

GENERAL PURCHASE CONDITIONS (GPC)

1 - Definitions

In these General Purchase Conditions (GPC) the following definitions apply:

Buyer: Teconex SA and its Affiliated Companies.

Affiliated Companies : any legal entity that directly or indirectly controls, is controlled by, or is under common control with the Buyer.

Goods : products, supplies, parts, assemblies, technical data, drawings, services or other which are to be furnished by the Seller to the Buyer hereunder.

Seller: any party that supplies Goods to the Buyer, provides services to the Buyer or has agreed with the Buyer to do so, or any party to whom the Buyer has given an assignment of any other nature.

Contract: any agreement and/or any purchase order, including (i) special conditions and (ii) these GPC, between the Buyer and the Seller on the purchase of Goods by the Buyer from the Seller, or any other order assignment given by the Buyer to the Seller, or any related acts or legal acts.

2 - Applicability

1. These GPC are applicable to all requests, offers, assignments, purchase orders, order confirmations, agreements and other legal acts relating to the supply of Goods, the provision of services or the execution of assignments or the performance of other work by the Seller for the Buyer.
2. The Seller's general terms and conditions are hereby expressly excluded, unless it has been agreed otherwise in writing. If in the latter case a conflict occurs between the present conditions and conditions applied by the Seller, then the present conditions shall prevail.
3. If the contents of the special conditions of the Contract should differ from the contents of these GPC, then the contents of the special conditions shall prevail.
4. The Buyer reserves the right to modify these GPC at any moment. The new GPC come immediately into force. They are published on www.teconex.eu.

3 - Formation of the Contract

1. Any offer etc. made by the Seller is irrevocable, unless it is unequivocally clear from the offer etc. that the offer is without obligation.
2. Any Contract between the Seller and the Buyer is formed no sooner than the Buyer has expressly accepted an offer from the Seller in writing or has sent a written confirmation.

4 - Changes to Orders after Formation of the Contract

1. Notwithstanding article 3, the Buyer at all times reserves the right to change specifications, quantity, shipping instructions, packaging and delivery dates. Any difference in price resulting from such changes shall be adjusted equitably by the parties, and this Contract shall be modified in writing accordingly.
2. The buyer shall also have the right to cancel all or part of a Purchase Order at any time. If production of the Goods hereby ordered has not commenced, the Buyer's liability in the event of such cancellation, shall be limited to actual expenditures incurred by the Seller. If production of the Goods has commenced, the Buyer's liability shall be limited to acceptance of and payment for the Goods the manufacture or performance of which has been completed in accordance with the Purchase Order and to the payment of the actual expenditure incurred by the Seller on the balance of the Purchase Order.
3. The Buyer shall also have the right to cancel this Purchase Order without liability hereunder if: (i) the Seller breaches this Purchase Order, (ii) the Buyer has reasonable grounds to believe Seller will not be able to perform this Purchase Order, (iii) a voluntary or involuntary petition in bankruptcy is filed by or against Seller, or (iv) the Seller becomes insolvent or makes an assignment for the benefit of creditors or (v) the Seller's rights hereunder are assigned without written consent of the Buyer.

5 - Prices, Invoices and Payment

1. Unless otherwise specified in the special conditions of the Contract all prices are fixed and apply Delivered Duty Paid in conformity with the Incoterms (most recent version) as set out by the International Chamber of Commerce and including sound packing material and any other costs incurred by the Seller with respect to the fulfilment of its obligations, unless it has been otherwise agreed in writing.
2. The Buyer shall pay the Goods supplied or the services provided within 60 days after the invoice date, unless otherwise agreed in writing and on condition that the Goods supplied have been approved and after receipt of all relating documentation including the correctly addressed complete invoice.
3. Failure to comply with the requirements relating to invoice data, advice notes and packing lists set out in the order or otherwise agreed, and failure to complete such documents with all necessary data will give the Buyer the right to suspend the Buyer's obligation to pay the Seller.
4. Not in any way does payment by the Buyer constitute a renunciation of any right.
5. If the Seller exercises any right – whether on the basis of an agreement or any legal provision – to increase a price, the Buyer is entitled to terminate the Contract between the Seller and the Buyer with immediate effect without any notice of default being required and without the Buyer being liable for compensation.

