



GENERAL PURCHASE CONDITIONS OF VIENTOSUR B.V.

Article 1: definitions

The definitions below are used in these general purchase conditions ("Conditions").

- Vientosur:* the private limited company Vientosur B.V., having its registered office in Rotterdam;
- Seller:* the Person with whom Vientosur has concluded an Agreement or with whom Vientosur is negotiating an Agreement;
- Parties:* Vientosur and the Seller;
- Agreement:* every agreement between the Parties, irrespective of whether it is a framework or individual agreement, with the intent (a) that the Seller supplies goods to Vientosur against monetary payment (contract of sale) and/or (b) that the Seller makes goods available to Vientosur in order to have these sold by Vientosur for the risk and account of the Seller (consignment contract) and/or (c) that the Seller supplies goods to Vientosur against payment of a minimum guaranteed price (mgp contract) and/or (d) that the Seller provides services to Vientosur and/or (e) that the Seller delivers any other performance for the benefit of Vientosur, every change or supplement to this agreement, as well as all factual and legal acts in preparation or performance of this agreement, including offers;
- Products:* all goods and/or services and/or other performances that are the subject of an Agreement;
- Person:* natural or legal person or company without legal personality.

"Written" in the sense of these Conditions includes: by fax and email.

Article 2: general

1. These Conditions - with the explicit exclusion of all other general conditions - are applicable to all Agreements. If Vientosur at any time does not require strict compliance with these Conditions, this does not mean that Vientosur waives its right to require strict compliance with these Conditions in future - whether or not similar - cases. Clauses that deviate from these Conditions are binding only if agreed in writing and apply only to the case in question.
2. All the clauses of these Conditions are stipulated not only for the benefit of Vientosur, but also for the benefit of its directors and shareholders (including indirect directors and shareholders), all Persons working for Vientosur, all Persons engaged by Vientosur in the performance of an Agreement, and all Persons for whose actions or negligence Vientosur could be held liable.
3. If one or more provisions of these Conditions and/or an Agreement are void or declared void by a court of law, the remaining provisions of these Conditions and the Agreement will remain in force. The void or voided provisions will be replaced by valid provisions that, taking into consideration the purpose and scope of these Conditions and the Agreement, deviate as little as possible from the original provisions.
4. These Conditions are drawn up in various languages. If there is any difference of opinion regarding the content or scope of these Conditions, the Dutch text will be binding.
5. Vientosur is at all times entitled to amend these Conditions.



Article 3: contract of sale, consignment contract and mgp contract; harvest insurance

1. If Vientosur obtains Products from the Seller without making any explicit choice for a contract of sale, consignment contract or mgp contract, the Parties will be deemed to have concluded a consignment contract.
2. The following applies in the event of a consignment contract:
 - (a) Vientosur is not subject to a duty of inspection or complaint in respect of the Products;
 - (b) Vientosur will sell and deliver the Products to third parties in its own name, yet at all times for the risk and account of the Seller;
 - (c) Vientosur will, without guaranteeing any results, strive to realise optimal sales proceeds, taking all circumstances into account;
 - (d) the sales proceeds depend on the quality of the Products and the situation on the - often volatile - market; insofar as Vientosur states indicative sales prices, these will be for information purposes only without the Seller being able to derive any rights therefrom;
 - (e) Vientosur will pay the net sales proceeds as reflected by its sales accounts to the Seller, on the understanding (i) that Vientosur is at all times entitled to set off the net sales proceeds against any paid advances and set off the positive net sales proceeds against any negative net sales proceeds and (ii) that Vientosur at all times makes a reservation as regards subsequent claims by its clients and subsequent credit notes to its clients; "net sales proceeds" within the context of these Conditions are defined as: the gross sales proceeds under deduction of the commission owed to Vientosur and the costs incurred by Vientosur in connection with the sale of the Products, including but not limited to the costs of sea freight, terminal handling charges (THC), documents, import duties, transport, handling, cooling, quality inspections and laboratory tests and if necessary sorting and repacking;
 - (f) if - taking into consideration the sales accounts, the payments by Vientosur, subsequent claims by clients of Vientosur and subsequent credit notes to its clients - it is established after conclusion of the programme or the season that the Seller owes an amount to Vientosur, the Seller will (re)pay this amount to Vientosur on demand;
 - (g) the Seller will retain ownership of the Products until Vientosur has sold and delivered these to third parties; the risk with regard to the Products will not pass to Vientosur at any time; Vientosur is not required to insure the Products;
 - (h) Vientosur is at all times entitled to again make the Products available to the Seller at Vientosur's warehouse, in which case the consignment contract will be regarded as terminated without Vientosur being held to pay any compensation, the Seller will recover the Products as soon as possible and the Seller will compensate Vientosur for its costs, including, but not limited to refrigeration and storage costs.

