



FELCO SA, Préstat SA, FELCO Motion SA  
Members of Global Procurement Group


# GENERAL PURCHASING CONDITIONS

A-34-713 V07  
of 14.12.2015

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## 1. Scope

These general purchasing conditions (GPCs) are applicable to all purchase orders (supplier, subcontractor and service). The acceptance of the order implies automatic acceptance of the specific conditions mentioned on said order and the general purchasing conditions.

These general purchasing conditions prevail over all general or specific conditions of sale of the supplier which are not accepted in writing by the ordering party.

Any derogations from, or modifications to, these conditions shall be valid only after written approval by the ordering party.

## 2. Bid

Any bid and demonstration by the supplier is free of charge, even when it is made at the request of the ordering party.

Unless otherwise agreed, the bid is valid for at least 3 months.

When the bid is sent, the supplier shall confirm the feasibility of the service provided, under the conditions set forth in the bid.

If its bid differs from the call for tenders, the supplier shall expressly indicate it.

## 3. Order

The supplier agrees to respond as soon as possible to any request for information by the ordering party about the supply of goods/services ordered and to certify its origin and composition.

The supplier agrees to inform the ordering party, immediately, about anything likely to prevent the proper execution of the order.

The supplier is responsible for any loss and any damage to materials, parts, devices and documents owned by the ordering party and provided to the supplier with a view to execution of the order. The supplier shall at its expense take any measures necessary to protect the property of the company represented by the ordering party.

If the order is not confirmed by the supplier, the ordering party may withdraw from the negotiations at any time, without any compensation.

### 3.1. Acceptance of the order

The acceptance of the order implies acknowledgement and acceptance of these GPCs notwithstanding any sales conditions which would be contrary to these GPCs.


No person may invoke any tacit agreement by the ordering party.

An order is valid only if it is transmitted in writing (mail, email, fax or any other electronic means). Orders and agreements transmitted orally are valid only after they are confirmed in writing.

Orders include the text, the GPCs, as well as any appendix (specifically terms and conditions, specifications, drawings, plans and offers).

### 3.2. Order confirmation

Each order must be subject to a written order confirmation sent within 3 days or according to agreement with the ordering party. The confirmation must be described with the following references: order number, item number, characteristics of supply delivered, purchaser's reference and quantity.

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According to its confirmation, the supplier agrees on the deadline, the quality of the goods or services and the matter requested and on the prices that appear on the order.

The unconfirmed order may cause invalidity and cancellation of the order.

### 3.3. Prices

The prices at which the ordering party places orders are firm and cannot be changed, unless otherwise agreed in writing between the Parties.

Unless otherwise agreed, any fees and taxes other than the VAT legally applicable to the order, to the goods/services provided which are subject thereto, are borne by the supplier.

### 3.4. Quality/Warranty

The supplier, expert in its speciality, is bound to an obligation of results. It specifically takes for this purpose full responsibility for the goods/services provided, for its design, its manufacturing process, technical selections to be implemented for its completion and its appropriateness for the use for which it is intended.

Acceptance by the ordering party of plans, the process, specifications or initial samples, does not in any way reduce the warranty owed by the supplier.

The specific procedures concerning the submission of samples must be in accordance with the quality control instructions according to the document "Payment for submission" no. 320-AN-1380.

The supplier specifically guarantees that the goods/services provided are:

- in conformity with the order, documents, technical specifications, initial samples (accepted by the ordering party) and applicable rules of the industry, standards, laws and regulations (REACH, RoHS, EC, ...), etc.;
- free from any apparent or hidden defect and from any functional defects;
- free with respect to any intellectual property right of any third party.

If the products are not in accordance with the above, the merchandise is refused and returned at the expense of the supplier.


The warranty period is based on the legal time periods in effect for goods/services delivered by the supplier and from the date of acceptance of the goods/services at the company represented by the ordering party.

The supplier is obligated to perform at its expense any operations specifically necessary modifications, fixing, adjustments and repairs or to replace at its expense or as part of the goods/services provided which prove to be non-conforming during the warranty period.

The ordering party may, after giving formal notice, have goods/services brought into conformity by a third party, at the expense of the supplier, in the event of any failure by the supplier. If the goods/services are replaced, repaired or modified, the warranty period runs again in full beginning from the date of receipt of such goods/services.

