

Enexis General Purchasing Conditions 2013



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Article 1. Definitions

- 1.1 Services: all activities in any form, such as, but not limited to, issuing instructions, contracting work, hiring of staff, loaning out Personnel etc., performed by the Other Party for or on behalf of Enexis, in connection with the delivery of Goods or otherwise.
- 1.2 Enexis: Enexis Holding N.V. and all companies that are part of its group as referred to in Article 24b of Book 2 of the Dutch Civil Code.
- 1.3 Purchasing Conditions: these Enexis General Purchasing Conditions 2013.
- 1.4 Delivery: the Goods delivered or to be delivered according to the Agreement and all results of Services.
- 1.5 Agreement: any legal relationship formed with the Other Party, including any reference thereto or further agreement in respect thereof.
- 1.6 Parties: Enexis and the Other Party.
- 1.7 Personnel: employees involved in the performance of the Agreement by the Other Party, including employees of subcontractors and hired staff.
- 1.8 Other Party: any natural person or legal entity with whom Enexis concludes an Agreement for the Delivery of Goods or a Contract for Services.
- 1.9 Goods: all material products that are or have to be delivered to Enexis.
- 1.10 Purchase Order (PO): a written instruction from Enexis in which the Services to be provided by the Other Party have been laid down.
- 1.11 Invoice requirements: contains all requirements an invoice should satisfy. These consists of legal requirements, tax obligations and data that are important for Enexis' accounts.

Article 2. Applicability

- 2.1 These Purchasing Conditions apply to all requests, offers and agreements for Deliveries to or for the benefit of Enexis.
- 2.2 Enexis customarily works on the basis of a (framework) agreement and, below that, a purchase order and/or further agreement, specific

- 2.3 In the event of a conflict, the Agreements and the Enexis additional conditions will prevail over these Purchasing Conditions and the Agreement will prevail over the Enexis additional conditions.
- 2.4 The applicability of the Other Party's (general) terms and conditions, by any name, is hereby explicitly rejected.

Article 3. Offers, Changes and Agreements

- 3.1 All of Enexis' requests for a Delivery or a Service will be non-binding.
- 3.2 If a request by Enexis is followed by an offer, that offer will be valid for at least 30 days, unless the Parties have explicitly agreed a different term. An offer that is essentially different from the request will be deemed not to have been made and will not lead to an Agreement, including in the event Enexis fails to issue an explicit rejection.
- 3.3 The issue or confirmation of an order by Enexis will only take place in writing.
- 3.4 If the Other Party's offer is followed by a written order, the Agreement will be formed at the moment Enexis sends that order to the Other Party. This also applies to changes in the written order.
- 3.5 Enexis will have the right to change and supplement the offer. If that is the case, the Agreement will be formed at the moment Enexis receives a written confirmation of the order in accordance with the changed or supplemented offer or at the moment the Other Party actually commences the performance of the Agreement.
- 3.6 Enexis will have the right to demand that the Other Party make reasonable changes to the nature and scope of the Delivery. If, in the opinion of the Other Party, such change has consequences for the agreed fixed price and/or time of delivery, it will be required, before complying with the change, to notify Enexis as soon as possible, but at most within 8 working days after the notification of the desired change. If Enexis considers these consequences for the price and/or time of delivery unreasonable, the Parties will consult in respect thereof.
- 3.7 Requests made by Enexis, offers made by the Other Party and orders issued by Enexis can occur electronically in a legally valid manner and will be considered at such times to be written documents.

Article 4. Prices

- 4.1 To the extent not agreed otherwise, the agreed prices and rates will be fixed and stated in euros, excluding VAT.
- 4.2 Unless agreed otherwise in writing, the prices will include the costs of Delivery and other costs related to the performance of the Agreement by the Other Party.
- 4.3 Unless agreed otherwise in writing, the rates will include all costs of the Services to be provided, including the related costs in connection with the performance of the Agreement, such as those related to licenses, inspections, tools and equipment.

