



# GENERAL PURCHASE CONDITIONS OF HOOGVLIET B.V.



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# GENERAL PURCHASE CONDITIONS OF HOOGVLIET B.V.

Hoogvliet B.V. has its registered office in Alphen aan den Rijn and is listed in the Chamber of Commerce under number 28025437.

## 1. APPLICATION

1.1 All requests to submit an offer, provide information or a contract proposal, all orders, all assignments and all (oral) agreements between Hoogvliet B.V., ("Hoogvliet"), and the (potential) supplier, also all purchase orders and all written agreements between Hoogvliet and the supplier ("Agreement"), are exclusively subject to the "general purchase conditions of Hoogvliet B.V." ("General Conditions"), the "manual for suppliers of Hoogvliet B.V" ("Manual"), the "framework agreement" ("Framework Agreement") and, in case of the delivery of (fresh and prepared) food and beverages, the European Principles of Good Practice in vertical relationships in the Food Supply Chain, as laid down from time to time.

1.2 Derogation clauses and/or additional clauses may only be relied on by the supplier if and in so far as these have been explicitly accepted by Hoogvliet in writing.

1.3 The applicability of general and/or other conditions of the supplier is hereby specifically rejected.

1.4 Every supplier with whom an Agreement has been concluded under these General Conditions will accept the applicability of these General Conditions and – if applicable – the European Principles of Good Practice in vertical relationships in the Food Supply Chain as these apply from time to time to later Agreements between such supplier and Hoogvliet.

1.5 These General Conditions, also the European Principles of Good Practice in vertical relationships in the Food Supply Chain in force, will be sent to the supplier free of charge at first request.

## 2. FORMATION

2.1 Hoogvliet is never bound by written or oral requests for an offer, requests to provide information or a contract proposal it makes. The tenders, offers and prices provided/stipulated by the supplier are binding at all times, unless explicitly agreed otherwise in writing.

2.2 For each purchase order, the formation of an Agreement is established at the moment the supplier confirms its receipt. Failure on the part of the supplier to send a reaction within twenty-four (24) hours after the time when the order was placed, it will be considered to have been accepted by the supplier. However, if the purchase order concerns potatoes, vegetables and fruit, the time period as referred to in the previous sentence will be reduced to twelve (12) hours.

2.3 Hoogvliet is not bound by changes in the order as contained within the purchase order, which are suggested and/or made by the supplier after submitting the purchase order, unless these changes have been accepted by Hoogvliet in writing.

2.4 At the request of Hoogvliet, the supplier will perform changes made in the purchase order, within the framework of reasonableness. Hoogvliet will only be bound by changes in price and/or delivery time, if these changes have been accepted by Hoogvliet in writing.

### 3. MANUAL

3.1 In addition to these General Conditions, Hoogvliet has drawn up a Manual. The (most recent version of the) Manual, as updated by Hoogvliet from time to time, forms an integral part of every Agreement these General Conditions apply to. In case of conflicts between these General Conditions, the Manual and an Agreement, the provisions of the Agreement, then the Framework Agreement, subsequently the provisions of the Manual, then the provisions of these General Conditions and after this, the provisions of the European Principles of Good Practice in vertical relationships in the Food Supply Chain will prevail. The most recent version of the documents "General Purchase Conditions of Hoogvliet B.V." and "Manual for suppliers of Hoogvliet B.V." are available on the website of Hoogvliet via: <https://supplier.hoogvliet.com>.

### 4, TIME, RISK AND PLACE OF DELIVERY

4.1 Unless otherwise agreed in writing, delivery of goods will be "Delivered Duty Paid", in accordance with the provisions to that effect in the most recent edition of the INCOTERMS and furthermore in accordance with the instructions from Hoogvliet pertaining to the place or places as stipulated in the Agreement or purchase order, or pertaining to the place or places as communicated by Hoogvliet in writing or by email.

4.2 The supplier will be held to deliver the goods at the agreed time. In case this time is transgressed, supplier will be in default with immediate effect, without any notice of default being required.

4.3 If no time or date of delivery is stated, delivery must be made no later than thirty (30) days after the formation of the Agreement.

4.4 If the supplier expects the delivery time to be transgressed, he will notify Hoogvliet of this forthwith, stating the suspected reason for this transgression. Such notification by supplier does not affect any consequences of the transgressed delivery time and/or the incompleteness of the delivery pursuant to the Agreement or applicable statutory provisions. If Hoogvliet considers the announced or otherwise foreseeable transgression of the delivery time unacceptable, it may terminate the Agreement in question without judicial intervention, by way of a written statement, without such termination resulting in any liability for costs and/or damages for Hoogvliet.

