



Coöperatie AVEBE U.A.

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The Netherlands

www.avebe.com

General sales conditions of Coöperatie AVEBE U.A.

I General Provisions

Definitions

Avebe: Avebe means Coöperatie AVEBE U.A., Veendam, the Netherlands and its affiliates and subsidiaries.

Purchaser: Purchaser means the person or legal entity that purchases Goods from Avebe.

Goods: means all the Goods and/or services that are sold or delivered by Avebe.

Agreement: means the Agreement between Avebe and Purchaser, regarding the purchase and delivery of Goods and/or performance of services.

General

1. Avebe rejects and excludes all other conditions, including the purchasing conditions of Purchaser, even if reference is or has been made to such other conditions. These General Sales Conditions also apply to follow-up orders.
2. These General Sales Conditions form part of any offer, quotation, order and order confirmation in which Avebe acts as seller of Goods and are also applicable if there is no written order or written confirmation of an order.
3. The English version of the General Sales Conditions is a translation of the Dutch General Sales Conditions. The Dutch version of these General Sales Conditions is leading, in case of deviations between the Dutch and English wording, the Dutch wording will prevail and will be binding, even if the Purchaser has received an English version.

Offers and Orders

4. Avebe's offers and quotations do not result in any obligation to enter into a contract.
5. Avebe's offers and quotations are always non binding and Avebe can revoke these offers and quotations at any time. An Agreement is only final and binding if it has been accepted by Avebe in writing or if the delivery of Goods has commenced.

Prices

6. Prices mentioned in the Agreement, order or order confirmation are excluding VAT and other taxes and duties, such as, but not limited to import and/or export duties. Prices only include costs that are specifically mentioned.
7. The Agreement is always in Euro's, unless otherwise agreed upon in writing. The Purchaser has no authority in any circumstances to pay in a different currency.
8. Avebe is entitled to adjust prices or parts thereof for Goods not yet delivered.
9. Prices are "FCA" (free carrier) from the address of Avebe, according to the Incoterms 2010.
10. The quantity of the delivered Goods shall be calculated on the basis of measurements made by Avebe on calibrated measuring bridge and calibration tables and the outcome of those measurements will be final. At its request Purchaser can attend the measurements or weighing sessions in order to verify the procedure.



Delivery

11. Agreed delivery dates are indicative and not final. Avebe shall in no event be liable for late delivery, whatever the reason for this late delivery may be. As soon as Avebe knows or it can reasonably be expected that Avebe is unable to deliver on the indicated date, it shall immediately notify Purchaser hereof in writing.
12. Avebe is allowed to make partial deliveries of one order, or combine deliveries of orders.
13. A variance in weight of the ordered amount of Goods, compared to the actual delivered amount, is acceptable with a maximum of 5%.
14. The Purchaser is obliged to take delivery the Goods, even if the Goods are suspected to be damaged or contaminated.
15. Durable packaging materials that qualify for recycling, such as pallets, remain property of Avebe, even if a fee for this material is included in the price. These materials shall be returned clean and undamaged to Avebe, promptly after unloading of the Goods. The costs for the return shipment of these materials are for the Purchaser. If the Purchaser fails to return the durable packaging material or returns it damaged or unclean, Avebe is entitled to charge all costs with respect to the cleaning, repair or replacement of these materials to Purchaser.

Payment

16. Payment of the full amount of the invoice must be made within 30 (thirty) days after the date of the invoice. The payment date is a final deadline and therefore a so called "fatale termijn" according to Dutch law.
17. Avebe is entitled to request payment in advance or request a security for payment, such as a bank guarantee, until the moment the Goods are delivered. Purchaser shall comply with this request.
18. If Purchaser fails to pay the full amount of the invoice within 30 (thirty) days after the date of invoice then Purchaser is automatically in default ("verzuim") without a notification to that effect being required and:
 - a. all other debts that Purchaser owes to Avebe shall be due for immediate payment; and
 - b. 2 % per month on the outstanding payments shall be due; and
 - c. all (extra) judicial costs and expenses made to receive payment, with a minimum of 15 % of the amount due shall be for account of Purchaser.
19. The Purchaser is not allowed to suspend its obligation of payment and Purchaser is not allowed to off set any debt to Avebe.