Article 5. Delivery

- 5.1 Delivery must be made Delivered Duty Paid (DDP Incoterms 2010) and with due observance of the agreed delivery location, delivery date or delivery period.
- 5.2 If Enexis requests the Other Party to postpone Delivery of the Goods, the Other Party will store the Goods properly packaged

and identifiably intended for Enexis, and furthermore secure and insure the Goods and implement all reasonable measures to prevent deterioration of the quality of the Goods, against a reasonable fee to be agreed further in writing.

- 5.3 Enexis will have the right to postpone delivery or execution of the Services for a period of 30 days without owing compensation to the Other Party.
- 5.4 Delivery will include delivery or making available of all related tools and all related documentation such as test certificates, drawings, quality, inspection and guarantee certificates, maintenance and instruction books with manuals and the transfer of intellectual or user rights.
- 5.5 The Other Party will not have the right to perform partial deliveries, unless the performance of partial deliveries has been explicitly agreed in writing.
- 5.6 The Other Party will observe the Enexis security rules and other internal rules that apply to it. Enexis will make these rules available upon request.

Article 6. Packaging and Dispatch

- 6.1 The Other Party will be obliged to package the Goods to be delivered properly and will take back all used packaging materials at Enexis' request.
- 6.2 The Other Party will provide the Goods to be delivered with a clearly visible packing list and/or invoice copy that will include: the name and address of the supplier, the order number, the net weight, country of origin, the invoice value of the delivery, the Other Party's VAT number, statistical number, manner of transport and delivery location.

Article 7. Title and Risk

- 7.1 Title and the risk of the Delivery will transfer from the Other Party to Enexis at the moment of actual delivery or so much sooner as transfer of title takes place.
- 7.2 In the case of Delivery in accordance with Article 5.2, title to the relevant Goods will transfer from the Other Party to Enexis at the moment the Goods are stored identifiable as the Goods of Enexis at or on behalf of the Other Party.
- 7.3 If Enexis is required to make a down payment, the Parties will agree a transfer of title to the relevant Goods at the time of such payment.
- 7.4 When the provisions of paragraph 2 and 3 of this Article will imply, the Other Party will mark the Goods and/or components thereof identifiable as the Goods of Enexis and indemnify Enexis against loss, damage and the enforcement of third-party rights.

Article 8. Payment

- 8.1 Enexis will not be obliged to pay until the Agreement has been performed in full and correctly and following receipt of the invoice, which Enexis will pay within at most 30 days after receipt.
- 8.2 Invoices must comply with the Enexis Invoice requirements as found on page 5 and 6 of these Purchasing Conditions. Enexis will suspend its payment obligation for invoices that do not comply with these Invoice requirements.
- 8.3 Payment by Enexis will in no way constitute a waiver of any right.
- 8.4 Enexis will have the right at all times to set off claims the Other Party has against Enexis with claims, on whatever basis, Enexis has against the Other Party.
- 8.5 Enexis will owe the Other Party 3% interest over the period Enexis was in default as regards payment of the claim or the invoice.

Article 9. Warranty

- 9.1 The Other Party guarantees that the Delivery:
- complies with what was agreed;
 - satisfies the characteristics or results that were promised;
 - is suitable for the purpose for which it was made;
 - is free of defects, design, construction, material and manufacturing defects and third-party rights and
 - complies with legislation and regulations, inter alia, in the field of quality, safety, environment and labour conditions.
- 9.2 If Enexis establishes that the Goods delivered do not comply, in whole or in part, with what was guaranteed by the Other Party in accordance with paragraph 1 of this Article, the Other Party will be in default, unless the latter is able to demonstrate that the failure cannot be attributed to it.
- 9.3 The warranty period pertaining to the Goods or Services will be at least one year after acceptance. Expiry of the guarantee period will not affect the rights Enexis is able to derive from the law and the Agreement.
- 9.4 Upon delivery of machines, equipment and processes that involve raw materials and/or excipients that are environmentally harmful, the Other Party will provide Enexis with the so-called Data Safety Sheets.

