

Transports Publics Genevois (TPG) is an establishment incorporated under Geneva public law.

The term "Agreement" means any agreement signed by the supplier or any order made by TPG for the purchase of goods or services which the supplier has not refused in writing within 5 business days of receipt.

The term "Contractor" is the supplier who has signed an agreement with TPG.

The term "Service" means any goods and/or services provided by the Contractor.

TPG shall be mindful, within the context of their procurement policy, to carefully select Contractors whose policies promote quality assurance and environmental management.

1. Scope
 - 1.1. These general conditions of purchase shall apply to all agreements awarded by TPG which are entered into with suppliers.
 - 1.2. Any confirmation or performance of the Agreement shall constitute acceptance of these general terms. The latter shall prevail over all of the Contractor's terms and conditions, unless expressly agreed by TPG.
 - 1.3. Only this version of the general terms (2018 version) shall be binding; any previous version shall be null and void.
 - 1.4. Any derogation from these general conditions of purchase must be made in writing and signed by TPG.
2. Contractual obligations of the Contractor
 - 2.1. The Contractor declares that it has been informed of all conditions relating to the performance of the Agreement and guarantees that the agreed price allows it to perform its obligations with the appropriate professional level of quality. The Contractor undertakes to provide goods or service in accordance with the Agreement. The quality of the Contractor's services shall form the basis of ongoing appraisals.
 - 2.2. The Contractor undertakes to provide TPG with all of the contractually stipulated documentation and, more generally, any documentation which is useful for the use of the equipment/resources. Failing which, TPG reserves the right to suspend its contractual obligations. The receipt of documents by TPG does not relieve the Contractor of its contractual liability.
 - 2.3. The Contractor agrees to comply with all legal and regulatory provisions applicable to the subject matter of the Agreement.
 - 2.4. For services supplied in Switzerland, the Contractor agrees to comply with the provisions relating to the protection of workers and with conditions of employment in force at the place where the service is provided. The Contractor guarantees, in particular, to provide equal treatment to men and women in terms of wages and to comply with conditions of employment set out in collective bargaining agreements and standard employment agreements or, failing which, standard conditions of employment in the Canton of Geneva and relating to the relevant profession.

