

CONDITIONS OF SALE INCOTEC GROUP B.V.

Applicability of the general terms and conditions

These terms and conditions of sale ("terms") shall apply to all offers and agreements relating to the sale and delivery of goods (such as semi-finished products) and services (such as seed treatment, research, consultancy and licenses) (the "products") by INCOTEC Group B.V., its subsidiaries, affiliates and/or licensees or such other party permitted under these terms (both individually and collectively "INCOTEC").

Article 1 Orders

An order shall only have been accepted by INCOTEC if and when INCOTEC either (i) has sent the customer a written order confirmation or (ii) has booked the order. In that case and from that time onwards the order shall be binding.

Article 2 Offers and prices

Offers and prices of INCOTEC shall always be without engagement. Oral offers shall lapse after seven (7) days and written orders after 30 days.

Article 3 Notices and communications

Unless stipulated otherwise, all communications concerning (the implementation or performance of) any order or agreement shall be made in writing.

Article 4 Information and data

1. All indications and descriptions in respect of type, properties, applications, performance etc. of the products to be delivered by INCOTEC as contained in brochures, product information sheets (as available either on INCOTEC's website or upon first request) or other documents of INCOTEC, shall solely be meant as general information and for general guidance only and not as an indication of quality and/or guarantee.
2. INCOTEC shall use its best endeavours to achieve accuracy and consistency when formulating the indications and descriptions as well as constant quality improvement. The customer, however, acknowledges that INCOTEC cannot guarantee, warrant or represent that the products in all cases shall give results which conform to the indications and descriptions of INCOTEC, which results shall depend on a variety of factors including location, cultivation measures, climatic circumstances and/or customer' knowledge. The customer shall be solely responsible for determining the suitability and appropriateness of the use of the products under different conditions and/or for different purposes.

Article 5 Conditions for seed treatment

1. Plant breeders' rights
The customer shall not offer any seeds to INCOTEC for treatment which infringe the plant breeders' or patent rights of any third party. If the customer does not act accordingly, INCOTEC is entitled to refuse the seeds and/or to refuse or terminate the seed treatment. The customer is furthermore required to compensate all costs and damages incurred by INCOTEC and/or any third parties.
2. Conditions for seed treatment
INCOTEC accepts an order for seed treatment, provided, however, that the customer has filled out an order form. If the information required has not been provided by the customer correctly or completely INCOTEC shall be entitled to refuse the order. The customer shall furthermore inform INCOTEC in writing of any statutory and/or regulatory requirements (if any)

of the relevant authorities necessary for the delivery of the product, especially regarding, *inter alia*,:

- * invoicing;
- * phytosanitary requirements:
- * international certificates;
- * import documents or declarations; and/or
- * the allowance of pesticides and other relevant chemicals.

3. Seed quality

(i) The seeds must be in a condition that makes treatment possible without difficulty. Unless agreed otherwise between INCOTEC and the customer, the customer shall ensure the seeds to be treated to be pure, clean, natural, free from foreign materials such as weed seeds, chaff, dirt or disinfectants and free from disease(s), genetically modified organisms or infection. Seeds must be calibrated if treatment by INCOTEC requires so. At the customer's request INCOTEC may, at the customer's expense and risk, take care of cleaning, calibrating, upgrading and/or disinfecting the seeds. The seeds must furthermore comply with INCOTEC's minimum product requirements as set forth in INCOTEC's product information sheets and/or as agreed upon between INCOTEC and the customer prior to the seed treatment and/or as generally accepted within the seed industry. If the seeds do not comply with the requirements as prescribed by INCOTEC, INCOTEC shall, at its sole discretion, be entitled to either refuse the order (in which case the customer shall bear all costs incurred by INCOTEC) or to treat the seeds at the customer's expense and risk.

(ii) INCOTEC shall perform a germination test both prior to and after treatment of the seeds on the basis of, at least, the relevant ISTA requirements (International Seed Testing Association), which test results remain valid for a period of maximum three (3) months. If germination of the seeds prior to treatment is insufficient or dubious, INCOTEC shall inform the customer thereof and INCOTEC shall be under no obligation to treat such seeds. INCOTEC shall furthermore be under no obligation to treat any seeds without any germination test performed by INCOTEC or before the results of a germination test are known. Any treatment by INCOTEC of seeds as referred to in this section at the customer's request shall be done entirely at the customer's risk.