The other articles of these Conditions also apply (whether or not by analogy) to consignment contracts, except if such is not possible due to the nature of a consignment contract. Insofar as this article 3 paragraph 2 is in conflict with any other article or paragraph of these Conditions, the provisions of this article 3 paragraph 2 will prevail.
3. The following applies in the event of an mgp contract:
 - (a) the Seller will transfer ownership of the Products to Vientosur;
 - (b) Vientosur will in any event owe the agreed minimum guaranteed price on condition that the Products fully comply with the Agreement and the Seller fulfils its obligations;



- (c) if the amount of the net sales proceeds is higher than the minimum guaranteed price, Vientosur will also owe the difference between these amounts;
 - (d) article 3 paragraph 2 letters c to f of these Conditions apply by analogy.
- The other articles of these Conditions also (whether or not by analogy) apply to mgp contracts, except if such is not possible due to the nature of an mgp contract. Insofar as this article 3 paragraph 3 is in conflict with any other article or paragraph of these Conditions, the provisions of this article 3 paragraph 3 will prevail.
4. If Vientosur commits itself to the payment of one or more advances with a view to the delivery or provision of agricultural Products by the Seller under the terms of a contract of sale, consignment or mgp contract, the Seller will - to the satisfaction of Vientosur - take out and maintain harvest insurance with hail cover, naming Vientosur as the co-insured on the policy sheet and stating that any insurance payments will be made directly to Vientosur. The Seller will provide Vientosur on request with a copy of the policy sheet and proof of payment of premiums.

Article 4: offers, Agreements

1. In this article, an offer is defined as: an offer by the Seller.
2. In this article, an offer by Vientosur is defined as: a written order placed by Vientosur that deviates from an offer or a written order placed by Vientosur with the Seller without having received an offer.
3. All offers by Vientosur are free of obligation. Vientosur is entitled to revoke its offer within three working days after receipt of acceptance by the Seller.
4. Acceptance by the Seller that, whether or not on subordinate points, deviates from the offer by Vientosur, will at all times be regarded as a rejection of this offer and as a new offer. An Agreement in accordance with this new offer will only be concluded following written acceptance by Vientosur.
5. An Agreement is concluded when:
 - (a) Vientosur accepts an offer in writing; or
 - (b) three working days have expired after Vientosur has received acceptance of its offer from the Seller and Vientosur has not revoked its offer during this period; or
 - (c) Vientosur confirms the Agreement in writing.
6. Vientosur is not bound to an offer and/or an Agreement at a specified price if said price is based on a misprint and/or a writing error.
7. The Seller is, without the prior written permission of Vientosur, not permitted to transfer in full or part an Agreement or one or more of its rights or obligations under an Agreement. This prohibition has effect under both contractual and property law (as referred to in Article 3:83 paragraph 2 of the Dutch Civil Code).

Article 5: prices

1. All prices are stated in euros unless the Parties agree otherwise in writing.
2. All prices are quoted exclusive of VAT. For the remainder, the prices are "all inclusive".



3. All agreed prices are fixed. Price rises after conclusion of the Agreement, under any heading whatsoever, are and remain for the account of the Seller, irrespective of the period that has passed between the date of conclusion of the Agreement and the performance thereof.