If, during the warranty period, the goods/services are unavailable due to causes attributable to the supplier, specifically in case of abnormal wear and tear, breakage or a functional defect of one or more of their components, the warranty period of the entire supply is increased by all accumulated periods of unavailability.

The supplier shall bear all expenses arising from its warranty obligations, including transportation costs. Expenses resulting from damage due to negligence or a lack of monitoring/maintenance or failure of handling attributable to the company represented by the ordering party are excluded.

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If the failure during the warranty period is caused by a recurrent technical failure, the supplier shall replace or modify, at its expense, on any of its goods/services likely to be altered by the defect, any identical parts subject to the order, even if they do not cause any incident. Any defect found in three parts of the supply delivered is considered to be a recurrent technical defect.

The supplier shall not make any modification to the goods/services ordered, specifically, shall not make any change to components, materials, processes or place of manufacture in the absence of prior validation by competent persons of the ordering party.

### 3.5. Deadline

The supplier is responsible for monitoring and complying with deadlines.

Unless otherwise stipulated, deadlines mean goods/services provided at the place of delivery entered on the order. They shall be strictly followed.

When the supplier finds that the deadline cannot be met, it shall immediately indicate it to the ordering party and propose a new deadline by agreement.

In the event of any inability to accept this new deadline, the ordering party reserves the right to cancel the order, at no expense and to claim penalties from the supplier (see Article 8).

If the order is not cancelled and a new deadline has been negotiated by both parties, the ordering party reserves the right to bill late penalties (see Article 8).

## 4. Delivery

The delivery date of the goods/services appearing on the order, shall be considered to be met when the delivery has been received by the company of the ordering party at the place and delivery date set.

Any delivery shall be accompanied by a delivery slip indicating the following references of the ordering party: order number, item number, characteristics of the goods delivered, manufacturing lot, reference of purchaser, quantity, number of packages and detailed weight.

Acceptance of the goods/services does not constitute unconditional acceptance of such goods/services (see Article 6.1)

The supplier remains responsible for any damage arising from the defect of the goods/services or from improper packaging of the goods/services. Any goods/services rejected by the ordering party are returned to the supplier at its expense and under its responsibility. In addition, at the request of the ordering party, the ordering party shall be obligated to replace, at its expense, the rejected goods/services.


Any packages shall clearly bear the order number, item number, manufacturing lot, quantity and purchaser's reference.

The supplier shall be responsible for any indirect tangible or intangible damage that a delivery delay causes to the company of the ordering party, including:

- operating losses resulting from a shut-down of its production chain
- any costs which are billed to it by its clients
- the additional cost incurred by any order for goods/services from a third party intended to alleviate any prolonged incapacity of the supplier.

In case of shipments made abroad to Switzerland, the supplier shall produce the usual exportation documents defined by the Incoterms depending on the countries and laws that govern them.

Acceptance of merchandise is possible from Monday to Thursday from 7:00 am to 11:45 am and from 1:15 pm to 4:30 pm and on Friday from 7:00 am to 11:45 am and from 1:00 pm to 2:30 pm.

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## 5. Delivery Conditions

Unless otherwise stipulated, the prices indicated on orders mean for goods/services rendered, shipping and packaging paid, and insured for the invoiced value up to the place of delivery indicated.

### 5.1. Incoterms

The Incoterm applicable for delivery of merchandise is DDP (2010 Incoterms) regardless of the means of transport used and unless otherwise agreed between the Parties.

The transfer of risks is regulated according to 2010 Incoterms.

If nothing is indicated, the risk is transferred after delivery, at the place of delivery.

### 5.2. Packaging

Packaging used to transport merchandise delivered to the company of the ordering party does not remain the property of the supplier unless it is agreed in writing and in advance with the supplier. Packaging owned by the ordering party and which is delivered to the supplier remains the property of the supplier.

The supplier shall deliver the merchandise with packaging according to specification of the ordering party.

If no specific indication is mentioned, packaging shall be appropriate to the nature of the product, the means of transport used and storage, with a view to delivery in perfect condition. The supplier shall be responsible for any damage (breakage, missing, damage, etc.) which might be due to inappropriate or improper packaging.

In case of damaged and/or non-conforming packaging, the ordering party reserves the right to reject the merchandise or to bill again for repackaging.

## 6. Acceptance

### 6.1. Acceptance of merchandise

The ordering party reserves the right to reject all or part of the merchandise delivery in the following cases: delivery past deadline, incomplete or surplus delivery, order non-conformities.


