

## Article 1. Definitions

- 1.1.** Offer : the quotation/ offer issued by Vinçotte to the Client concerning the performance of services by Vinçotte.
- 1.2.** Additional Services : all services, on written request of the Client, to be executed by Vinçotte during or after the performance of the Agreement in addition to the services explicitly agreed on.
- 1.3.** Client : the contracting party that enters into the Agreement with Vinçotte.
- 1.4.** Vinçotte : Vinçotte ASBL/VZW, Vinçotte SA/NV, Vinçotte International SA/NV or Vinçotte Academy SA/NV (the entity performing the services).
- 1.5.** Agreement : any agreement that is formed with respect to performance of the services by Vinçotte for the Client, any amendment or addition thereto, and all (legal) acts executed in connection with the preparation and/or performance of that Agreement.
- 1.6.** Results : the outcome of the execution of the Agreement by Vinçotte.
- 1.7.** GTC : these general terms and conditions of sale, including its subsequent amendments.
- 1.8.** Employee: the employee or agent of Vinçotte who shall be executing the mission.
- 1.9.** Auxiliary: any natural person or legal entity entrusted by Vinçotte with the full or partial performance of a contractual obligation agreed by Vinçotte, and this throughout the entire contractual chain, such as subcontractors, mandataries, employees, directors, etc.

## Article 2. Scope of application

- 2.1.** Unless otherwise agreed in writing, the GTC shall apply to all Offers, Agreements and other legal relationships between Vinçotte and the Client. All clauses deviating from these GTC are only binding if they have been clearly agreed in writing between the parties.
- 2.2.** Vinçotte reserves the right to amend the GTC at any time, subject to notification of the amendments 14 days before they come into force. If the Client does not agree, he has the right to terminate the Agreement according to the applicable termination conditions.
- 2.3.** Vinçotte expressly rejects the application of general or specific conditions of the Client, unless otherwise agreed in writing. If Vinçotte explicitly accepts the Client's (purchase) terms and conditions, the GTC will supplement the Client's (purchase) terms and conditions or the specific agreement, even if these expressly state that the GTC are not applicable. Acceptance of an order form from the Client does not imply acceptance of the Client's conditions.
- 2.4.** A Client to whom the GTC have been applied shall also be deemed to have accepted the application of the GTC to future Offers issued by Vinçotte, to future Agreements concluded and to be concluded between Vinçotte and the Client and to all other legal relationships between Vinçotte and the Client.
- 2.5.** If a (part of a) provision of the GTC is invalid or unenforceable, this shall not affect the validity and enforceability of the other provisions of the GTC. In such case, the parties shall conduct negotiations to replace the invalid or unenforceable provision with a legally valid and enforceable provision that comes as close as possible to the purpose and intent of the original provision.
- 2.6.** Any provision of the GTC that by its very nature is intended to continue in force beyond the date on which the Agreement comes to an end shall continue in force beyond that date, including, but without limitation, the obligations regarding confidentiality, non-recruitment and intellectual property. Termination or annulment of the Agreement shall not affect the rights of any party acquired prior to such termination or dissolution.

## Article 3. Offer and conclusion of the Agreement

- 3.1.** Unless otherwise agreed, Vinçotte's Offers are not binding and remain valid for one month from the date of the Offer.
- 3.2.** An Agreement is formed at the moment that the Client's written acceptance is received by Vinçotte or after Vinçotte has actually started executing the Agreement.
- 3.3.** All images, drawings, calculations, communications concerning capacities, results and/or expected performance and all other similar documents provided by Vinçotte to the Client are not binding on Vinçotte and are intended solely to provide the Client with a general overview of the services that Vinçotte can provide.
- 3.4.** If the Client sends documents, data, drawings and other similar documents to Vinçotte, Vinçotte can assume that these are correct and will base its Offer on this information.

