and adequately provide all information and inquiries requested by DUB as well as provide cooperation requested by DUB.
3. DUB is not held to (further) execution of the agreement until the contractor provided all data and information requested by DUB.
4. The contractor ensures that the goods to be provided by him, the transporter and the transport equipment meet all relevant national and international laws and regulations. The goods to be supplied shall be free of defects, suitable for the purpose the goods are intended for.
5. DUB is authorised to inspect or have inspect the goods at the expense and risk of the contractor, and the contractor shall provide all cooperation and grant all access to locations the goods are located.
6. The services to be supplied by DUB are executed independently and at its own discretion as obligation of means.
7. If and insofar a proper execution of the agreement demands this, DUB has the right to let third parties carry out certain services. If these third parties apply general terms and conditions, these general terms and conditions shall also apply to the contractor, in the sense that both DUB and the third parties can invoke these.

Article 6. Loading and unloading

1. The contractor needs to pack and conserve the goods to be delivered as such that the goods can be transported and/or stored damage-free. Packages shall be clean, closed and undamaged.
2. Only products in closed packaging are accepted. Opened products are denied, or will be notified to the contractor by DUB and placed in quarantine for 48 hours, after which these, in the absence of instructions by the contractor, will be disposed of by DUB at the expense and risk of the contractor.
3. The loading space of the lorry must be clean, dry, odourless and undamaged.
4. Palletised goods shall be packed on clean, dry, odourless and splinter-free pallets, equipped with a four-way entry pallet. American pallets are only accepted at an additional charge.
5. Unless agreed upon otherwise in writing, palletised goods are no higher than 1.80 metre and the palletised goods weigh no more than 1,000 kg. Palletised goods do not display any overhang.
6. Unless agreed upon otherwise in writing, only pallets with one serial number are accepted by DUB.
7. The supplied lorry needs to have room for at least the number of pallet spots required for the goods that have to be loaded. A possible already present surplus of pallets will not be taken in receipt, stored or distributed among the load by DUB.
8. The contractor needs to take back the packages and/or pallets and/or other packaging at their expense and risk upon request by DUB.
9. DUB reserves the right to decline lorries or loads or pallets for exchange at any time.
10. The contractor is responsible for the timely loading, unloading and release of goods and shall be timely present for this purpose, so that no costs or damage, for instance resulting from delays, arise and will comply with the instructions by DUB regarding this matter, such on pain of liability for damages on the part of the contractor for the arisen damage (caused by delay).

11. If the contractor supplied DUB with goods that are the property of a third party, the contractor indemnifies DUB for any actions of this third party regarding the goods delivered to DUB, including damage to the goods themselves.

Article 7. Mixing/stirring and repackaging/packaging

1. Mixing and repackaging loss are at the expense of the contractor.
2. DUB will provide the contractor with a production record within 24 hours after production. All complaints regarding this production record must be notified to DUB in writing no later than 48 hours after the date of the record, such on pain of forfeiture of rights.
3. DUB always applies the usual deviations in the market regarding sizes and quantities.
4. All complaints regarding the results of the cycle counts of the present inventories sent by DUB to the contractor in writing must be notified to DUB in writing no later than 48 hours after the date of the results, such on pain of forfeiture of rights.
5. Sampling of the goods to be delivered as part of the production is at the expense and risk of the contractor. Destruction of the samples is also at the expense and risk of the contractor.
6. The seals applied by DUB are suitable for normal use and load. DUB does not guarantee these don't break after delivery as a result of incompetent use or incorrect or careless handling.
7. If the machines, instruments or other tools or production means used by DUB have an adverse effect for the raw materials, the packaging materials or the product that has to be mixed or packed, DUB shall in no way be liable to that, nor for the consequences thereof.
8. DUB reserves the right to receive reasonable – to be indicated by DUB – quantities of the product that has to be mixed or packed, for instance, however not exclusively, to test the production method, assess the processing times and/or assessing the cleaning protocols.