6 - Delivery of Goods and Shipping Instructions

1. The Delivery of the Goods should take place in the manner and at the place and time set out in the Contract. Unless otherwise specified in the special conditions of the Contract, the Goods are delivered DDP.
2. Time is of essence. The mere fact of exceeding the delivery time by the Seller results in the Seller being in default and is subject to the application of article 11.
3. Without prejudice to the provision in the previous paragraph, the Seller is obliged to inform the Buyer immediately of any delay or foreseeable delay in the execution of the Contract. The Seller shall undertake, at its own cost, any and all extra measures (such as e.g. airshipments or courier expenses) which are helpful to meet the specified delivery schedule.
4. Unless otherwise agreed in writing, the Seller is not entitled to make partial deliveries. If the execution of partial deliveries has been agreed, then delivery is, for the purposes of these GPC, also deemed to mean a partial delivery.
5. The delivery is complete at the moment when the Goods have been received by or on behalf of the Buyer and the Buyer has signed for delivery. The latter signing does not affect the fact that the Goods delivered can be rejected later under the terms of article 7 of these GPC. Furthermore, the Seller cannot derive any rights from the signing referred to in the first sentence of paragraph (6.5), and the signing therefore does not prevent the Buyer from exercising (for instance) its rights on the grounds (among others) of a default on the part of the Seller.
6. No subcontract shall be made by the Seller with any other party for furnishing any of the Goods in completed or substantially completed form, and the Seller shall not assign his Contract, without prior written consent of the Buyer.
7. The Seller shall have the right to source certain components or parts to be used for in connection with the manufacture of the Goods from a third party, provided it has obtained the prior written approval of the Buyer therewith. In any event, despite such approval by the Buyer, the Seller shall remain responsible towards the Buyer for all acts and omissions of such third party, including as set forth in articles 7 and 13.
8. **PACKING:** the Buyer's purchase order number, part number, material description and quantity or weight, name and location of shipper must appear on the outside of each package and on all packing slips, invoices, bill of lading and allied papers. A packing slip must be included with each shipment and the package containing the packing slip must be so marked. Damage to any material not packed to insure proper protection will be charged to the Seller.
9. **INVOICES:** Invoices in duplicate must be sent to the Buyer, attn. Finance Department, on the date of shipment, together with bill of lading, express receipt or other shipping documents. The time for discounting invoices shall begin on the date of receipt of Goods at the Buyer's plant or other specified delivery point or on the date of receipt of the Seller's invoice by the Buyer, whichever is later.

10. ROUTING: If no shipping instructions are specified by the Buyer, the Seller shall ship by the most direct and cheapest way. If the Seller fails to comply with specific shipping instructions under this paragraph, the Buyer will charge to the Seller's account any excess freight and other expenses incurred by the Buyer resulting therefrom.