## Article 4. Execution of the Agreement

- 4.1.** Except if agreed otherwise, all the obligations of Vinçotte are only best-efforts undertakings, and Vinçotte shall perform its services in accordance with the rules of art

- 4.2.** The deadlines communicated by Vinçotte are only indicative.
- 4.3.** Vinçotte shall perform Additional Services after written acceptance of Vinçotte of the Client's written request, and if payment or the deposit of a guarantee, if required by Vinçotte, has been made. In the absence of any specific arrangements in this respect, the Additional Services will be carried out by Vinçotte at prices based on the current rates that Vinçotte applies for similar services. If no agreement is reached on the Additional Services, Vinçotte will not be liable for the non-performance of the Additional Services.
- 4.4.** In order to enable Vinçotte to execute the mission under the best possible and most safe circumstances, and depending on the nature of the services to be executed, the Client shall:
- make available all the documents, software, systems that are required for the proper execution of the Agreement to the Employees.
  - in order to carry out the Agreement safely, make arrangements for the completion of the access formalities and permits, ensure that the Employees are accompanied during their work, provide the Employees with the guidelines that must be followed in the installation that is being inspected, as well as provision of the various safety devices or equipment specific to that installation. If the result of the risk analysis is negative, so that the services cannot be carried out safely, the services will be terminated immediately;
  - through a safety officer, provide the Employees with specific information and instructions concerning the inspected installation, designed to ensure the safety, hygiene and health of the Employees. Such information may also be submitted directly to the prevention consultant of Vinçotte.
  - ensure that an authorized representative of the Client is present to a.o. operate the devices/equipment to be inspected.
  - in case of insulation measurements and other measurements/tests on high and low voltage installations, ensure that the electrical equipment and ancillary devices are fully switched off/disconnected for the entire duration of the inspection.
- The Client must provide the adequate supervision and all information in a language comprehensible to the Employee in order to carry out the mission safely and efficiently. Failing this, Vinçotte is entitled to (i) immediately terminate the Agreement without charge, (ii) invoice the mission as provided for in the Agreement and (iii) invoice any additional costs due to, inter alia, delays, misunderstandings or additional efforts by Vinçotte.
- 4.5.** The reports shall be drawn up by Vinçotte in the name and on behalf of the Client and one copy shall be sent according to the language of the site visit (in French in Wallonia, in Dutch in Flanders, and in French or Dutch in the Brussels Capital Region and its peripheral municipalities). Translation costs if any shall be borne by the Client. The report shall only relate to the findings that were made at the time of the executed services.
- 4.6.** If it has been agreed that the Agreement is to be executed in several phases, Vinçotte may suspend the execution of the tasks that fall under a subsequent phase until the Client has approved the results of the previous phase in writing.
- 4.7.** Vinçotte reserves the right to entrust certain services to third parties, in conformity with the laws and the regulations concerning authorization or accreditation.
- 4.8.** The Client is not entitled to transfer the rights and obligations under the Agreement to third parties, unless previously agreed in writing.
- 4.9.** During the execution of the Agreement, the Client shall not exert any unnecessary pressure on Vinçotte, its Employees and/or third parties acting on behalf of Vinçotte.
- 4.10.** Any complaint concerning the execution of the Agreement that is discovered by the Client must be notified to Vinçotte immediately by e-mail, with a clear description, otherwise Vinçotte has the right not to handle this notified complaint. In any event, the Client cannot make any claims if the notification is made later than eight days after the Client discovered or should reasonably have discovered the defect, and in any event within a maximum of one (1) year after the services were provided. If Vinçotte considers the complaint to be justified, and if it is made within the stipulated period, Vinçotte may choose, without being obliged to pay any further compensation, to repair the defect that has been discovered or to issue a credit note for the services performed for the amount invoiced for the service in dispute. The complaints and appeals procedure is available upon written request of the Client.
- 4.11.** All (legal) acts carried out by an appointee or employee of the Client in connection with the Agreement between Vinçotte and the Client are deemed to have been duly carried out on behalf of the Client and are binding on the Client. The Client may not under any circumstances make a claim against Vinçotte on the grounds that these acts or behavior were carried out without the authority to represent or validly bind the Client. The Client may not under any circumstances make a claim against Vinçotte on the grounds that these acts or behavior were carried out without the authority to represent or validly bind the Client.