The Contractor's failure to comply with one or more of these conditions may be grounds for the immediate termination of the Agreement.
 - 2.5. The Contractor agrees to provide its service in line with the state of the art and with all due diligence.
 - 2.6. The Contractor shall regularly update TPG of the performance of its obligations and shall inform it immediately in writing of any circumstances that impede the performance of the Agreement. TPG may demand, at any time, checks or information relating to any event relating to the Agreement or its performance.
 - 2.7. The Contractor shall provide, for the performance of the Agreement, only carefully selected employees who benefit from a level of training which is suitable for the nature of the Agreement. At TPG's request, the Contractor shall replace, within a reasonable timeframe, those employees who do not have the requisite knowledge or who hinder the performance of the Agreement.
 - 2.8. The Contractor undertakes to comply with and promote the principles of sustainable development in accordance with the commitment to comply with the principles of sustainable development issued by TPG.
3. Subcontracting
 - 3.1. The Contractor agrees to notify TPG of each subcontractor involved in the performance of its obligations. Failure to comply with this provision shall result in the immediate suspension of the performance of the Agreement.
 - 3.2. In all cases, the Contractor shall be liable for the subcontracted services as it would be for its own services.
 - 3.3. The Contractor shall also be responsible for ensuring that each subcontractor complies with these terms and conditions.
4. Confidentiality
 - 4.1. The Contractor shall, prior to entering into the Agreement and at the term thereof of it, keep confidential all facts or information which it has become aware through the performance of this Agreement and who are neither public nor publicly available. The legal obligation to inform the authorities is excluded from the above provision.
 - 4.2. In the event of a breach of article 4.1., the Contractor shall be liable to a contractual penalty of CHF 100,000.- per incident/event, unless it proves that it has not committed a breach. The possible right to terminate the Agreement shall also remain reserved.
5. Protection of personal data
 - 5.1. In the event that the Agreement also involves the management, analysis or processing of any kind of personal data, then the Contractor guarantees compliance with the (federal, Geneva and European) data protection legislation by all of its employees.
 - 5.2. In particular, the Contractor guarantees that it has taken all organisational and security measures necessary for the collection, transfer, storage and processing of personal data, in particular, with respect to its subcontractors.
 - 5.3. For the remainder, the addendum set out in the schedule and on the website www.tpg.ch shall form an integral part of these CGAs and is also applicable to any subcontractors authorised by TPG.
6. Intellectual property
 - 6.1. All intellectual and/or industrial property rights, whether they are economic or moral, resulting from the performance of the Agreement shall be assigned by the Contractor, who declares that it is the holder of such rights, following payment of the agreed price and without any additional compensation being due.
 - 6.2. The Contractor shall protect TPG against any third-party proceedings, claim, demand or opposition relating to rights set out in article 6.1. It will, if necessary, bear all costs and damages related thereto. It undertakes, furthermore and as necessary, to replace, at its expense, the goods or services provided to TPG with other goods or services.
 - 6.3. TPG agrees to immediately notify the Contractor of any third-party claim due to a breach of intellectual and/or industrial property rights and to provide all documents necessary for its defence, subject to its confidentiality obligations.
7. Equipment, appliances, tools provided by TPG
 - 7.1. The Contractor shall use the equipment, appliances and tools provided by TPG solely for the performance of its contractual obligations.
 - 7.2. The equipment, appliances and tools are provided "as is", without warranty.
 - 7.3. The Contractor shall be liable for any loss of or damage to TPG's equipment, appliances or tools made available to it. It shall replace or repair any lost or damaged TPG equipment at its own expense.
8. Prices
 - 8.1. The agreed Prices are fixed, final and not subject to revision until the full completion of the entire Agreement.
 - 8.2. Unless otherwise agreed, prices shall include shipping, packaging and recovery of any included packaging.
 - 8.3. Unless otherwise agreed, the prices shall not include VAT or any taxes whatsoever.
 - 8.4. Unless otherwise agreed, the prices shall be Delivered Duty Paid (DDP) Geneva (Incoterms 2010). Formalities and customs charges shall be borne by the Contractor, in principle, if it does not have a representative in Switzerland.
9. Invoicing
 - 9.1. All invoices must always refer to the Agreement number and must be addressed to TPG's accounts payable department, under penalty of being returned. The Contractor alone shall be solely liable for any breach of this clause and the consequences thereof (including payment arrears).
 - 9.2. Any invoices that are issued, upon the express request of TPG on behalf of DI, must be addressed to TPG with words "au nom du DI p.a. TPG Route de la Chapelle 1 – Case postale 950 – 1212 Grand Lancy 1"
 - 9.3. The deadline for payment shall be 30 days net.
 - 9.4. Exceptionally, and with the express authorisation of TPG, the payment of a deposit shall be possible on condition of the issuance of an advance payment bank guarantee for the same amount. This bank guarantee must be issued by a first-class Swiss bank and remain in force at least until the delivery of the ordered goods, or the provision of the services.
 - 9.5. An amount equal to 10% of the Agreement value shall be withheld until the expiry of the guarantee for at least 24 months, unless it has been covered by a bank guarantee for performance of the same amount and covering the guarantee period.
10. Delivery
 - 10.1. The Contractor must strictly comply with the place of delivery specified in the Agreement (DDP Geneva, Incoterms 2010).