Article 6: guarantee

1. The Seller guarantees that:

- (a) the Products comply in full with the Agreement, which in any event means that they:
 - correspond with any sample shown or provided;
 - originate from GlobalGap-certified growers;
 - have not been exposed to banned crop protection products;
 - comply with the highest food safety standards;
 - have optimal quality, freshness and shelf life;
 - are free of disease (including but not limited to rot), pests, foreign bodies, contaminants, (other) substances hazardous to health and (other) visible and hidden defects;
 - comply with the specifications and requirements formulated by Vientosur and, insofar as these have not been formulated by Vientosur, with the specifications and requirements that apply to Class I Products;
 - comply with (i) all requirements under relevant Dutch and European laws and regulations that apply at the time of delivery or provision, including but not limited to the laws and regulations with respect to Maximum Residue Limits (MRL) and (ii) any supplementary and/or stricter requirements made by clients of Vientosur and about which Vientosur has informed the Seller prior to the delivery or provision;
- (b) the Products are adequately and soundly packaged and in accordance with any instructions by Vientosur, the packaging and packing materials do not constitute a food safety hazard, the packaging is provided with all markings prescribed by law and all statutory labelling regulations are complied with;
- (c) the Products are during the entire transport process transported under optimal temperature and other conditions, without interruption of the refrigeration chain;
- (d) full traceability of the Products is guaranteed and the Seller will, within three hours of a request thereto from Vientosur, digitally provide all relevant information with respect to the Products, including but not limited to the particulars of the growers and the plots, as well as a full and up-to-date registration of the crop protection products used;
- (e) the Seller and the other links in the chain are IFS and/or BRC-certified;
- (f) the Seller will immediately and in writing inform Vientosur of a disaster and the Seller will immediately and in writing inform Vientosur when the Seller (otherwise) expects or knows that the Products and/or the packing materials do not or will not comply with the requirements stated in this article.

2. The receipt, approval and payment of the Products by Vientosur will not entail acknowledgement that the Products comply with the Agreement, do not release the Seller from any other guarantee obligations or liability and are without prejudice to the rights of Vientosur under the Agreement, these Conditions and the law.



Article 7: delivery time, delivery, ownership

1. The agreed delivery time is regarded as a deadline. The Seller will, on exceeding the delivery time, be legally in default. The Seller will immediately notify Vientosur thereof in writing as soon as it knows or should know that performance of the Agreement will not take place at all, on time or properly.
2. Delivery will take place Delivery Duty Paid (DDP) Rotterdam, DDP Schiedam or DDP Flushing (Vlissingen), unless the Parties agree otherwise in writing. "DDP" will be interpreted in accordance with the latest version of the Incoterms.
3. Part deliveries and deliveries before the agreed delivery time can be refused by Vientosur if it has not granted its written permission thereto.
4. Vientosur is at all times entitled to return the packing materials for the risk and account of the Seller.
5. Ownership of the Products will pass to Vientosur at the time of delivery. The Seller guarantees delivery of the full and unencumbered ownership of the Products.

Article 8: inspection and complaints

1. Prior to the delivery of the Products to its warehouse, Vientosur is at all times entitled, but never obliged, to inspect these or have them inspected, which for the purpose of this article is defined as: random and visual inspection. The Seller will lend its full cooperation to such an inspection.
2. Following delivery of the Products to its warehouse, Vientosur will inspect these or have them inspected within a reasonable period of time. If Vientosur has not rejected the Products within four days of the delivery, the Products are deemed approved, subject to the reservation that they have a normal shelf life and do not have any hidden defects.
3. If an inspection is performed prior to delivery of the Products, Vientosur is not subject to any duty of complaint. In all other cases, Vientosur is subject to a duty of complaint in the sense that it must make a complaint within four days of delivery or as much later as it has discovered that the Products do not comply with the Agreement or that the performance by the Seller is otherwise defective.
4. Vientosur is deemed to have made a discovery as referred to in paragraph 3 of this article on receipt of a complaint by one of its customers about the Products and investigation shows that this complaint is founded. Vientosur is in that case permitted to still reject the Products.
5. The Seller may only appeal to any violation of the duty of inspection and complaint resting on Vientosur if any of its concrete interests have been harmed as a result.
6. The violation referred to in paragraph 5 of this article does not lead to the forfeiting of rights on the part of Vientosur.