7 - Inspection

1. Particularly (though not exclusively) when the Goods to be delivered under this Contract are not standard commercial items, the Buyer is at all times entitled to subject such Goods to an inspection or to have these subjected to an inspection and to investigate and to test whether these Goods are produced in conformity with the Contract and these GPC. The Seller is obliged to give its full cooperation to such inspection, investigation and test, whatever the Goods to be delivered, standard or not. For instance, the Seller shall, at all reasonable times, allow the Buyer or its representatives access to the Seller's plant and its operations, and at no expense to Buyer shall honor any reasonable request for supplies, facilities and services required for the purpose of such inspection, investigation and test.
2. In the event of rejection the Buyer shall inform the Seller of the rejection. The Buyer shall store the rejected Goods, or have the Goods stored, at the risk and expense of the Seller. If the Seller has not taken back the Goods within a period of 14 days after the Buyer has informed the Seller that the Goods delivered have been rejected, then the Buyer is entitled to return the Goods to the Seller at the Seller's risk and expense, without the Seller's approval being required. If the Seller should refuse to take delivery of the Goods, the Buyer is entitled to store, sell or destroy the Goods at the risk and expense of the Seller.
3. The Seller cannot derive any rights from the results of an inspection or investigation as referred to in article 7.1 or from the non- occurrence of an inspection or investigation.
4. The Buyer is never bound by any limited time period set by the Seller during which the Buyer should inform the Seller that the Goods delivered have been rejected or after which the Buyer can no longer lodge a complaint.
5. All materials and tools furnished by the Buyer shall be inspected and checked by the Seller before use in performance of this Contract, for defects and compliance with Contract requirements, unless agreed otherwise in writing.

8 - First Samples

1. The Buyer shall receive first samples in connection with the purchase of new or modified Goods or when specific Teconex equipment has been modified. The inspection of the first samples shall be made by the Seller and the Buyer shall conduct verifying inspections when it deems it necessary.
2. Once first samples have been approved by the Buyer, no change of function, appearance, properties, material, specific Teconex equipment, manufacturing methods or place of manufacturing may be made without the written approval of the Buyer.
3. Approval by the Buyer of first samples shall not limit the Seller's liability or obligation to deliver Goods in accordance with valid specifications.

9 - Ownership and risk

1. Whatever the Incoterm elected in the special conditions of the Contract, the ownership and the risk of the Goods are transferred to the Buyer at the moment of delivery, unless (i) it has been agreed otherwise or (ii) the goods are rejected by the Buyer upon or after delivery (under article 8 of these GPC).
2. The Seller guarantees that unencumbered ownership of the Goods is acquired.
3. The Seller waives any retention rights and rights of revendication it may have.
4. The Seller has to take out insurance against transit damage, at its own risk and expense.

10 - Guarantee

1. The Seller guarantees that the Goods to be supplied meet the terms and conditions of the Contract. Such guarantee should at least include that:
 - (i) the Goods have the characteristics that have been promised;
 - (ii) the Goods are new and have no defects and are free of any third party rights;
 - (iii) the Goods are fit for the purpose for which the assignment /order was given or for which the Contract was concluded;
 - (iv) the Goods are compliant with any requirements set by or by virtue of the law and/or applicable rules of selfregulation and/or requirements set by the Buyer, including (without limitation) requirements as to quality, health, safety, packaging, environment, hazardous substances and preparations and advertising, both in the country of delivery as in the country for which they are destined;
 - (v) the Goods are complete with the name of the Seller or of the manufacturer or of the party that markets the Goods (if different from the Seller);
 - (vi) the Goods are complete with and accompanied by all data and instructions required for correct and safe usage; and
 - (vii) the Goods are complete with and accompanied by all documentation required by the Buyer, irrespective of the question whether the documentation was requested by the Buyer before, during or after the conclusion of the Contract.
2. It is known to the Seller that the Buyer markets high-quality products. Insofar, as the Seller supplies Goods or provides services relating to such products, the Seller guarantees that its Goods and services meet the highest quality standards.
3. If it turns out that – irrespective of the results of any preceding inspections – any Goods provided do not meet the provisions of paragraph 1 of article 10, then the Seller shall at its own expense and at the discretion of the Buyer and at the Buyer's first request repair or replace the Goods, or supply what is missing, unless the Buyer prefers to terminate the Agreement in conformity with the provisions of article 16 of these GPC and without prejudice to any other rights of the Buyer arising from any failure to perform (including the right to damages). Any costs related to this (including cost of repair and disassembly) shall be borne by the Seller.

