

General Terms and Conditions of INCOTEC Analytical Lab Europe BV

Hereinafter referred to as “INCOTEC”.

Applicability of the terms and conditions

The present terms and conditions shall be applicable to all offers and contracts entered into by INCOTEC with the buyer.

Contract negotiations

1. INCOTEC may cease negotiations on any contracts still to be concluded at any desired moment.
2. In the event of discontinued negotiations the buyer shall never be able to demand that the negotiations be continued or that a compensation be paid by INCOTEC in respect of any costs that may have been incurred and/or any loss that may have been suffered or may still be suffered, irrespective of the nature of such loss.

Offers/formation of contracts

1. All offers made by INCOTEC shall be without engagement and may at all times be revoked, even if they include a term for acceptance.
2. Offers can solely be accepted in writing; nevertheless, INCOTEC shall have the right to accept verbal acceptances as if they had taken place in writing.
3. If the buyer accepts an offer, INCOTEC shall nevertheless be entitled to revoke the offer (orally or) in writing within five days from receipt of the acceptance, in which case no contract shall have been formed between the parties.
4. Unless otherwise stated by INCOTEC, any verbal offers on the part of INCOTEC shall lapse automatically if they have not been accepted in writing by the buyer within seven days.
5. Unless otherwise stated by INCOTEC, written offers shall lapse automatically if they have not been accepted by the buyer in writing within thirty days.

Authority

Verbal orders, agreements and conditions shall solely be binding upon INCOTEC after and inasmuch as they have been confirmed in writing by the management or a person duly authorised by the management in writing for this purpose.

Notices, communications, etc.

1. Unless otherwise provided, all notices and communications concerning the (performance of the) contract shall take place in writing.

2. Any demands for compliance and any notices of default shall be made/given by registered letter and shall clearly indicate the precise details of the requirement and the period within which such requirement should be complied with.
3. The provisions of the second paragraph shall also be applicable to any other periods that may be laid down and to all cases in which the setting aside of the contract is invoked. Any invocation of the setting aside of the contract shall clearly state the underlying grounds.

General information

General indications and descriptions of the type, nature, quality etc. of the services or goods to be delivered by INCOTEC, as contained in brochures or documents issued by INCOTEC, are solely meant as general information and not as an indication of quality and/or guarantee.

Prices

1. All prices stated by INCOTEC shall be based on the price-determinative factors that are known at the time of making the offer.
2. INCOTEC shall be entitled to adjust any prices or parts thereof for goods or services that have not yet been delivered and/or paid for to any changes which have taken place in any price-determinative factors, such as the prices of raw materials, wages, exchange rates, if three months have passed since the formation of the contract.
3. INCOTEC shall always be entitled to adjust his prices with immediate effect if any statutory price-determinative factors should provide reasons for doing so.

Delivery times

1. Unless otherwise agreed in writing, the delivery times agreed upon shall not be binding. Default shall only commence if, subsequent upon the expiry of the delivery time agreed upon, the reasonable period stated in the notice of default has also expired without INCOTEC having complied with his obligations.
2. If the buyer fails to make any data, information and/or matters agreed upon and/or required by INCOTEC for the execution of the order, available to INCOTEC in time, this shall automatically result in the lapsing of all the agreements made by the parties in respect of the delivery times to be observed by INCOTEC.

Confidentiality

In the performance of contracts, INCOTEC shall take into account the possible confidential nature thereof.

Copyrights

INCOTEC shall retain the copyrights in respect of all the documents, reports, etc. he has prepared within the scope of the performance of the contract. The buyer shall be allowed to prepare a maximum of two copies of the relevant document(s) for private use only. Publication/disclosure shall not be allowed without the written permission from INCOTEC.

Inspection duty/period within which complaints should be lodged

1. The buyer shall always be obliged to inspect within a reasonable period of time, but at the latest within eight days from delivery, whether the performance by INCOTEC conforms to the contract.
2. The buyer shall, immediately upon the discovery of a failure in the performance delivered by INCOTEC but at the latest within thirty days from delivery, invoke such a failure in writing towards INCOTEC, failing which his rights shall automatically become extinct and null and void.

Performance/guarantee

1. INCOTEC shall deliver a performance which conforms to the contract and shall guarantee any quality requirements that may reasonable be made in respect thereof, taking into account the nature of the performance.
2. Unless otherwise agreed in writing, INCOTEC shall, in the execution of a service or order agreed upon, be under no obligation with respect to the results but only with respect to his endeavours. In the execution, INCOTEC shall always use his best endeavours.

Liability

1. The liability of INCOTEC under any contract or based on either tort or any other legal ground shall in all cases be limited to 100% of the net invoice amount of the service or goods concerned with a maximum of EUR 500,000.00.
2. Any employees of INCOTEC and any persons whose services were used by INCOTEC shall be able to invoke the above provisions on the same basis as INCOTEC.
3. At the buyer's request, INCOTEC shall endeavour to take care of the insurance of any liability on the part of INCOTEC at the buyer's expense.