Article 9: refusal and rejection

1. Without prejudice to its other rights by law and/or the Agreement and/or these Conditions, Vientosur is, in the event of refusal and rejection of the Products, entitled:
 - (a) to return the delivered Products for the risk and account of the Seller and to require fulfilment, whether or not in combination with compensation;
 - (b) to terminate the Agreement and require compensation;



- (c) to partly terminate the Agreement and require fulfilment for the remaining part, whether or not in combination with compensation;
 - (d) to partly terminate the Agreement by reducing the price (including any agreed minimum guaranteed price);
 - or
 - (e) to sell the Products on consignment.
2. The Seller will bear the risk to the Products from the time the Products are refused or rejected in full or part.

Article 10: rights of third parties

1. The Seller guarantees that the Products and the accompanying packaging and packing materials, all in the broadest sense of the word, do not infringe upon the intellectual property rights or any other rights of third parties and that Vientosur has the unconditional and irrevocable right to import, store, offer for sale, sell or otherwise market, export and otherwise use the Products, all in the broadest sense of the word.
2. The Seller will indemnify Vientosur against all claims by third parties in connection with an infringement or alleged infringement of one or more of the rights referred to in paragraph 1 of this article. The Seller will compensate Vientosur for all losses incurred by the latter as a result of such an infringement or alleged infringement, including the reasonable costs of defence against third-party claims.

Article 11: payment

1. All invoices of the Seller will be addressed to Vientosur for the attention of the accounts payable administration, with reference to the relevant order number, properly specified and in accordance with the invoicing requirements applicable in the Netherlands. Vientosur reserves the right not to handle invoices that do not meet the aforementioned requirements and to return these to the Seller.
2. Unless the Parties have agreed otherwise in writing, payment will take place within 30 days of receipt of the relevant correct and complete invoice or, if receipt and approval of the Products takes place later, within 30 days of receipt and approval of the relevant Products.
3. Payment by Vientosur will first be deducted from the principal, subsequently from any interest owed and finally from any costs owed.
4. Any compensation owed by Vientosur for late payment will not consist of the statutory commercial interest as referred to in Article 6:119a of the Dutch Civil Code, but instead the statutory interest as referred to in Article 6:119 of the Dutch Civil Code.
5. Any compensation owed by Vientosur for costs as referred to in Article 6:96 paragraph 2 letter c of the Dutch Civil Code will not be determined with the aid of the staggered scale of Article 2 of the Extrajudicial Costs Compensation Decree (Besluit vergoeding voor buitengerechtelijke incassokosten), but will instead consist of the minimum amount as referred to in Article 3 of the aforementioned decree.
6. In the event of full or partial prepayment or payment of one or more advances, Vientosur is entitled to require that the Seller provide adequate security for the performance of its obligations, whether or not in the form of a bank guarantee callable on request by Vientosur and provided by a first-class Dutch bank.



7. Vientosur is at all times entitled to set off the amounts that it owes under any heading to the Seller or an affiliated Person ("Seller et al.") against amounts that Vientosur or any affiliated Person ("Vientosur et al.") may claim under any heading from the Seller et al. The aforementioned right to set off also exists if the payment of the claims is not yet enforceable and if the performance claimed by Vientosur et al. does not correspond with its debt.