The absence of reservations or claims upon acceptance of the delivery does not constitute final acceptance of merchandise delivered or a waiver by the ordering party of a subsequent remedy.

If merchandise is nevertheless delivered before the time periods set and without prior approval from the Purchasing Department, the merchandise may be returned or stored at the expense of the supplier. Nevertheless, the ordering party reserves the right to accept such merchandise in advance, but payment for the merchandise shall, however, be due only on the contractual delivery date initially provided.

After acceptance of the delivery, the ordering party shall communicate to the supplier the non-conformities or apparent defects of the goods provided preventing final acceptance of the latter as soon as possible. This time period is to be counted from the time when the regular conduct of the operations would have allowed them to be detected. The supplier shall not rely on lateness of the claim to refuse to respond to it.

Merchandise not finally accepted is made available to the supplier, so that it can check the reality of the claims raised by the ordering party.

If there is no dispute and/or examination of the merchandise by the supplier in a period of 3 days after the communication of no final acceptance by the ordering party, the merchandise shall be taken back by the supplier, at its expense within 8 days.

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Merchandise not taken back in the period given will be destroyed at the risk and peril of the supplier and at its expense.

Rejected merchandise shall be replaced by the supplier or reimbursed if a payment has already occurred.

## 6.2. Performance and acceptance of Services

When the order includes installation, mounting and assembly, start-up of service or other services (hereinafter the "services"), its execution by the supplier shall be carried out fully under the supplier's responsibility, even if the supplier has assigned third parties to perform such services, in accordance with the provisions of Article 12 below.

The supplier agrees to perform such services in accordance with the contract entered into with the ordering party, and with the specifications given by the ordering party. The supplier shall take or have taken all appropriate measures, in accordance with the legal provisions and requirements in effect at the place where such services will be performed (see Article 3.4).

The supplier is liable for damage to persons and property resulting from its services.

The ordering party reserves the right to conduct any review of the progress of performance of services before they are fully completed (hereinafter "acceptance") as of the date agreed by the parties.

## 6.3. Acceptance of Services

The ordering party reserves the right to reject and to stop services in case of non-conformity with respect to the order, or in case of failure to comply with time periods for performance as set forth in the order (see Article 3.5).

## 6.4. Liability

The supplier is liable to the ordering party for direct and indirect damage to persons and property resulting from non-conforming performance of services, and which are caused by an act of the supplier itself, its employees or third parties hired to perform services.

## 7. Billing

The invoice shall be issued by the supplier only when the supplier has executed the order.

All of the information which appears in the order (order number, item number, characteristics of the goods/services delivered, purchaser's reference, quantity) allowing identification and inspection of goods/services shall be noted on the invoice.

The ordering party does not accept grouped invoices. Each invoice must be assigned to a single order.

The invoice must be sent to the billing address which appears on said order.


The payment period runs from the date of receipt of the invoice and acceptance of the merchandise/service. Unless otherwise agreed, payment is made at 30 days net.

## 8. Penalties

If the delivery periods set forth in the order are not met or in case of incomplete delivery, or cancellation of the order (see Article 3.5) the supplier incurs late penalties, without notice and without prejudice to any other rights.

Penalties may be claimed by the ordering party in the following cases:

- In case of postponement of a deadline and unless otherwise stipulated, the late penalty is equal to 0.5% of the total price of the order per day of delay, but no more than 10% of this price. It is due even if a portion of the merchandise has been accepted without reservation.

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- Payment of the late penalty does not release the supplier from its other obligations.
- In case of cancellation of an order owed to the supplier, the penalty must cover the excess cost created (see Article 4).

Even when late penalties may apply, the ordering party reserves the right to waive it, to reject any late delivery and to depart from the order, without prejudice to its rights to damages.

The amounts of any late penalties applied shall be, if applicable, set off and deducted from the supplier's invoice.

## 9. Industrial and intellectual property rights

### 9.1. Industrial property right

The supplier shall use any data or verbal or written information that it has obtained from the company of the ordering party only for exclusive purposes of execution of orders.

All of this data or information shall remain the property of the ordering party; at its request, it shall be immediately returned, if it exists in written form, as well as any copies made.

The supplier shall not disclose such data and information to any third party without prior written approval. The ordering party on its part agrees not to communicate without written authorisation of the supplier any studies, projects, samples or documents that may be delivered by it to third parties.

The supplier waives the right in any case to claim reimbursement of costs incurred by studies or projects carried out for the company of the ordering party and to claim the documents and samples delivered to it.