Article 8. Delivery of goods and transition of risk

1. Delivery times are indicative and shall not be considered a strict deadline.
2. DUB reserves the right to at any time deliver and invoice in parts.
3. Unless agreed upon otherwise in writing, delivery of the goods shall be ex factory/warehouse, in which the risk of damage/loss immediately transfers to the contractor.
4. DUB shall be free to choose transport(er) and the packaging, unless agreed upon otherwise in writing. The risk of damage/loss is transferred to the contractor at the moment of loading the goods for transport ex factory/warehouse, wherefore the transport is at risk of the contractor, unless agreed upon otherwise in writing.
5. DUB is not liable for exceeding of the delivery times and such exceeding does not give the contractor the right to dissolve the agreement or otherwise suspend his obligations arising from the agreement
6. The contractor is obligated to take into receipt the goods to be delivered before expiry of the delivery time. In the absence thereof, DUB is authorised to, at its own discretion, without prior notice of default, demand fulfillment or payment or dissolve the agreement, without prejudice to the right of DUB to demand full compensation for the damaged suffered by her, including storage costs.

Article 9. Retention of title goods and duty of care

1. All goods to be delivered by DUB remain property of DUB until the contractor fully meets his obligations towards DUB.
2. If the contractor is in default on compliance with his obligations, DUB reserves the right to retrieve or have retrieved the goods belonging to her at the expense of the contractor from the location these are in.
3. If DUB effectuates its retention of title, the contractor is obligated to provide any cooperation, including granting access to locations and buildings concerned.
4. The contractor will not have a right of retention towards DUB on the goods delivered by DUB.

5. If goods on which a retention of title by DUB rests are seized, the contractor is obligated to immediately, however no later than 48 hours after these are seized, inform DUB about this in writing.
6. Until the ownership is transferred to the contractor, the contractor does, unlike in the normal course of his business, not have the right to sell, alienate, encumber, rent out, pledge or in any other way put at the disposal of third parties. Violation of this restriction by the contractor leads to a forfeit of the contractor to DUB of an immediately payable fine of one gross invoiced amount, without prejudice to the right of DUB to (additional) compensation.
7. Until the ownership is transferred to the contractor, the contractor is obligated to take reasonable care of the goods in ownership of DUB, insofar as these are located at the contractor, insure these in accordance with the usual conditions and keep these identified as owned by DUB. The contractor shall immediately provide access to the insurance policies to DUB upon request.

Article 10. Complaints and redress

1. The contractor is obligated to check the goods immediately after delivery on quantity, quality and specification and/or inspect whether the goods delivered correspond to that which was agreed upon and suffices. Slight deviations regarding numbers, weights, sizes, colours and other suchlike/similar aspects of the goods do not count as shortcomings by DUB.
2. All complaints because of immediately observable shortcomings and/or noticeable external defects of the delivered goods, regarding both quality and quantity, must directly be registered on the consignment note or delivery note, such on pain of forfeiture of rights.
3. All other complaints regarding (non-noticeable external defects of) the delivered goods must be notified to DUB in writing within seven days after the contractor discovers the (claimed) observed shortcoming, or ought to have, such on pain of forfeiture of rights.
4. The report needs to contain an as detailed as possible description of the defect, so that DUB is able to respond adequately. After observation of a (possible) defect, the contractor is obligated to do everything that prevents or limits damage, including possible immediate cessation of use.
5. In case of a complaint the contractor is bound to return the concerning good(s) unused, unmixed and unprocessed to DUB upon first request by DUB, at the expense and risk of the contractor, such on pain of forfeiture of rights. The contractor shall also provide full cooperation to DUB in order to check/verify the justification of the complaint. Complained goods shall only be returned after written approval by DUB.
6. If a complaint exists regarding a part of the delivery, this does not give rise to rejection of the entire delivery.
7. Complaints never give the contractor the right to suspend or settle his obligations.
8. The right to complain lapses in any case:
 - if the good is inexpertly used;
 - if the good is neglected;
 - if the good is processed/mixed/packed/delivered prescribed by/instructed by the contractor;
 - if third parties worked on/made changes to the good;
 - in case of regular wear and tear or deterioration.
9. A complaint that is made in time and upheld entitles the contractor only to replacement of the goods free of charge. If replacement of the goods is not possible, the price of the relevant goods will be credited. DUB is not required to take any other steps or compensate for any loss.
10. If it transpires that the complaint was not justified, the costs arising from this, including the research costs on the side of DUB, will be fully charged by DUB to the contractor and the contractor is in this case obligated to reimburse these costs to DUB.

Article 11. Liability and Force Majeure

1. Outside the provisions in article 10, the contractor has no entitlement whatsoever towards DUB because of defects concerning the goods, services and/or carried out activities provided by DUB.