## Article 5. Pricing and price revision

**5.1.** Prices stated in an Offer shall continue to apply for the duration of the mission as described in the Offer. All prices are expressed in euros and are, unless otherwise agreed in writing, always exclusive of VAT, travel and accommodation costs, waiting times/delays caused by situations beyond Vinçotte's control, and costs not included, including costs associated with work or deliveries to be carried out by third parties.

**5.2.** Prices are based on a normal working day of eight hours, between 6 a.m. and 8 p.m., from Monday to Friday, excluding public holidays, without the working day (including travel and waiting time) exceeding 8 hours. A supplement will be charged for services performed :

- on Saturdays between 6 a.m. and 8 p.m., or on a normal working day between 8 p.m. and 6 a.m.: 50% surcharge
- beyond 8 hours per day: 50% surcharge
- on Saturdays after 8 p.m. or on Sundays and public holidays: 100% surcharge
- services beyond 8 hours on Sundays and public holidays: 150% surcharge (services beyond 8 hours)
- night services (i.e. between 8 p.m. and 6 a.m.) on Sundays and public holidays: 150% surcharge

**5.3.** If the services are terminated due to a negative risk analysis on-site, Vinçotte may charge a minimum fee.

**5.4.** Notwithstanding the above, Vinçotte expressly reserves the right to charge non-consumers in respect of any additional tax duties or levies that may apply to the services to be provided, or are imposed or applied between the day of conclusion of the Agreement and the date of execution of the Agreement.

**5.5.** All prices may be revised at any time by Vinçotte if the costs of Vinçotte are changed as a result of objective and measurable factors, such as new taxes and/or levies, a change in legislation, a change in energy prices, a change in wage costs and/or fuel costs and/or a change in exchange rates, and at least once a year in accordance with the sector index. The Client shall be notified of price revisions in writing at least 14 calendar days before they come into effect, after which the revised prices shall be applied. The annually indexed prices shall apply automatically as from 1 January, unless otherwise agreed.

## Article 6. Liability

**6.1.** Vinçotte is only liable to the Client if this is provided for in the GTC.

**6.2.** The maximum liability of Vinçotte is limited, taking into account the following articles, to a maximum of twice the amount due under the Agreement or in the case of a multi-year Contract, twice the average of the amount annually invoiced (and in any case to a maximum of €1.25 million for all direct damage).

**6.3.** Vinçotte shall only be liable for direct damage. Vinçotte shall never be liable for indirect damages and costs, including but not limited to consequential damages, loss of profits, loss of savings, commercial loss, loss of production or damage to third parties.

**6.4.** Vinçotte is only responsible for the services insofar as they have been carried out by Vinçotte itself or under its responsibility. Vinçotte is not liable for data received from third parties if it is not clearly stated that these data have been checked and approved by Vinçotte.

**6.5.** All liability on the part of Vinçotte shall expire after two years, starting from the day on which the Agreement or part of the Agreement is terminated, unless the Client has taken legal action against Vinçotte during this period, without prejudice to the applicability of shorter anniversaries or deadlines.

**6.6.** In the event of damage during the execution of the Agreement, or as a direct result of the execution, the Client will protect Vinçotte against any claims by third parties against whom Vinçotte cannot invoke the GTC.

**6.7.** Vinçotte shall not be liable to the Client for any infringement of the rights of third parties and/ or of legal principles, unless the Client has notified Vinçotte of these rights and principles in writing before the conclusion of the Agreement. Vinçotte shall not be liable for damage caused by incorrect, incomplete or late data provided by the Client.

