

GENERAL CONDITIONS OF DELIVERY INTERTEK POLYCHEMLAB B.V. (nl03072012)

These General Delivery Conditions apply to and are an integral part of all research to be carried out by Intertek Polychemlab B.V., located in Geleen, the Netherlands, hereinafter to be called "Intertek", and the provision of services and consultations by Intertek Polychemlab B.V.. The applicability of the General Conditions of the Client will not be accepted by Intertek and are hereby expressly rejected.

Article 1 – Agreement.

1.1 These General Conditions apply to all offers, provision of professional services and agreements (hereinafter: 'the Agreement') between Intertek and a third party (hereinafter: Client) with regard to the carrying out of research and/or the provision of consultations, and the performance of works, by Intertek for the Client (hereinafter: the Works).

1.2 Any offers by Intertek are without obligation. An Agreement is only binding for Intertek after a written order confirmation by Intertek.

Article 2- General Conditions.

It is explicitly agreed, that these General Conditions between Intertek and the Client exclude the applicability of any terms and conditions, of any kind, of the Client, even if precedence is claimed in those terms and conditions.

Article 3- Samples.

3.1 The Client bears the responsibility for the selection, representativeness, coding, brand and product names, and the provision to Intertek of any samples, materials, raw materials, products, semi-finished products, and end products to be researched. The Client is obliged to notify Intertek of any hazardous properties of any samples, materials, raw materials, products, semi-finished products, and end products in a clear manner in writing and to mark the samples, materials, raw materials, products, semi-finished products, and end products as hazardous.

3.2 Unless agreed otherwise, the Client will collect any samples, materials, raw materials, products, semi-finished products, and end products that have been provided to Intertek in relation to the execution of the Agreement, or, if such is the case, the remains of such samples, materials, raw materials, products, semi-finished products, and end products, immediately after performance of the Works and will provide Intertek with a proof of receipt. If the Client does not collect the (remains of) any samples, materials, raw materials, products, semi-finished products, and end products, or does not do so in time, Intertek has the right to store, destroy, or otherwise relieve itself of these at the expense and risk of the Client.

Transport and storage of the samples, materials, raw materials, products, semi-finished products, and end products and remains thereof will take place at the expense and risk of the Client.

Article 4 – Use of the Research Results.

4.1 The Client is not permitted to use any reports published by Intertek with regard to the Works for publication (in full or in part), to provide to third parties for viewing, or in claims by or against the Client without prior written permission. The Client is also not permitted to use the name of Intertek in relation to the Works.

If Intertek provides this permission, it comes with the condition, unless agreed otherwise in writing, that the Client may not use the results of the Works in such a way that it in any way detracts from or contradicts the correctness of those results.

4.2 The Client will receive non-transferable rights of use, free of charge, with regard to the documents and published results of the Works, in the understanding that all industrial and intellectual property rights in relation to the Works and the results thereof are the sole property of Intertek and that Intertek has the exclusive right to submit patent applications with regard to these.

Article 5 – Price and Payment.

5.1 The amount payable by the Client for the Works will be determined in the offer provided by Intertek. If, however, an amount is stated in the order confirmation that deviates from the amount in the offer, the amount in the order confirmation will apply. The invoice will be specified at the request of the Client.

If no fixed price was agreed, then it is agreed between Intertek and the Client that the amount payable will be determined on the basis of costing.

Unless stated otherwise in the offer (or order confirmation), the amount payable is excluding all costs, taxes (such as VAT), variable costs (such as, for example, classification, photos, drawings and legalisations), levies, costs in relation to the Works regarding the answering of legal complaints and actions by third parties (including oppositions and lawsuits) and all external costs, which are at the expense of the Client.

The Client will make payments within 30 days of the date of the invoice.

5.2 If parties agree that more Work will be carried out than determined in the Agreement, this extra work will be carried out under the same Conditions as originally agreed, unless parties have agreed otherwise explicitly and in writing.

5.3 Intertek will hold the property rights on all goods that Intertek provides to the Client in relation to the assignment, such until the moment at which the amount(s) owed to Intertek by the Client are paid in full.

Article 6- Outsourcing.

If the Client agrees with these General Conditions, the Client also agrees with enabling third parties for the execution of the assignment. The Liability arrangement in Article 7 is applicable to Works carried out by third parties and also applies mutatis mutandis with respect to these third parties.

Article 7- Liability and Guarantee.

7.1 Intertek will carry out the Works to the best of its ability, however, without guaranteeing that any results desired by the Client will be achieved.

7.1a The Client is obliged to provide all relevant information that can be of use to the execution of the assignment and is known to them to Intertek. The following are considered relevant information: previous similar cases, important events, previously submitted applications and publications, which apply to the same area. The Client will protect Intertek from any liability against third parties for damage that is the result of the provision of incorrect information to Intertek.

When Intertek provides documents to the Client for approval and comments, it is the task of the Client to check the document for inaccuracies and mistakes, also with respect to the technicalities.

7.1b Intertek will notify the Client of any changes to the status of the intellectual property rights. The Client will provide the necessary information to Intertek in time, to enable Intertek to respond to 'official actions'. If the required information is not provided in full, or is not provided in time, Intertek will not be liable for the consequences thereof.