2. Save for provisions of mandatory law, DUB is not held to any compensation of damage, of whatever nature, direct or indirect, including trading loss, lost profits, lost savings, to movable and immovable property, or to persons, fines and/or consequential damage at the contractor, his personnel, residents/users or other third parties, except in case of willful acts/gross negligence by DUB. DUB is neither liable as described above for acts of her employees or other persons within her sphere of risk.
3. Other than damage caused by willful acts or gross negligence by DUB or her managerial staff, DUB is never liable for damage as a result of:
 - recommendations or advice given by DUB to the contractor;
 - termination of the agreement carried out by DUB;
 - untimely, incomplete or incorrect delivery of goods by DUB;
 - defective goods delivered by DUB;
 - incorrect/negligent storage and handling by the contractor of the goods delivered by DUB;
 - changes made to the goods by the contractor;
 - inexpert use/incorrect or negligent use of the seals installed by DUB;
 - adverse effects to the raw materials, packaging materials or the product to be mixed or packaged as a result from the machines, instruments or other tools or production resources used by DUB;
 - violations of intellectual and industrial property rights as a result from or because of information provided by the contractor;
 - damage/loss, from whatever cause, of the goods put at disposal by the contractor;
 - sampling or cross-contamination of goods;
 - the usability/uselessness of the EAN-symbol (the barcode) or any other code that is applied to the (re)packaging upon request of the contractor, as well as for the consequences of the incorrect reading of such code with the suitable equipment;
 - the (exact) positioning of a label on the packaging;
 - the (exact) positioning of the facing in case of the use of flat film or tubular film.
4. If and insofar as any liability rests on DUB, for whatever reason, this liability is at all times limited to the net invoiced amount of the performance that gave rise to the damage, it being understood that DUB is never liable for a higher amount than the amount she is maximally insured for.
5. Legal claims relating to damage timely notified to DUB expire at least year after the damage is discovered and the contractor did not start legal proceedings against DUB within this year.
6. The contractor is bound to indemnify DUB for any damage DUB might suffer as a result from claims from third parties that relate to the goods, services and/or carried out activities provided by DUB.
7. If DUB is temporarily unable to carry out the agreement due to force majeure, she is authorised to suspend the agreement in full or in part, without financial compensation, for the duration of the force majeure. Force majeure includes, but is not limited to shortcomings of suppliers of DUB and/or other agents, production interruptions, power outages, internet or data network failures, disproportionate absenteeism of employees and/or other agents, government measures and weather conditions.
8. If DUB is unable to carry out the agreement due to force majeure, the contractor cannot make a claim to the execution of the agreement, dissolution of the agreement and/or compensation.
9. If the force majeure is of a lasting nature, this at the discretion of DUB, DUB reserves the right to alter or (partially) dissolve the agreement, without being bound to pay any compensation.

Article 12. Intellectual and industrial property rights

1. All intellectual and industrial property rights regarding the goods, services, advice and work methods thereof and anything DUB whether or not develops commissioned by the contractor and/or at the expense of the contractor, manufactures, invents, provides or uses, belong to DUB, insofar as these don't already belong to third parties, even if such costs are fully or partly passed on to the contractor. If and insofar as necessary, the contractor provides cooperation for the establishment or transfer to DUB of these rights. The contractor explicitly indemnifies DUB for any claims of third parties as part of (alleged breach of) intellectual and industrial property rights.

2. The goods, services, advice, work methods, inventions and/or other information may not be copied, reproduced, photographed, or made public in part or in full without prior written approval by DUB.
3. Violation of this article leads to a forfeit of the contractor to DUB of an immediately payable fine of € 10,000.00 for each violation, as well as € 500.00 for each day the violation continues, without prejudice to any other rights due to DUB.

Article 13. Applicable law and competent court

1. Any dispute arising between the parties pertaining to any contract with DUB, and any contract derived thereunder, is governed exclusively by Dutch law. The provisions of the Vienna Sales Convention are excluded.
2. Any dispute arising between the parties pertaining to any contract between them, and any contract or other actions pertaining to such contract, including, but not limited to, unlawful act, undue payment, and undue enrichment shall be brought in the first instance before the competent court of the Court of Limburg, for the district of Maastricht, except insofar as any mandatory rules of competency may prevent such a choice.