**6.8.** In case of services carried out under specific applicable laws, Vinçotte cannot be held liable insofar as the services are carried out in accordance with the requirements of applicable law as aforesaid.

**6.9.** Vinçotte may in no case be held liable for damage that may be caused by its Employees:

- \* if they were not accompanied by the Client or one of the representatives or employees of the Client;
- \* if they were constrained to manipulate or operate equipment which should in reality have been operated or manipulated by the Client or by any of the representatives or employees of the Client;
- \* if they were not notified of special characteristics of the installations or equipment to be inspected, or if they received unclear, incorrect, incomplete or ambiguous information;
- \* in case of damage caused during insulation measurements and other measurements/tests on high- and low-voltage installations when

the electrical equipment and ancillary devices were not fully switched off/disconnected during the aforesaid measurements/tests;

\* in case of inspections that are carried out late or not at all, in view of the fact that the Client did not contact Vinçotte in time for an appointment.

**6.10.** The reports shall describe the findings made at a specific period of time. Damage as a consequence of any manipulation of the inspected installation or equipment by any person after inspection, can in no case be attributed to Vinçotte.

**6.11.** The limitations of liability of Vinçotte provided for in this article do not apply in the event of personal injury or if the damage has been caused intentionally or fraudulently by Vinçotte.

**6.12.** If there are several Clients, they are all jointly and severally liable to Vinçotte, even if the obligations of one or more Clients may be individualized.

**6.13.** This article must be understood within the framework of Book 6 NCC.

The parties waive any extra-contractual liability claim by one towards the other party as well as towards the Auxiliaries for damages caused by the non-performance of any contractual obligation among the parties. The present article is without prejudice to legal provisions of mandatory law. The Auxiliaries, as third-party beneficiaries, may invoke the clauses of this article. The Client undertakes to impose the same waiver described in this article on his contracting party/parties ((end)client) and indemnifies Vinçotte and/or its Auxiliaries against any possible damage suffered by Vinçotte in the event of an extra-contractual claim by his contracting party/parties ((end)client) against Vinçotte and/or its Auxiliaries.

## Article 7. Confidentiality

**7.1.** Vinçotte and the Client undertake to treat all information such as, among other things, financial, operational and technical information received during the execution of the Agreement, as strictly confidential and to not disclose the same to third parties, except: (i) with the express consent of the other party; (ii) if the Client publishes the entire report to third parties; (iii) if such is necessary for the defense of a party's interests, whether in court or otherwise; (iv) if disclosure of the same is required or allowed under statutory or regulatory provisions; or (v) on the demand of any judicial authority or (supervisory) governmental agency. In the two latter cases, the other party can be notified.

**7.2.** Does not constitute a breach of the obligation of confidentiality: at the request of an Auxiliary, transmission of the contractual clauses on means of defense in the event of a dispute relating to the performance of the contractual obligation in which that Auxiliary is directly involved.

## Article 8. Intellectual property rights

Without prejudice to special written agreements to the contrary, all the existing and developed logos and intellectual property rights relating to the services rendered by Vinçotte shall be the property of Vinçotte or the existing claimants, and shall not under any circumstances be transferred to the Client, and no reproduction, right of use or license shall be granted to the Client. However, the reports drawn up by Vinçotte for the Client may be copied or scanned in their entirety for the purpose of their storage or the transmission of the report to third parties.

## Article 9. Force majeure

**9.1.** The term "force majeure" includes: situations that hinder compliance with the Agreement and that are not attributable to the parties, regardless of whether these situations were foreseeable at the time the Agreement was concluded. In the event of force majeure, the obligations of the parties shall be suspended.

**9.2.** The situations referred to in article 9.1 include a.o.: war, fire and other destructive incidents, business disruptions, strikes, government measures, pandemic, ICT-disruption or attack, and unforeseeable delays by third parties on whom the parties depend for the performance of the Agreement.