Article 12: right of retention and pledge

1. Until such time as the Seller has fulfilled all its obligations to Vientosur under any heading whatsoever, Vientosur will have both a right of retention and pledge to all assets held or to be acquired, either directly or indirectly, by Vientosur in connection with an Agreement. Assets in the sense of this article are defined as: movable property, bearer or order rights, monetary instruments, documents and funds.
2. The Seller has, by accepting these Conditions, committed itself to granting Vientosur a right of pledge as referred to in paragraph 1 of this article. The right of pledge is established by bringing the assets under the control of Vientosur or a third party that will hold the assets for Vientosur, including but not limited to a transport operator or a storage and transshipment company.
3. The right of summary execution will be exercised in the manner determined by law. Private sale is possible with the agreement of the Parties or, on condition that Vientosur has a sound valuation report, if the goods are subject to such rapid spoiling that it cannot in all reasonableness be expected of Vientosur to seek an interim injunction. All judicial and extrajudicial costs incurred by Vientosur with a view to exercising its right of summary execution, including but not limited to the actual costs of legal assistance and valuation incurred by Vientosur, are for the account of the Seller and will be recovered from the (gross) sales proceeds.

Article 13: prohibition of assignment and pledge

The Seller is, without the prior written permission of Vientosur, not permitted to assign, pledge or otherwise transfer or encumber its claims against Vientosur. This prohibition has effect under both contractual and property law. The claims of the Seller against Vientosur are not transferable (in the sense of Article 3:83 paragraph 2 of the Dutch Civil Code) and not pledgeable (in the sense of Article 3:83 paragraph 2 in conjunction with Article 3:98 of the Dutch Civil Code).

Article 14: force majeure

1. The Seller may invoke force majeure only if:
 - (a) the (potential) shortcoming by the Seller is not due to its fault or for its risk pursuant to law, the Agreement, these Conditions or generally accepted standards;
 - (b) the circumstances that constitute the force majeure have arisen prior to when the Seller was obliged to fulfil its obligation; and
 - (c) the Seller informs Vientosur immediately, but in any event within 24 hours after the situation of force majeure has arisen, in writing, specifying the circumstances that gave rise to the force majeure.
2. Vientosur is entitled in the event of temporary force majeure on the part of the Seller:



- (a) to grant the Seller postponement of its obligations under the Agreement for a reasonable period not exceeding two months. If the Seller, on expiry of the term, remains unable to fulfil its obligations under the Agreement, Vientosur is entitled to terminate the Agreement; or, at the discretion of Vientosur:
 - (b) to terminate the Agreement.
- Vientosur is entitled to terminate the Agreement in the event of permanent force majeure on the part of the Seller.
3. Force majeure on the part of the Seller will in any event not include: shortage of personnel, sickness of personnel, strikes, and default ("attributable failure") and/or unlawful actions on the part of suppliers or transporters of the Seller or on the part of other third parties engaged in the performance of the Agreement.
4. Vientosur is, in the event of force majeure on its part, entitled to suspend performance of its obligations or a part thereof. If the period of force majeure on the part of Vientosur lasts longer than one month or it becomes certain that the period will last longer than one month, Vientosur is entitled to terminate the Agreement in full or part. Force majeure on the part of Vientosur is understood as: every circumstance for which Vientosur bears no subjective blame and which makes it impossible or practically too onerous for Vientosur to fulfil its obligations or a part thereof, including - but explicitly not limited to - force majeure on the part of clients of Vientosur, as well as government measures that hinder or financially impede the import, export or transit of Products.
5. Termination of the Agreement as referred to in this article will take the form of a written notice to the Seller, without requiring any notice of default or legal intervention and without Vientosur being held to pay any compensation.