Transfer of title

20. The title of the Goods delivered by Avebe shall remain vested in Avebe and shall only pass to Purchaser when payment in full of the purchase price has been received by Avebe.
21. Purchaser hereby undertakes during the period the title is still vested in Avebe, to hold the Goods delivered in trust for Avebe.
22. In the event that Purchaser fails to pay the full purchase price due for the delivered Goods within the payment period as referred to in article 16 as well as in the event of Purchaser's bankruptcy, application for a moratorium on payments and in the event of the liquidation of Purchaser's business, Avebe shall be entitled to repossess the Goods at any time without any prior notice.



Complaints

23. Purchaser will inspect the Goods delivered for completeness and soundness as soon as possible after delivery.
24. All complaints with regards to the quality or quantity of the Goods have to be submitted in writing to Avebe within 10 (ten) days after delivery of the Goods to the Purchaser. Avebe is not liable for any claim whatsoever with regards to the delivery after the lapsing of this term.
25. No Goods shall be returned to Avebe without the prior written consent of Avebe.
26. The submission of a complaint does not release Purchaser of its obligation to pay the invoice for the delivery.

Limitation of Liability

27. Avebe will replace the Goods that do not comply with the specifications made in the order or are otherwise considered to be defective. Purchaser recognizes that Avebe produces and delivers a natural product made from potatoes and that therefore the product can deviate from product specifications. Minor deviations will not qualify a delivery as defective.
28. The liability of Avebe, based on the Agreement, or any other ground, including but not limited to accountable shortcoming (“toerekenbare tekortkoming”) and unlawful act (“onrechtmatige daad”) is limited to the net sales price of the Goods concerned. Avebe is not liable for any other damages, such as but not limited to indirect or consequential damages, loss of turnover, loss of profit, loss of goodwill, loss of market share and fines and penalties.
29. Purchaser shall indemnify and hold Avebe harmless from third party claims, in connection with or related to Goods of Avebe, unless the Purchaser can show that the claim holds no connection with the circumstances within the influence of the Purchaser.

Termination

30. Both parties are entitled to terminate the contract with immediate effect:
 - a. should Purchaser fail to fulfill its obligations to Avebe; and/or
 - b. should Purchaser be declared bankrupt or request suspension of payment, resort to the liquidation of its affairs or otherwise appears to be insolvent.
31. The right to (full or partial) dissolution (“ontbinding”) and the right to annulment (“vernietiging”) are specifically excluded.

Industrial and Intellectual Property and confidentiality

32. Purchaser shall keep confidential Avebe proprietary information, including but not limited to know-how, trade secrets, recipes, product specifications and other data pertaining to the Agreement, and shall not disclose to third parties the Agreement and anything related thereto.
33. Purchaser shall impose similar obligation to its employees and advisors, consultants and other third parties retained by it.
34. The articles in this section are also applicable to information with regards to products that Avebe has developed in collaboration with the Purchaser, or have been developed as commissioned by the Purchaser.
35. Purchaser will not publish or speak of the Agreement or Avebe in publications or advertisements in magazines, newspapers, reports, brochures or other publications, without the prior written consent of Avebe.
36. Purchaser is liable for all damages flowing from the breach of the articles of this section.



Force Majeure

37. Avebe is entitled to suspend the execution of the order in whole or partially due to circumstances reasonably outside its control, such as and including but not limited to trade embargoes, strikes, lock-outs, fire, floods, breakdowns, lack of energy (electricity, gas, water and steam), weather conditions, unforeseen problems with production or transport, lack of raw materials and ingredients, delayed receipt of ordered Goods or services from third parties, or the withdrawal or non-extension of the required permits, certificates or licenses.
38. In this case the Purchaser will not be entitled to claim for damages or compensation of any kind.

Applicable law / Disputes and competent Court

39. Dutch law applies to the Agreement, quotations, offers, orders and order confirmations. The applicability of the UN Convention On Contracts For The International Sale of Goods ("CISG"/"Vienna Sales Convention") is expressly excluded.
40. All disputes shall be subject to the adjudication of the competent court in the district where Avebe is domiciled or, at Avebe's option, by the competent court in the district where the Purchaser is domiciled.