(iii) INCOTEC shall never be liable, neither before or after accepting the seed treatment order nor after the seed treatment, for the quality and performance of the seed as provided by the customer to INCOTEC.

(iv) Any diseases or infections of the customer's seed is assumed to have arisen before receipt of the seed, unless the customer proves that the cause lies solely in circumstances after receipt of the seed by INCOTEC.

4. AIB

The customer agrees that the origin of the seeds can be verified and – if desired so – INCOTEC shall be entitled to provide all information regarding the seeds and samples of its customers located in the European Union and Turkey to the Anti-Infringement Bureau for Intellectual Property Rights on Plant Material in Brussels, Belgium ("AIB") and a specialised, independent organisation, such as the Naktuinbouw, the Service Officiel de Contrôle et Certification in France or any other OECD accredited laboratory for research into its identity. In case the independent, accredited laboratory determines that the customer's seeds belong to a variety that is not distinct from a variety for which an intellectual property right has been granted to or applied for by a third party, AIB shall be entitled to inform such third party and shall make all information and samples available.

Article 6 Delivery times

1. The delivery time shall be the minimum time necessary for INCOTEC to deliver the product to

the customer.

Any delivery time as stated by INCOTEC shall only be an indication and shall not constitute a deadline. In the event of late delivery the customer shall put INCOTEC in default in writing and grant INCOTEC a reasonable term to comply with the agreement.

2. If the customer 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 fully or in time, this shall automatically result in the postponement of any agreed delivery times to be observed by INCOTEC.

Article 7 Delivery and product allocation

1. INCOTEC shall always be entitled to have the agreement performed by its subsidiary, affiliate and/or licensee after consultation with the customer.
2. INCOTEC shall deliver the products FCA ("Free Carrier") from the premises of the contracting INCOTEC company according to the latest version of the "INCOTERMS", as published by the International Chamber of Commerce or on such other terms designated under the INCOTERMS as may be expressly agreed upon in writing.
3. In case of the sale and delivery of goods in Europe Article 138, section 1 of Directive 2006/112 shall be applicable.
4. In the event that INCOTEC does not have sufficient product (or raw materials to produce the product) or production capacity to serve all customers for all orders (whether previously accepted or not), INCOTEC may then allocate the product among its customers at its sole discretion.

Article 8 Ownership and risk

INCOTEC shall retain title to and ownership of the products until it has received payment in full of all sums due under the relevant agreement and any other agreement between INCOTEC and the customer. In case of seed treatment by INCOTEC, the title to and the risk for the seeds and packing materials or labels provided by the customer to INCOTEC remains with the customer in full.

Article 9 Insurance

1. In case of seed treatment by INCOTEC, the customer shall, unless agreed otherwise in writing, insure itself in full against the risk of damage (including consequential loss) related to the loss of, damage to or destruction of the seeds or packing material or labels, e.g. as a result of disease(s), infection, water damage, theft, sabotage, fire, storm, etc. during receipt, storage, treatment by and/or dispatch to or from INCOTEC.
2. The customer shall at all times have in place adequate insurance against any possible claim arising from the indemnities given in accordance with article 14 of these terms.
3. On request, the customer must show INCOTEC a copy of the insurance policy concerned which shows that the customer has complied with the above-mentioned obligations.

Article 10 Force majeure

1. Force majeure on the part of INCOTEC shall in any case be understood to mean:
 - any circumstance concerning people and/or materials used or normally used by INCOTEC in the performance of the agreement which is of such a nature that the performance of the agreement becomes impossible or becomes so onerous and/or disproportionately expensive for INCOTEC that performance of the agreement can, in reason, no longer or not immediately

- be demanded from INCOTEC;
- strikes; fire; malfunctioning of the ICT infrastructure;
 - the circumstance that a material or service that is important for the performance to be delivered by INCOTEC is not delivered to INCOTEC or is delivered late or improperly; and/or
 - government measures, extreme weather conditions, diseases, epidemics etc.
2. In the event of a force majeure INCOTEC shall be excused performance of the agreement while the force majeure situation continues. If a situation of force majeure lasts for more than four (4) weeks, either party shall be entitled to terminate the agreement.
 3. In the event of force majeure INCOTEC shall not be obliged to pay any damages.