Article 10. Inspection/Acceptance

- 10.1 Enexis will inspect or accept the Delivery within a reasonable term after delivery or performance.
- 10.2 If the Delivery is rejected or not accepted, in whole or in part, upon delivery or performance, Enexis will inform the Other Party thereof in writing or have the Other Party informed thereof in writing. This notification will serve as a notice of default in accordance with Article 16.2.
- 10.3 In the event of rejection or non-acceptance of the Delivery, title and risk will be deemed to have remained with the Other Party and consequently never to have passed to Enexis.
- 10.4 Enexis will have the right to repair the Delivery or have it repaired for the account of the Other Party, if it may be reasonably assumed following consultation with the Other Party that the Other Party cannot or will not arrange for repair or replacement or that it cannot or will not arrange for repair or replacement in time or properly. This will not release the Other Party from its obligations under the Agreement.

Article 11. Confidentiality

- 11.1 The Other Party, its employees and the third parties engaged by it in the performance of the Agreement, will be obliged to observe strict confidentiality concerning all information that it became aware of directly from or pertaining to Enexis and in respect of which it is certain that it is confidential in nature or which it should reasonably understand to be confidential.
- 11.2 The Other Party will oblige Personnel involved by it in the performance of the Agreement to observe this confidentiality and have them sign the non-disclosure agreements desired by Enexis.
- 11.3 Without the advance, written approval of Enexis, the Other Party will not be allowed to publish the performance of the Agreement in any way.

Article 12. Industrial and Intellectual property

- 12.1 The Other Party guarantees that the use, including the resale, of the Goods delivered by it, or the tools purchased or

manufactured by it for Enexis, or the Services provided will not infringe the patent rights, trademark rights, design rights, copyrights or other rights of third parties. To the extent the Goods, tools or Services to be delivered are subject to a third-party (intellectual Property) right, the Other Party will ensure that Enexis will acquire the right of use without such involving additional costs for Enexis in excess of the agreed prices or rates.

- 12.2 The Other Party will indemnify Enexis claims that arise from any infringement of the rights referred to in the previous paragraph and it will compensate to Enexis all resulting losses.
- 12.3 Enexis is entitled to all industrial and intellectual Property rights that arise or result from the performance of the Agreement. If the exercise of this right requires any further legal act on the part of Enexis, the Other Party will render its unconditional cooperation to the transfer of said intellectual Property rights.
- 12.4 If and to the extent the Parties agree in writing that a transfer of industrial and/or intellectual Property rights will not take place, the Other Party grants Enexis a non-exclusive and a non-transferable user right for the unlimited use of the Goods or Services that have been provided. Enexis will have the right to further develop the relevant Services or Goods for its own use, with the aid of third parties or otherwise.
- 12.5 All industrial and intellectual Property rights that are made available by Enexis to the Other Party for the purpose of the performance of the Agreement will vest exclusively in Enexis.

Article 13. Transfer to third Parties

The Other Party will not transfer the rights or the obligations arising for it from the Agreement or the performance of the Agreement, neither in part nor in whole to a third party without the advance, written approval of Enexis. Enexis will not refuse to grant said approval on unreasonable grounds, irrespective of the power of Enexis to attach conditions to said approval.

Article 14. Notice of Termination

Enexis will have the right at all times to terminate the Agreement prematurely by means of a written notification to the Other Party, provided it includes a statement of sufficiently compelling reasons. The Parties will consult in the situation that has arisen at that time concerning the consequences of this termination, including a reasonable compensation for the Other Party for the costs of termination. The notice period will be 30 days.

Article 15. Liability and Indemnification

- 15.1 The Other Party will be liable for all attributable losses incurred by Enexis as a result of or in connection with a failure in the performance of the Agreement that can be attributed to the Other Party or that it commonly considered to be for the risk of the Other Party. The Other Party's liability may be limited in the Agreement or in Enexis' additional conditions, with the exception of wilful misconduct or gross negligence.
- 15.2 The Other Party will indemnify Enexis against all third-party claims for compensation of losses resulting from or in connection with a failure in the performance of the Agreement as referred to in the first paragraph. The Other Party will also indemnify Enexis against all third-party claims concerning violations on the part of the Other Party of the agreements concluded between them and/or violations of statutory provisions.
- 15.3 In case of any damage The Other Party is obliged to immediately inform Enexis and confirm this notice in writing within 48 hours.
- 15.4 The Other Party has insurance in which liability is covered to at least EUR 2,5 million per occurrence. If a professional liability insurance is required, the insured liability of this insurance is at least EUR 250,000

per occurrence. The Other Party will provide access to the Policy of Insurance at Enexis' request.