4. In urgent cases and in cases where it has to be assumed in all reasonableness after consultation with the Seller that the latter will fail to meet its guarantee obligations, then the Buyer is entitled to sample and to repair or replace itself at the expense of the Seller or to have a third party effect such repair or replacement, without awaiting the seller's approval and without the Seller being discharged from its obligations under the Contract.
5. Unless agreed otherwise in writing, a guarantee period shall apply of at least 2 years as from the date of delivery of the goods or the execution of the services.
6. Any agreed guarantee period shall resume upon acceptance of the executed repair, the replacement or replenishment to which the guarantee provisions apply.

11 - Liability

1. Any failure of the Seller to meet its obligations entitles the Buyer to oblige the Seller to undo partially or fully the failure and/or its consequences at the risk and expense of the Seller.
2. The Seller recognizes that damages arise by reason of the Seller's delay in delivery (including delay in delivery by reason of Seller's failure to perform any obligations of Seller under the Contract); therefore, the Seller agrees to pay to the Buyer a penalty of one percent (1%) of (such part of) the price of the delayed order per calendar day of delay, with a maximum of thirty percent (30%). Such penalty will commence following the expiration of a grace period of seven calendar days subsequent to the delivery date mentioned on the purchase order. The Buyer reserves the right to disregard the penalty clause and to seek compensation for actual damages if these are greater.
3. The Seller is liable for any loss that is suffered by the Buyer and/or any subsequent purchasers or users, including – eventually – the consumer of the Goods delivered (whether or not processed) due to a failure of the Seller to meet its obligations and/or due to any act or failure to act by the Seller or by the Seller's staff or any third parties engaged by the Seller. The Seller shall be liable for both direct and indirect losses.
4. The Seller shall indemnify the Buyer against any possible claims by third parties with respect to the Contract concluded between the Seller and the Buyer.
5. The Seller is obliged to take out sufficient insurance against the losses referred to in article 11.3. This insurance obligation also applies to any means which are in any way used in the execution of the Contract. The Seller shall have a remark made on its insurance policies that any payout by the insurance company shall be made direct to the party that effectively suffered the loss. The Seller shall, at the Buyer's first request, allow the Buyer to inspect the relevant policies.
6. The Buyer is not liable for any losses suffered on the part of the Seller, unless the loss has been caused by deliberate intent or willful recklessness on the part of solely the supervisory staff of the Buyer. Deliberate intent or willful recklessness as referred to in the previous sentence of this paragraph shall solely be understood to mean an act in which the supervisory staff of the Buyer has (subjective) knowledge of the fact that the chance that the act may cause a loss is considerably greater than the chance that such action may not cause a loss.

12 - Recall

1. If any defect in the Goods delivered (including packages), becomes known to one of the parties, the party is obliged to inform the other party immediately of such defect, stating:
 - a. the type of defect;
 - b. the goods affected;
 - c. any other information that may be relevant.
2. The parties shall then in consultation with each other take any measures necessary given the circumstances. The measures to be taken may mean discontinuation of deliveries, discontinuation of the manufacturing of products, blocking of stocks of products (whether or not at customers or the Buyer) and/or a recall. Solely the Buyer is entitled to decide whether any measures and, if so, which of the aforementioned measures will be taken and how the execution thereof shall take place. Insofar as applicable, the Buyer shall take into account, when taking such decision, that it markets high-quality products and therefore has to protect its reputation. The Seller should participate in any reasonable way in the execution of such measures and, insofar as the Seller is to blame, bear the costs thereof, without prejudice to the provisions of articles 10 and 11.
3. The Seller is obliged to keep secret any information relating to measures that may or will be taken.