Indemnification

1. The buyer shall hold INCOTEC harmless, insofar as this is permitted by law, in respect of liability towards one or several third parties arising from and/or relating to the performance of the contract, irrespective of whether the damage was

- caused or done by INCOTEC or persons whose services were used by INCOTEC or auxiliary materials or services or goods delivered.
2. The buyer shall also hold INCOTEC harmless, insofar as this is permitted by law, in respect of any liability towards third parties concerning any defect in the goods or services delivered by INCOTEC.
 3. If the damage is partly the result of a circumstance, which can be imputed to the buyer, the latter shall always be obliged to refund at least a proportionate part of the damage.
 4. The buyer shall always be obliged to make every effort to limit the damage.
 5. In his relationship with the buyer INCOTEC shall never be obliged to pay an amount in compensation to one or several third parties, which is higher than the maximum amount for which INCOTEC is or would be liable under the first paragraph of the article "Liability".
 6. All the employees of INCOTEC as well as all the persons whose services were used by INCOTEC shall be able to invoke the above provisions towards the buyer and, if necessary, towards any third parties on the same basis as INCOTEC.

Force majeure (non-imputable failure in the performance)

1. Force majeure on the part of INCOTEC shall in any case be understood to mean:
 - circumstances concerning persons and/or materials that are used or normally used by INCOTEC in the performance of the contract, which are either of such a nature that the performance of the contract is rendered impossible or which are so onerous and/or disproportional expensive for INCOTEC that performance of the contract can in all reasonableness no longer, or at least, not immediately be demanded from INCOTEC;
 - strikes;
 - the circumstance that a performance which is important for the performance to be delivered by INCOTEC is not delivered to INCOTEC or is delivered improperly or late;
 - war, war risk, riots, etc.
2. If a situation of force majeure lasts for a period more than four weeks, each party shall be entitled to terminate the contract.
3. In case of force majeure INCOTEC shall not be obliged to pay damages.

Payment

1. All payments due by the buyer must have been received by INCOTEC in cash or by crediting to one of his accounts (whether or not specified in further detail) within one month from the invoice date, failing which the buyer shall

automatically be in default and shall from that date owe interest at the rate of 1% per month in respect of the amount due by him at that time.

2. All payments by the buyer shall first of all be deducted from the costs and interest (in this order) due and shall then be deducted from the principal sums, in which older claims shall take precedence over any later claims.

Costs

1. The buyer shall be obliged to pay any (extra-judicial) costs, which have been incurred by INCOTEC concerning the fact that the buyer failed to perform his obligations in time and in a proper manner.
2. In the event, of late payment the compensation due by the buyer on account of extra-judicial costs shall be at least equal to 15% of the amount payable by the buyer.
3. If, in spite of the provisions of the first paragraph, the Court or an arbitrator/adviser giving a binding advise, should condemn the buyer to pay costs in an amount which is lower than the actual (extra-)judicial costs, INCOTEC shall still be entitled to claim the difference from the buyer.

Suspension

1. If the buyer fails to perform one or several of his obligations properly and/or in good time:
 - a) the obligations on the part of INCOTEC to perform his own obligations shall be automatically and immediately suspended until the amounts due and payable by the buyer have been settled in full (including the payment of any costs as referred to in the previous article);
 - b) INCOTEC may demand payment in full and/or sufficient security from the buyer, for example, in the form of a bank guarantee to be issued by a reputable bank in respect of the performance on the part of the buyer.
2. INCOTEC shall, prior to performing his own obligations, be entitled to demand payment in full and/or sufficient security in order to guarantee performance by the buyer, if it is likely that the buyer will not (be able to) perform his obligations in a proper manner and/or in good time.

Compensation

The buyer shall never be entitled to compensate of any of his obligations, whether or not due, with an obligation on the part of INCOTEC.

Conversion

1. If any of the provisions of these general terms and conditions is null and void, the provision shall automatically (de jure) be replaced by a valid provision which corresponds to the maximum possible extent to the purport of the provision which is null and void. The parties shall, if necessary, be obliged to enter into reasonable consultations with each other to agree on the text of this new provision.
2. In the latter case the remaining provisions of the general terms and conditions shall, to the maximum possible extent, remain in force.

Extinction of rights

1. The buyer shall enforce his rights resulting from the contract within a year after they have arisen by instituting legal proceedings, failing which his rights shall automatically become extinct.
2. INCOTEC shall be entitled to prolong the above mentioned period, if required.
3. The above provision does not detract from any other agreements or provisions contained in these general terms and conditions, on the strength of which one or several rights of the buyer have already become extinct at an earlier stage.

Applicable law

Each and every juridical relationship between INCOTEC and the buyer shall be governed by Dutch law.

Disputes

1. All disputes, summary proceedings included, relating to or resulting from these general terms and conditions and/or contracts to which these terms and conditions are applicable shall, to the exclusion of any other Court, be submitted to the competent Court in Amsterdam for its decision.
2. INCOTEC shall, however, remain entitled to bring a case before the Court that would have jurisdiction under the statutory rules.

Translations

In the event of any disputes on the interpretation of any of the provisions of these terms and conditions, or any of the provisions included in contracts to which these terms and conditions apply, the Dutch version shall prevail. A copy of these terms and conditions is available on request. This English text has been translated as closely as possible.