7.2 Intertek is only liable for imputable damage suffered by the Client as a result of non- (timely) compliance by Intertek or by employees or third parties hired by Intertek. The maximum amount for which Intertek will be liable is the amount payable by the Client to Intertek in accordance with the Works carried out under the Agreement.

These limitations of liability do not apply in cases of intent or gross negligence. If the execution of the Agreement takes longer than one year, Intertek's liability will be limited to the (average) amount that the Client owed Intertek in the previous year (years). Under no circumstances will Intertek be liable for indirect or consequential damage.

7.3 The Client will indemnify Intertek and any persons hired by Intertek for the execution of the Agreement against all third party claims in respect of damage suffered by these third parties, in relation to the application or use of results of the Works by the Client or by any other party who has received these results either directly or indirectly from the Client.

7.4 Intertek is not liable for damage that is a result of the fact that the results of the Works are not suitable for carrying out legal procedures or if an infringement of the rights of third parties occurs through the application of the results of the Works.

7.5 Claims from the Client against Intertek, which arise from or are otherwise related to the Agreement or the (carrying out of) Works by Intertek, or by persons or third parties hired by Intertek for the carrying out of Works, will be entirely void if such claims have not been notified to Intertek explicitly and in writing within one year of the date of the final invoice.

Article 8 - Premature Termination.

If the Client does not comply, or does not comply in time or correctly with any or all essential obligations arising from the Agreement, and also in case of (filing for) bankruptcy, liquidation or dissolution of the company, or requests or the provision of a moratorium on payments, Intertek has the right to prematurely terminate or suspend the Agreement in full or in part, by a recorded letter, without the need for a notice of default or mitigation and without the liability to pay damages, without prejudice to any other rights of Intertek. As soon as one of the above conditions applies, all claims that Intertek has on the Client become payable on demand.

Article 9- Confidentiality.

9.1 Intertek obliges itself to keep any results confidential, insofar as the results of the Works are related to the company or the business practice of the Client, and not to bring these to the attention of third parties other than in case of legal obligation or a court order. Intertek will also keep other results of the Works confidential for a period of two years from the date of the final invoice, without prejudice to the right of Intertek to submit patent applications based on the stipulations in Article 4 section 2.

9.2 The Client guarantees confidentiality of all information that comes to be known to them, which relates to the company or the business practice of Intertek.

Article 10 – Health and Safety.

10.1 If employees of Intertek or third parties hired by Intertek carry out the Works in part or entirely on locations assigned by the Client, the Client will ensure that the health and safety regulations applicable to that location are communicated to the relevant Intertek employees or third parties in a clear and timely manner. Employees of Intertek and third parties hired by Intertek are obliged to comply with these regulations.

10.2 If the regulations with regard to personal health and safety applied by Intertek go further than the regulations applied by the Client, or if the employees of Intertek or third parties hired by Intertek are of the opinion that additional safety norms should be taken into account, they are authorised to comply with the Intertek regulations or the additional regulations. If the situation is such in the opinion of the Intertek employee or third party that the Works cannot be carried out in a safe manner and the Client is unable or unwilling to apply sufficient measures, Intertek has the right to suspend or terminate the Agreement in full or in part, without the Client having any right to damages.

Article 11 – Hiring Personnel.

The Client will not hire any employees of Intertek that were involved in Works carried out under the Agreement for a period of at least two years after completion of the Works, without written permission from Intertek.

Article 12- Force Majeure.

Intertek cannot be held liable for permanent or temporary default, if such default is a result of force majeure, which includes situations like

war, unrest, sabotage, labour unrest, strikes, fire, earthquakes, employee illness, accidents, compliance with Government requests or orders.

If one of the abovementioned causes applies, as a result of which Intertek is not able to fulfil its obligations for an uninterrupted period of at least (3) months, the Client has the right to terminate the Agreement with immediate effect, without the right of the Client to damages. Intertek has the right to claim payment from the Client for the Works carried out before the force majeure came into effect.

Article 13 – Settlement.

Intertek, including all companies related to Intertek through a concern, has the right to settle all amounts payable to it by the Client, including all companies related to the Client through a concern, with the amounts payable to the Client by Intertek.

Article 14 – Divisibility.

These General Conditions are considered divisible and if any provision in these general delivery conditions, for whatsoever reason, is or becomes invalid or inapplicable, the remaining provisions will remain in force. The invalid part of these Conditions will be considered replaced by stipulations that have the same effect, as far as is possible and allowed, as the invalid part.

Article 15 – Applicable Law / Competent Court.

15.1 This Agreement is governed explicitly by Dutch Law.

15.2 Parties will refer any disputes in relation to this Agreement explicitly to the competent judge in the Maastricht County Court, without prejudice to the right to appeal the decision of this court.

Article 16 - Authentic Version

Only the Dutch version of these Conditions is authentic.

The Client declares, by signing this document, that it has taken due note of the contents of these general conditions and agrees to them.

Date :
Organisation Name :

Signature of authorized signatory :