Article 11 Infringement

1. If INCOTEC by delivery of the products infringes or threatens to infringe the intellectual property rights of third parties INCOTEC shall, at its sole discretion, be entitled to either suspend or terminate the execution of the order.
2. In the cases referred to in the previous paragraph INCOTEC shall not be liable to pay any damages to the customer.

Article 12 Payment

1. The prices and conditions of payment for the delivery of the products are stated in INCOTEC's recent (non-binding) price list or agreed between INCOTEC and the customer in writing and/or appear from the (pro forma) invoice.
2. Amendment of the prices and conditions of payment shall be made by INCOTEC annually. INCOTEC shall inform the customer accordingly.
INCOTEC is further entitled to amend the prices and conditions of payment at any given time during the year. If in such a case a customer does not agree with the amendments as proposed by INCOTEC, it shall be entitled within 30 days after receipt of the notification from INCOTEC to terminate the agreement after execution and payment of the last order at the original price level, with the exception, however, of amendments as a result of any rules or regulations.
Any new prices shall supersede any earlier prices and apply to all orders accepted by INCOTEC after notification of the new prices to the customer.
3. Unless stated otherwise, all payments shall be made in euros in accordance with the conditions as stated on the invoice and within the stated period, without any suspension, deduction or set-off.
4. Where the customer fails to pay the amount due to INCOTEC within the stated period, INCOTEC is entitled to charge interest at the rate of 1.5% per month. The customer is required to pay all costs and expenses (including legal expenses) incurred by INCOTEC in order to obtain full performance on the part of the customer.
5. Unless stated otherwise, all prices are exclusive of value added tax or any similar taxes, if applicable and any additional costs, such as costs of packing, labelling, testing, dispatch, transport, insurance, certificates or any further handling as well as import duties and levies.

Article 13 Trade marks and copyright

1. If the customer wishes to use the name "INCOTEC®" and/or any other trade marks or trade names owned or used by INCOTEC, the customer shall be obliged to receive the prior written permission from INCOTEC. No other use shall be permitted. The customer shall also not be

allowed to use any similar trade marks or trade names.

2. INCOTEC shall retain the copyright in respect of all test results, documents, reports etc. it has prepared within the scope of the performance of the agreement. Publication or disclosure as well as use of the same shall not be allowed without the prior written permission from INCOTEC.

Article 14 Liability and indemnification

1. Subject to any other provisions of these terms and subject to adequate proof by the customer INCOTEC's liability - on any account whatsoever - shall in all cases be limited to the amount of the net invoice value of the order to be increased - if applicable - by the cost price of the seeds concerned, to a maximum amount of EUR 250,000, or its equivalent in the national currency of the contracting INCOTEC company, in total. For this purpose the term "cost price" is defined as the price at which the customer has produced or acquired the seeds. INCOTEC shall, however, never be liable for any consequential damages, including but not limited to loss of profits, or any other special, incidental or indirect damages of any kind or type.
2. The customer shall, if and to the extent permitted by law, defend and fully indemnify and hold INCOTEC harmless from and against (i) any and all liabilities, losses, damages, costs or expenses, directly or indirectly, incurred or suffered by INCOTEC as a result of the customer's breach of any provisions of these terms or the agreement between the parties and (ii) all actions, proceedings, claims or demands made by third parties arising from and/or relating to the performance of the agreement, irrespective of what reason.
3. If any products delivered by INCOTEC are, in the customer's opinion, deficient or damaged in any way, such products shall at INCOTEC's election, be either made available to INCOTEC for inspection or returned to INCOTEC. Any such products may only be used, sold or otherwise disposed of by the customer after the prior express written approval by INCOTEC. In such a case the customer shall defend INCOTEC and shall fully indemnify and hold INCOTEC harmless against any loss or damage suffered by any third party. INCOTEC may then withdraw any right to use any of INCOTEC's trade marks or trade names.
4. INCOTEC shall not be liable to the customer or any other person if the products delivered by Incotec are (i) treated, modified or damaged in any way by the customer, a third party or by any event or occurrence or (ii) incorrectly used and/or stored after the products have been delivered by INCOTEC.
5. Current or former employees and servants of INCOTEC may invoke these terms in the same manner.