### 9.2. Intellectual property right

The supplier guarantees that its supply does not infringe any intellectual property right specifically in the area of patents and that it does not constitute a counterfeit. It agrees to release the ordering party from any liability and expenses in relation to any request or complaint related to any violation of the intellectual property right owned by a third party.

When intellectual property rights owned by third parties restrict the right of the ordering party to use the supplies, the supplier shall expressly indicate it.

## 10. Confidentiality

Any information communicated to the supplier by the ordering party, any of its affiliated companies or any of its representatives, specifically and without limitation, technical, industrial, commercial or financial information, regardless of the form of the communication including in particular drawings, diagrams, descriptions, specifications, prototypes, etc. are confidential.


Information of which employees of the supplier, its suppliers, subcontractors, agents, permanent or temporary operators may have knowledge at the time of the order is also considered to be confidential information.

A supplier shall not use the name "FELCO SA; FELCO Motion SA; Prétat SA" (as either a business or verbal and/or figurative trademark) or mention its capacity as a supplier if it has not obtained prior written authorisation by the ordering party to do so.

The confidentiality obligation of the supplier is valid during the entire time period of execution of the order and continues without limitation in the time beginning from the end of this period, regardless of the reason.

Non-compliance with these obligations may cause immediate automatic cancellation by the ordering party without formal notice of any orders in progress at this time. Any damages that the ordering party may claim remain reserved.



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## 11. Cancellation, Termination

The ordering party may exercise its right to terminate the order in the case where the circumstances would cause any long-term inability of the supplier to deliver in a timely manner or if repeated delays cause disruptions in the logistics chain and/or charges or expenses so that the maintenance of the contract would no longer be commercially sustainable.

In case of breach by the supplier of any of its essential contractual obligations listed above, the order may be automatically terminated without formalities by the ordering party.

In case of any change in the situation of the supplier (change of direct or indirect supplier, or sale of its business assets, etc.), the ordering party shall be authorised to terminate the order.

## 12. Assignment

The Supplier shall not assign and/or transfer the order, even for free, in full or in part, without a written request to the ordering party and its prior approval. (See Article 3.4).

In case of any change of control of the supplier, direct or indirect, or any sale of its business assets, the ordering party shall be authorised to terminate the order (see Article 11).

If the supplier is authorised to subcontract all or part of the order to one or more third parties (by formal approval of the ordering party), it shall remain solely and fully liable for execution of the order and compliance with the GCSs. It shall hold the ordering party harmless from any claim by its subcontractors, provide its defence and indemnify it from any consequences of such claims.

Only the ordering party is authorised to give its approval to assign or transfer, in full or in part, the order to an affiliated company or to a successor in full or in part of its business activity.

## 13. Safety Ethic and Environment

As a specialist, the supplier shall inform the purchaser of any particular hazards in handling, use or storage of the subject of the contract and of any instructions specific to the product.


The supplier agrees that the goods/services to be delivered shall be products in accordance with the laws, regulations and standards in the area of health, safety, environmental protection and labour law in effect in each of the States involved in their production.

The supplier agrees to comply with the regulations related to the prohibition of illegal labour and to deliver to the ordering party, at first request, the documents required by the legal and regulatory provisions certifying that the employees of the supplier are legally employed.

In addition, the supplier shall adopt in the conduct of its business, the ethics rules set forth in the United Nations International Agreement relating to Economic, Social and Cultural Rights (Agreement I) and in the United National International Agreement relating to Civil and Political rights (Agreement II), these two Agreements specifically dealing with human rights, labour standards, the environment and the fight against corruption.

The supplier agrees to reimburse the ordering party for any direct or indirect sum which might be its responsibility due to failure to comply with regulations in effect, notwithstanding the fact that any violation of this obligation is a cause of automatic termination of the order the rights also being fully reserved to request damages in compensation for any injury that the ordering party may sustain.



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## 14. Diverging interpretation

In case of diverging interpretation of the present GPC in English as compared to the German or French versions, it is stated that the original French version prevails.

## 15. Applicable Law and competent jurisdiction

The law applicable to the order is Swiss law. The parties expressly waive the application of the Vienna Convention of 1980 on the International Sale of Goods.

For any dispute which may arise from these general purchasing conditions, the competent jurisdiction is in Neuchâtel (registered office of the ordering party), even in the event of a third party notice or of multiple defendants.