- 10.2. The transfer of risk shall pass to the purchaser from the date the goods have been delivered (DDP Geneva. Incoterms 2010).
 - 10.3. All deliveries must always be accompanied by a delivery note bearing the Agreement reference information.
 - 10.4. Partial or early deliveries shall be accepted only with the express agreement of TPG. In the event of non-compliance with the delivery deadline, the Contractor shall automatically be in default.
 - 10.5. TPG may grant the Contractor an additional delivery period, drawing its attention to the legal consequences (article 107 of the Code of Obligations) of non-performance.
11. Penalties for late delivery
 - 11.1. If the delivery deadlines set out in the Agreement are not met, or in the event of incomplete delivery, the Contractor shall incur late fees, without prior notice and without prejudice to any other existing rights.
 - 11.2. This shall be subject to payment of a late fee corresponding to at least 0.5% of the price of the services, per day the delivery is late, amounting to no more than 10% of the total Agreement amount. The payment of a contractual penalty shall not, however, relieve the Contractor of its contractual obligations.
 - 11.3. Delivery delays shall entitle TPG to reject or refuse any delayed delivery and to terminate the Agreement, without prejudice to their rights to damages.
12. Acceptance procedure
 - 12.1. The receipt of goods shall be evidenced by a written document drawn up by TPG.
 - 12.2. The goods shall be deemed to have been accepted by TPG if no default notice is sent within 30 days from receipt of the goods. Issues regarding latent defects shall be reserved.
 - 12.3. Any rejected goods shall be returned at the Contractor's expense, accompanied by a packing slip indicating the nature of their non-conformity.
13. Warranty
 - 13.1. The Contractor warrants that the delivered goods possess the requested qualities and have no material defects or defects of title reducing their value or their suitability for their purpose. It likewise guarantees the services that are provided.
 - 13.2. In the event that the delivered goods are defective, TPG have the option of either reducing the price depending upon the nature and extent of the defect, or demanding redelivery of defect free goods (replacement delivery), or terminating the Agreement and claiming damages. In the event of any failure on the part of the Contractor, TPG may, after formal notice has been provided, enforce or order the specific performance of the Contractor's services at the Contractor's expense.
 - 13.3. The warranty shall be valid for at least 24 months following delivery of the Services.
 - 13.4. The Contractor shall be bound to perform, at its sole expense, any action required to satisfy the conditions of the Agreement.
 - 13.5. For replaced goods, the warranty period shall run again in full as from the date on which they are delivered. For repaired or altered goods, the warranty period shall be extended by a period being equal to that during which the goods are unavailable.
14. Certificates
 - 14.1. The Contractor agrees to provide upon TPG's request, at any time, all the documents referred to in the Geneva regulations on public procurement. This obligation extends to all of its subcontractors.
 - 14.2. In the event of non-compliance with article 14.1., the Contractor shall be liable to pay a contractual penalty that is equal to 10% of the total Agreement amount. Notwithstanding the foregoing, TPG reserves the right in this case to terminate the Agreement without it being liable to pay any compensation.
15. Liability and insurance
 - 15.1. If the poor performance of the Agreement has caused damages, the Contractor shall be liable for its repair, unless it is proven that it has not committed any fault.
 - 15.2. Liability for damages caused to persons shall be unlimited. With respect to property damage, liability shall be limited to the Agreement amount.
 - 15.3. The Contractor certifies that it is the beneficiary of insurance policies which are sufficient to cover its services and all risks inherent in its business and those of its employees/subcontractors. The Contractor agrees to provide renewed insurance certificates at the beginning of each calendar year.
16. Assignment and pledges
 - 16.1. The obligations of the Contractor arising under the Agreement may not be assigned or pledged without the prior written agreement of TPG.
17. Early termination of the Agreement
 - 17.1. TPG may at any time terminate the Agreement, whether in whole or in part, with immediate effect, without prejudice to any right to compensation for damages it incurred, in the following cases:
 - gross negligence of the Contractor, or
 - insolvency of the Contractor confirmed by an official body (state of suspension of payments or opening of restructuring or bankruptcy proceedings) or
 - breach by the Contractor of its contractual obligations, despite a formal notice sent by registered mail; or
 - an event of force majeure, lasting more than 60 calendar days.
 - 17.2. As TPG is associated with the Republic and Canton of Geneva by a four-year service agreement, any amendment to the Agreement or to the financial investments made by the State shall require TPG to review this Agreement or even terminate it without the payment of compensation to the Contractor.
18. Applicable law and jurisdiction
 - The parties acknowledge that the courts of Geneva shall have exclusive jurisdiction, subject to appeal to the Federal Court, ruling in accordance with Swiss law.
19. Other provisions
 - Any amendment, addition or termination of the Agreement may be effected solely if carried out in writing and after having been signed by the authorised parties. If any provision of these general terms or of the Agreement is invalid, the validity of the remaining provisions shall not be affected. Any invalid provision shall be replaced by a legally valid provision, the content of which - from an economic point of view - shall be as close as possible to that of the invalid provision. Unless otherwise specified, all documents relating to the Agreement shall be in French.
 - It is recalled that only the French language version shall prevail.