13 - Intellectual property rights

1. The Seller grants to the Buyer a non-exclusive, eternal, irrevocable, global and transferable right to use any intellectual property rights regarding goods and/or services provided by the Seller. This right of use includes the rights to grant such right of use to (possible) purchasers or other third parties with whom the Buyer has relations in respect of the running of its business.
2. The Seller guarantees that the use (including resale) of the Goods supplied or services provided by the Seller will not infringe on any intellectual property rights or other (property) rights of third parties.
3. The Seller indemnifies the Buyer against any claims by third parties arising from any infringement on the rights set out in article 13.2 of these general purchase conditions and the Seller shall compensate the Buyer for any ensuing losses.
4. Insofar as the Buyer makes available to the Seller any means of which the Buyer possesses an intellectual property right, the Seller acknowledges that the Buyer is and shall at all times remain the owner of such means and that the Seller shall not obtain any intellectual property rights or title as regards such means. The Seller shall manage all means referred to in this paragraph at its own risk and expenses and keep them in good repair. The Seller shall not use the means for or have the means used by third parties unless the Seller has been authorised in writing by the Buyer to do so. Article 15 applies mutatis mutandis to any means referred to in this article 13.4.

5. If the Seller, within the scope of the Contract, develops goods for the Buyer, then any intellectual property rights to be invoked shall accrue exclusively to the Buyer. Any fee for this shall be deemed to be included in the agreed price of the goods. Insofar as necessary the Seller shall render full assistance in the creation or the transfer of such rights to the Buyer.

14 - Force majeure

In the event of force majeure on the part of one of the parties, the fulfilment of the Contract shall be suspended for the duration of the force majeure period, without any of the parties being liable for compensation as regards the other party. If the situation of force majeure should last longer than fourteen (14) days, the other party shall have the right to terminate the Contract with immediate effect and without court intervention by giving notice in writing, without any right to damages arising. Force majeure on the part of the Seller shall in no event be understood to mean: staff shortage, strikes, non-performance by any third party engaged by the Seller, transport problems on the part of the Seller or any third parties engaged by the Seller, failure of equipment, liquidity and/or solvency problems at the Seller or government measures affecting the Seller.

15 - Secrecy

1. The Seller acknowledges that in the context of (the execution of) this Contract it may come into possession of confidential information of the Buyer. Such confidential information (including information regarding products, results of business activities, etc.) shall remain the exclusive property of the Buyer and must not be disclosed to any third party or be used in any other way for any purpose other than the execution of the Contract without prior written consent.
2. Also, the Seller shall not disclose any information about its relationship with the Buyer to any third party without express written consent from the Buyer.
3. The Seller is obliged to impose the same obligation as referred to in article 15.1 upon its employees or any third parties it engages in the execution of the Contract. The Seller warrants that such employees / third parties shall not act in breach of the duty of secrecy.

16 - Termination

1. The Buyer, at its own discretion, shall be entitled to suspend partially or fully the execution of all agreements between the parties, including the Contract, or to terminate these agreements, including the Contract partially or fully by giving notice in writing, without court intervention, and with immediate effect (without the Buyer being liable to pay any damages) in the event of:
 - (i) a failure by the Seller to perform one or more of its obligations under the Contract or of agreements relating thereto;
 - (ii) a procedure of judicial reorganization or a declaration of bankruptcy on the part of the Seller;
 - (iii) guardianship order or appointment of an administrator on the part of the Seller;

- (iv) sale or termination of the business of the Seller;
 - (v) cancellation of any licences of the Seller that are required for the execution of the Contract;
 - (vi) seizure of a major part of the Seller's business assets; or
 - (vii) process of garnishment being issued against the Buyer at the expense of the Seller.
2. Any claims the Buyer may have or come to have against the Seller in the cases referred to above in article 16.1, shall be payable forthwith and in full.

17 - Settlement

The Buyer is entitled to deduct from the amounts which it owes for whatever reason to the Seller or to other companies forming part of the same group as the Seller the amounts which Teconex SA and/or its Affiliates can claim for whatever reason from the Seller.

18 - Applicable law / Disputes

1. The legal relationship between the Buyer and the Seller and any agreements relating to such legal relationship, shall solely be governed by the law of Belgium. The provisions of the United Nations Convention on International Purchase Agreements (CISG, Vienna, 11 April 1980) are not applicable.
2. All disputes between parties shall in the first instance be settled by the competent court in Liège, Belgium.