Article 15 Actives

1. Active ingredients such as, *inter alia*, plant protection products, stimulants or biologicals seek to protect the seed and crops against diseases, pests and stress and/or stimulate the growth of seedlings and plants. The application of actives to the seeds shall be requested by the customer as part of the purchase order in accordance with INCOTEC's standard product list and as further described in INCOTEC's product information sheets and as prescribed by the manufacturer concerned, unless the customer has given instructions to apply alternative dosages and/or other actives, if and to the extent in accordance with applicable laws and regulations.
2. INCOTEC shall only be liable for the correct application of the actives (such as dosages and seed to seed distribution) within the prescribed tolerances.

3. INCOTEC shall not be liable for any damages (incurred by either the customer and/or any third party) resulting from the characteristics and/or usage of the actives and/or for the effects of actives on the quality of seeds and/or the incorrect use of the seeds treated with such actives and/or any other risks for human beings and the environment.
4. INCOTEC shall not be liable for any damages resulting from the addition of specific actives different from INCOTEC's standard product list at the customer's request or instructions.
5. INCOTEC shall not be liable for any restrictions imposed, or to be imposed by a government agency on the use of and/or trade in seeds which have been treated with actives.
6. In case of any registered actives INCOTEC uses only those dosages which are prescribed by the manufacturer and/or those dosages which are legally established by the official institution of admission.
7. In case of seeds treated with actives the customer shall always be responsible for providing the end-user of the seeds with such information on the packing material and accompanying documents as required by the applicable laws and regulations.

Article 16 Complaints

1. The customer shall, immediately upon the discovery of a defect concerning the product delivered by INCOTEC or when such defect could have been discovered, inform INCOTEC accordingly in writing, precisely stating the nature of and ground for the complaint, failing which its rights shall automatically become extinct and null and void.
2. The samples taken by INCOTEC shall form the basis for all determinations concerning the products. If the customer does not agree with INCOTEC's test results, Naktuinbouw or any other accredited laboratory for research, at INCOTEC's sole discretion, shall be requested to examine the samples of the delivered products (or, in case of any seed treatment, the samples of both treated and untreated seeds of the same lot). The results shall be conclusive, final and binding on both parties. The costs of such examination shall be borne by the non-prevailing party.

Article 17 Suspension or termination

If the customer fails to perform one or more of its obligations properly and/or timely or if it is likely that the customer will not (be able to) meet its obligations properly and/or timely:

- a. the obligations on the part of INCOTEC shall be automatically and immediately suspended until all amounts which are due and payable have been paid in full or any other obligation under these terms has been properly performed by the customer; and/or
 - b. INCOTEC may demand (prior) payment in full and/or sufficient security from the customer (such as a bank guarantee to be issued by a bank approved by INCOTEC) in respect of the performance on the part of the customer; or
 - c. INCOTEC may forthwith terminate the agreement with the customer;
- all of the foregoing without prejudice to INCOTEC's right to claim damages or compensation from the customer.

Article 18 Severability

If any provision in these terms is (i) void; (ii) voidable by a party; (iii) unenforceable; or (iv) illegal it is to be read down so as to be valid and enforceable or, if it cannot be read down, the provision is or, where possible, the offending words are to be severed from these terms without affecting the validity or enforceability of the remaining provisions (or parts of those provisions) of these terms.

Article 19 Extinction of rights

1. Unless INCOTEC decides to prolong the period, the customer shall enforce its rights under the agreement within one (1) year after they have arisen by instituting legal proceedings, failing which any and all rights of the customer against INCOTEC shall expire by force of law.
2. The above provisions do not detract from any other provisions of these terms on the strength of which one or more rights of the customer have already become extinct at an earlier stage.

Article 20 Applicable law

Each and every juridical relationship between INCOTEC and the customer shall be governed by, and construed in accordance with, the laws of the country (or state or province, as the case may be) in which the contracting INCOTEC company has its registered office, The applicability of the 'United Nations Convention on Contracts for the International Sale of Goods' shall be expressly excluded..

Article 21 Disputes

1. All disputes, including summary proceedings, relating to and/or resulting from these terms and/or agreements between INCOTEC and the customer shall, to the exclusion of all other courts, be settled by the competent court in the district in which the contracting INCOTEC company has its registered office.
2. INCOTEC shall, however, remain entitled to bring a case before the court that is competent by law.

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