4.5 Deliveries that are made earlier than the agreed time may be rejected by Hoogvliet.

4.6 Unless explicitly agreed otherwise in writing, the quantities as included in the Agreement will be considered to be quantities held available by the supplier for Hoogvliet on a call-off basis. The obligation to take possession does not arise until the moment when the purchase order is placed, as a result of which the goods are held on a call-off basis and the obligation to pay first arises after the goods have actually been delivered and invoiced in accordance with these General Conditions.

4.7 The delivery will only be considered as completed if the delivery has been carried out in its entirety and in accordance with the Agreement. Until completion of the delivery, the goods will be at the expense and risk of the supplier.

## 5. QUALITY AND DESCRIPTION

5.1 The supplier guarantees that the delivered goods fully comply with the description as stated in the Agreement and/or purchase order, including references to an offer, sample, catalogue, the product specifications listed in the database kept by Hoogvliet from time to time, or other documentation made available to Hoogvliet by the supplier and that these goods are fit for the purpose as communicated to the supplier or as arises from the nature of the goods.

5.2 The supplier guarantees that the delivered goods and the production process are of good quality and comply with all applicable standards and requirements of the branch and relevant statutory provisions, including but not limited to both the state in which the goods are produced and the relevant state/purpose for which the goods are designated.

5.3 The supplier is liable for all damages incurred by Hoogvliet without any limitation, if the delivered goods do not comply with the standards as referred to in articles 5.1 and 5.2, regardless as to whether this is discovered immediately or later on in processing or use of these goods.

## 6. RECALL

6.1 In case Hoogvliet considers it desirable or is obliged to do so, it will be entitled to initiate a recall procedure. In such case, the supplier will be held to comply with the recall procedure as described in the Manual. The supplier will be liable for all costs and damages incurred by Hoogvliet in connection with such a recall. In view of this, the supplier will take out a product recall insurance with usual conditions and send the policy schedule of this insurance to Hoogvliet.

## 7. TRANSFER OF OWNERSHIP

7.1 Ownership of the goods to be delivered will transfer to Hoogvliet in full and unencumbered, as soon as Hoogvliet takes possession of the goods at the place of delivery.

7.2 Taking possession of the goods or signing for receipt of the goods by Hoogvliet does not constitute acknowledgement of the sound condition of the received goods.

7.3 If any payment is made by Hoogvliet prior to completion of the delivery, the ownership of the goods for which such payment is made will immediately transfer to Hoogvliet at the moment of said payment.

## 8. COMPLAINTS

8.1 Goods, which upon or after receipt or inspection, in the opinion of Hoogvliet prove not to comply with the requirements set out in the Manual or with special requirements agreed on further, may be rejected by Hoogvliet.

8.2 Within a reasonable time after receipt or inspection of the goods in question, Hoogvliet will notify the supplier of the rejection as referred to in the previous paragraph and provide the supplier with the opportunity to as yet proceed to delivery in accordance with the Agreement within a reasonable term to be determined by Hoogvliet.

8.3 If the supplier does not take advantage of this opportunity, Hoogvliet will have the right to terminate the Agreement in accordance with the provisions in article 11.1. The ownership and the risk for the goods in question will pass back to the supplier at the time of the notification as referred to in article 8.2.

## 9. OUTSOURCING, TRANSFERRING AND PLEDGING THE AGREEMENT

9.1 Without advance written consent from Hoogvliet, the supplier cannot and may not outsource, transfer or pledge the Agreement, parts of the Agreement or rights under the Agreement to third parties (including group entities or branches of the supplier). Consent granted by Hoogvliet does not discharge the supplier from any obligation and/or liability arising for it from the acceptance of the purchase order. Hoogvliet will only agree to lifting the nontransferability as referred to hereinbefore, if the pledge holder irrevocably declares in writing to recognise and respect the right of Hoogvliet to full setoff of outstanding amounts payable by the supplier with outstanding amounts pledged to the pledge holder.

## 10. INTELLECTUAL PROPERTY

10.1 The supplier guarantees that (the sale, delivery or use of) the delivered goods, including packing materials do not breach any right of intellectual property, or a right considered on a par therewith (such as the doctrine of slavish imitation), of third parties. The supplier is liable for all damages that may arise for Hoogvliet as a result of such breach or alleged breach. The supplier irrevocably and unconditionally indemnifies Hoogvliet against claims from third parties for compensation of such damage as arises from any liability that may arise judicially and extrajudicially for Hoogvliet, through the trade by Hoogvliet of the goods delivered by supplier.

10.2 All rights of intellectual property, or rights considered on a par therewith, on products, packaging, drawings, images, templates, printing plates, samples, models, slogans, texts, descriptions, artistic expressions, artwork, data and other auxiliary materials provided by Hoogvliet to the supplier or manufactured on orders from Hoogvliet by the supplier, will accrue to Hoogvliet. Hoogvliet will also be regarded as the sole producer and/or designer of this, regardless if it pays or has paid a separate or composite fee for this.