Article 15: suspension, termination

1. Without prejudice to its other rights by law and/or the Agreement and/or these Conditions, Vientosur is entitled to suspend its obligations or, without requiring any notice of default or a legal intervention, or to terminate the Agreement in full or in part if:
 - (a) the Seller fails to properly and promptly fulfil any of its obligations;
 - (b) Vientosur has good grounds to fear that the Seller will default in the fulfilment of one or more of its obligations;
 - (c) the Seller is declared bankrupt or its bankruptcy has been applied for;
 - (d) the Seller has been granted a, whether or not provisional, suspension of payments or an application thereto has been filed;
 - (e) the Seller is declared subject to a statutory debt rescheduling scheme or an application thereto has been filed;
 - (f) the business of the Seller is liquidated; or
 - (g) the assets of the Seller are subject to executory attachment or subject to prejudgment attachment which is not lifted within one month of the date of attachment.
2. If the default of the Seller under law, the Agreement and these Conditions takes effect only after notice of default, Vientosur will, in the case referred to in paragraph 1(a) of this article, not proceed with full or partial termination of the Agreement until it has provided the Seller with a written reminder stating a reasonable term for fulfilment, which term was not complied with.
3. If Vientosur terminates the Agreement in full or in part, it is not obliged to pay any compensation and all its claims against the Seller will immediately become payable in full.



Article 16: liability

1. The Seller is liable for all direct and indirect losses incurred by Vientosur and/or third parties as a result of attributable failure on the part of the Seller or as a result of attributable unlawful acts or omissions by the Seller or by a subordinate, non-subordinate or representative of the Seller.
2. The loss as referred to in paragraph 1 of this article comprises, but is not limited to, all penalties (including contractual) imposed on Vientosur, all loss and costs related to a product recall at the initiative of the competent authorities and/or the Seller and/or Vientosur and all internal and external costs of Vientosur related to determining the loss and liability and to the collection of damages, including but not limited to the actual costs of attorneys, bailiffs, experts and translators incurred by Vientosur.
3. The Seller will indemnify Vientosur against all third-party claims for the compensation of loss as referred to in paragraph 1 of this article. The Seller will compensate Vientosur for the reasonable costs of defence against the aforementioned claims. The Seller will not be obliged to indemnify Vientosur insofar as the loss is the direct consequence of intent or deliberate recklessness on the part of Vientosur or its management.
4. For application of this article, third parties will include personnel, employees and clients of Vientosur.
5. The Seller will take out and maintain adequate insurance to cover the loss as referred to in paragraph 1 of this article. The Seller will provide Vientosur on request with a copy of the policy sheet(s) and proof of payment of premiums.
6. If Vientosur is liable for losses incurred by the Seller and/or third parties, its total liability under any heading whatsoever will be limited to the amount paid out in that case by the liability insurance of Vientosur, increased by the amount of the excess which is not for the account of the insurers according to the policy conditions. If, for any reason whatsoever, no insurance payment takes place, the total liability of Vientosur under any heading whatsoever is limited to the amount of the net invoice value of the relevant Products, being the price excluding turnover tax and other taxes and levies and excluding transport costs or, in the event of consignment, the amount of the net sales proceeds of the relevant Products, subject at all times to a maximum of €5,000. Vientosur will not invoke a limitation of its liability insofar as the loss is the direct consequence of intent or deliberate recklessness on the part of Vientosur or its management.

Article 17: applicable law, disputes, litigation and arbitration costs

1. The legal relationship between the Parties is governed by Dutch law, with exclusion of the Vienna Sales Convention.
2. Subject to provisions of mandatory law, all disputes between the Parties relating to an Agreement and/or these Conditions will in the first instance be submitted exclusively to the Court of Rotterdam (proceedings on the merits) or the interim injunction judge of the Court of Rotterdam (interim injunctions and other provisional measures), without prejudice to the right of Vientosur to submit a dispute to any other competent court.
3. Without prejudice to the provisions of paragraph 2 of this article, Vientosur is at all times entitled to have a dispute resolved in accordance with the Regulations of the Netherlands Arbitration Institute. The arbitral tribunal will consist of three arbitrators. The place of arbitration and oral hearing(s) is Rotterdam. The proceedings will be conducted in English. The arbitral tribunal will decide according to the rules of law.



4. The costs related to judicial and arbitration proceedings, including but not limited to the actual costs of attorneys, bailiffs, experts and translators incurred by Vientosur will be for the account of the Seller if it is held to be entirely or predominantly in the wrong.

October 2017