**9.3.** If the period during which compliance with the Agreement is impossible due to force majeure is longer than one month, both parties have the right to request the termination of the Agreement without any obligation to pay compensation.

**9.4.** If Vinçotte has already fulfilled part of its obligations or can only fulfil part of its obligations at the time of the case of force majeure, it will be entitled to invoice the part that has been or can be performed separately and the Client will be obliged to pay this invoice as if it were a separate project. This principle shall not apply if the part already performed or capable of being performed has no intrinsic value.

## Article 10. Invoicing

**10.1.** An electronic invoice is issued for each mission. Costs and expenses relating to the mission, as well as Additional Services and costs, shall be charged separately. In the absence of any contrary provision in the Offer or Agreement, the mission shall be charged on the basis of the rates in force at the time of the execution of the Agreement.

**10.2.** Any (administrative) change (in relation to the data available in the Order or the Agreement) of an invoice at the request of the Client will result in an administrative cost of at least €150. A request for a copy of the report may also entail an administrative cost.

**10.3.** In case of services on time & materials basis, a minimum amount equal to 45 minutes of the hourly rate per mission and per Employee shall be charged as well as the travel costs.

#### **Article 11. Payment terms and conditions**

**11.1.** Unless otherwise agreed in written, the invoices shall be payable via bank transfer, payment terminal or online payment. Any exchange rate risk and (related) bank charges shall be borne by the Client. Payment must be made in euros, without deduction and without surcharge, within 15 days of the invoice date, unless otherwise agreed in writing. Any objection to an invoice, on any grounds whatsoever, shall be notified to Vinçotte in writing within 15 days after the receipt of the invoice. An objection about an invoice does not release the Client from his obligation to pay.

**11.2.** In case of full or partial non-payment of an invoice by the due date, the Client shall, by operation of law and without the need to issue a prior notice of default, be liable to pay a late payment interest of 1% per month, for each month that commences, as well as a lump sum damage compensation equal to 15% of the unpaid invoice amount subject to a minimum of €50, unless otherwise specified by law and without prejudice to the rights of Vinçotte to demand higher damage compensation, provided that proof of the higher damage actually incurred is provided. In case of non-payment by the due date, Vinçotte shall also have the right to revoke the report or certificate with immediate effect and without prior written notice of default and/or to suspend other missions until full payment of the invoice. Setting-off of debts by the Client is expressly excluded.

**11.3.** In the event of non-payment of any invoice, all other outstanding invoices of all Vinçotte entities, even those not yet due, shall become immediately payable.

**11.4.** Payments received shall first be applied towards the costs payable and the interest, and thereafter against the principal amount of the oldest outstanding invoice.

**11.5.** The Client is not permitted to suspend any payment obligations towards Vinçotte without prior notice of default.

#### **Article 12. Rescheduling, cancellation, interruption or extension**

**12.1.** The request to reschedule a mission by the Client shall be made in writing at least 3 working days before the execution of the mission starts, and is only valid subject to written acceptance by Vinçotte. Vinçotte reserves the right to levy charges for rescheduling.

**12.2.** If the Client cancels the mission, Vinçotte can charge the Client a cancellation fee if the cancellation is :

**a.** less than two weeks but more than one week before the start of the mission: 60% of the mission amount and reimbursement of the costs already incurred;

**b.** less than one week before the start of the mission: 90 % of the mission amount plus reimbursement of the costs already incurred.

**12.3.** In all cases, Vinçotte has the right to terminate the Agreement if an interruption caused by the Client lasts for more than six months, without this entailing any obligation to compensate the Client. The start date of an interruption is the date of the letter from the Client or Vinçotte in which the interruption is reported or, failing this, the date of the writing from which the interruption can be deduced.