10.3 The supplier undertakes to perform all acts required for or conducive to providing Hoogvliet the exclusive rights as referred to in article 10.2. If transfer of the rights as referred to here is not (yet) possible, the supplier will provide Hoogvliet with a worldwide, exclusive and noncancellable licence.

## 11. TERMINATION AND CANCELLATION

11.1 If the supplier fails to perform the obligations under the Agreement and/or the Manual and/or these General Conditions, or fails to perform these in time or properly, Hoogvliet will have the right to terminate the Agreement, without any further notice of default being required and without judicial intervention, such without prejudice to its rights arising from the law or the Agreement, which includes the right to compensation for damages and without being held to payment of compensation for costs or damages towards the supplier.

11.2 Hoogvliet has the authority to wholly or partially terminate the Agreement, without any notice of default or judicial intervention being required and without being held to pay compensation for costs or damages towards the supplier in case of:

- suspension of payments or bankruptcy of the supplier;
- seizure of (part of) its business properties or goods designated for performance of the Agreement;
- strike or liquidation of, or transfer of the legal or effective control in its enterprise (change of control);
- change of the person/persons, the board of directors of the supplier (change of management); or
- any circumstance based on which Hoogvliet reasonably doubts the continuity of supplier's compliance with its obligations towards Hoogvliet.

11.3 The supplier will in any case be in default immediately, if it is in arrears with regard to the planning and timetables it provided, as a result of which there is a good chance that the supplier will fail to deliver, fail to deliver in full or fail to deliver in time.

11.4 In the event that through circumstances beyond its control, the supplier fails to comply with the Agreement in time, in full or properly for a period of more than fourteen (14) days, Hoogvliet will be entitled to terminate the relevant segment of the Agreement in full or for the part not yet performed, without any notice of default or judicial intervention being required and without being held to compensation for costs or damages towards the supplier. Circumstances beyond the control of the supplier will in any case not include staff shortage, strikes, sickness among staff, (power) breakdown, overdue delivery by other suppliers, unexpected price increase, rejected raw materials/ingredients required for the production process or breach of contract by third parties established by the supplier.

11.5 In case of termination, Hoogvliet will be entitled to keep possession of goods it has already received or to return such at the expense and risk of the supplier and as yet reject goods offered for delivery. The supplier will be obliged to immediately reimburse Hoogvliet for payments made in respect of the Agreement after deduction of the value of goods Hoogvliet retains possession of.



## 12. LIABILITY AND COMPENSATION

12.1 The supplier is liable for all damages arising for Hoogvliet due to or in connection with the performance of the Agreement and/or the Manual and/or these General Conditions. The supplier must take out a proper product liability insurance. In its insurance policy/policies, the supplier will include provisions that any payments by the insurance company will be made directly to Hoogvliet as the injured party. The supplier will submit a copy of the policy or policies in question to Hoogvliet at first request. The damages and costs incurred by Hoogvliet as referred to in this paragraph will include, but not be limited to, all damages incurred by Hoogvliet as a result of a claim for compensation of damages it would incur in such case.

12.2 The supplier indemnifies Hoogvliet against claims from third parties for compensation of damages arising due to or in connection with the performance of the Agreement and/or the Manual and/or these General Conditions. Third parties will include persons employed by Hoogvliet and persons charged with the performance of the works and the supervision thereof by the supplier.

12.3 The supplier will protect and indemnify Hoogvliet against liability for all damages as referred to in Book 6 Section 185 in conjunction with Section 190 of the Dutch Civil Code. This indemnification also applies for claims of an amount lower than EUR 500 as referred to in Book 6 Section 190 of the Dutch Civil Code.

12.4 If, in the opinion of Hoogvliet, it is necessary to take measures to prevent (further) damage as referred to in the above paragraphs (for example by initiating a recall), the supplier will be liable for all costs and damages incurred in connection with these measures.

12.5 Overdue delivery by the supplier will be regarded as a default without a warning being required in that respect.

## 13 . SETOFF

13.1 Only with the approval from Hoogvliet will the supplier be permitted to set off any debt to Hoogvliet against any claim on Hoogvliet.

## 14 . FINAL STIPULATIONS

14.1 All disputes arising from or in connection with any offer, any request to provide information or a contract proposal, any purchase order and the Agreements, including these General Conditions and the Manual and – if applicable – the European Principles of Good Practice in vertical relationships in the Food Supply Chain, also all noncontractual obligations arising from or in connection with these, are subject to the laws of the Netherlands. The District Court of Amsterdam has exclusive jurisdiction to hear such disputes.

14.2 The applicability of the United Nations Convention on Contracts for the International Sale of Goods ("CISG") is explicitly excluded.

14.3 In case one or more of the provisions of these General Conditions are invalid, this will not impair the other provisions. Such provisions will be replaced by provisions that are as close as possible to the purport of the original provisions.