**12.4.** In the event of a delay of more than 1 month solely caused by Vinçotte, the Client shall be entitled, after prior written notice of default, to a discount on the price of the mission equal to 1% for each full month of delay following said notice of default or to terminate the Agreement with 14 calendar days' notice. In case of late execution, consumers shall have the right, after a request to this effect is made to Vinçotte, to a discount on the price of the mission equal to 1% per month of delay in the execution of the mission for each month that has already commenced, by operation of law and without the need to issue a prior notice of default. Furthermore, in the event of late performance of the Agreement solely caused by Vinçotte after a period of 10 calendar days after notice of default, consumers shall be entitled to lump-sum compensation equal to 15% of the price of the Agreement, without prejudice to the right of the customer to claim higher compensation provided proof of higher damage actually suffered or to terminate the contract with 14 calendar days' notice.

**12.5.** In the event of a delay or extension of the services related to the Agreement, Vinçotte may charge additional costs if the delay or extension is not attributable to Vinçotte.

#### **Article 13. Duration and termination of the Agreement**

**13.1.** The Agreement between Vinçotte and the Client is concluded for the term specified in the Agreement. If no term is specified, the Agreement shall be deemed to have been entered into for a period of three years starting from the date of the order confirmation or, if no order confirmation was given, no later than the first day of the execution of the Agreement. The Agreement shall be automatically extended for an indefinite period of time, unless it is terminated by registered letter subject to a notice period of 4 months prior to the expiry date. The Agreement of indefinite duration can be terminated by registered letter subject to a notice period of 4 months. For consumers, the termination notice period shall be one month. For (one shot) specific non-periodic missions, the Agreement is entered into for the duration of the mission.

**13.2.** If, despite a written notice of default with a period of at least 15 working days, a party does not (correctly) or not in time comply with its contractual obligations, as well as in the event of bankruptcy, cessation of payment, liquidation, or if it is placed under management, guardianship or trusteeship, that party shall be considered to be in default. In this case, the other party shall have the right, without notice of default or judicial intervention, to immediately suspend the performance of the Agreement, or to request the partial or total dissolution of the Agreement, at the option of that other party, without this resulting in any obligation to pay compensation, and without prejudice to the right of the party to compensation for all costs and damage incurred. All claims of Vinçotte against the Client shall be immediately due and payable. The right of dissolution shall not apply if the default does not justify dissolution.

**13.3.** If at any time doubt arises in Vinçotte about the creditworthiness or solvency of the Client, Vinçotte expressly reserves the right to demand an advance payment or (other) security for work yet to be performed, even if full or partial delivery of the services has already taken place. If the Client refuses to accede to this request of Vinçotte, Vinçotte reserves the right to terminate the Agreement with immediate effect and without the need for judicial intervention and without being liable to pay any compensation.

#### **Article 14. Non-recruitment clause**

The Client shall not, for the duration of the Agreement as well as one year after the same comes to an end, in any manner whatsoever, except after obtaining the prior written consent of Vinçotte, recruit the Employee or otherwise, directly or indirectly, have the Employee work for or render services to the Client. Any violation of this article by the Client shall by operation of law give ground to the payment of a damage compensation to Vinçotte equal to one year's gross annual salary of the recruited or employed Employee.

#### **Article 15. Protection of personal data**

Vinçotte processes the personal data of the Client or its employees in accordance with Belgian and European legislation with regard to the protection of personal data. More information about Vinçotte's policy with regard to the processing and protection of personal data is available at [www.vincotte.be](http://www.vincotte.be) ->Privacy policy.

#### **Article 16. Applicable law and competent jurisdiction**

**16.1.** All Agreements to which the GTC are applicable, as well as all agreements that arise under the same, shall be exclusively subject to the laws of Belgium, with the exception of provisions relating to international conventions such as the Vienna Convention, in so far as these do not contain mandatory provisions.

**16.2.** All disputes relating to the validity, interpretation, execution or termination of Agreements to which the GTC apply, as well as all other agreements that arise under the same shall exclusively be laid before the Dutch- or French- speaking courts of Brussels.

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