Article 16. Non-compliance with the Agreement

- 16.1 As soon as the Other Party knows or should know that it will fail to comply in the performance of the Agreement, it will be obliged to notify Enexis thereof while stating the reasons therefor.
- 16.2 In the case of a failure to comply, Enexis will give the Other Party notice of default by means of a written demand, while affording it a reasonable term for specific performance, unless it is evident that the Other Party must be deemed, within reason, not to be able, or no longer to be able, to comply with its obligations, in which case it will be in default immediately. If no other term is set, the reasonable term is set at 30 days.
- 16.3 If specific performance of the Agreement is not realised within the agreed term, the Other Party will be in default by operation of law and it will be obliged to compensate Enexis in full, including statutory interest from the day the Other Party failed to comply with its obligations.
- 16.4 The right to compensation as referred to in 16.3 will not prejudice Enexis' right to claim performance of the Agreement, or to instruct third parties to perform the Agreement in whole or in part for the account of the Other Party.

Article 17. Force Majeure

- 17.1 If a failure to comply with an obligation under the Agreement cannot be attributed to the Other Party, it will not be in default and it will not be liable to pay compensation, provided the Other Party notifies Enexis in writing of the failure and the cause thereof immediately and in any event within the agreed term for complying with the obligations.
- 17.2 If the Other Party claims that the failure cannot be attributed to it, Enexis will have the right to suspend its payment obligation.

Article 18. Dissolution

- 18.1 Enexis will have the right to dissolve the Agreement with immediate effect if:
- the Other Party is declared bankrupt or granted a suspension of payments or if the Other Party's business is suspended, liquidated or is in a similar situation; or
 - the Other Party is in default; or
 - an Enexis employee is offered any benefit by the Other Party or a member of its Personnel; or
 - the situation of the non-attributable failure on the part of the Other Party lasts for more than 30 days; or
 - the Agreement is suspended due to a violation of the regulations as provided for in Article 19.
- 18.2 Dissolution will be effected by means of a registered letter or a bailiff's notification to the Other Party.

Article 19. Representation of the Parties and Rules

- 19.1 Upon concluding the Agreement, the Parties will inform each other in writing of the names of persons:
- who will be authorized to represent the Parties in all matters pertaining to the performance of the Agreement; and
 - those who will be involved in the performance of the Agreement on their behalf.
- 19.2 To the extent not otherwise provided for in the Agreement or

in the additional conditions, Enexis will inform the Other Party of the applicable local rules. The Other Party will be obliged to bring those rules to the attention of the Personnel before commencement of the Delivery and to have them sign the declarations desired by Enexis.

- 19.3 If Personnel violate the applicable local rules or perform acts that are contrary to the declarations signed by Personnel, Enexis will have the right to deny the person or persons involved access to the location with immediate effect and to suspend performance of the Delivery with immediate effect.

Article 20. Other Party Personnel

During the performance of the Agreement, Personnel must be able to identify itself and has to comply with the general requirements pertaining behavior, suitability, professional competence and expertise.

Article 21. Documents made available by Enexis

The Other Party will be required to check for completeness and accuracy the specifications, drawings and other documentation it has received from Enexis for the purpose of the performance of the Agreement. Following receipt, it will have two weeks to notify Enexis in writing of inaccuracies and incompleteness's in this documentation. If it does not do so, it will be deemed to have accepted the documentation and it will no longer be able to invoke the inaccuracy or incompleteness thereof at a later stage.

Article 22. Preparation and Performance of the Delivery

The Other Party guarantees that the Delivery is prepared, planned, performed and reported in accordance with the instructions, general requirements of professional competence and expertise. Additional work (meerwerk) will only be eligible for compensation by Enexis if Enexis issued a written instruction to that effect with due observance of the provisions of Article 3.6.

Article 23. Applicable Law, Disputes

- 23.1 The Agreement and all legal relationships arising from it will be governed exclusively by Dutch law.
- 23.2 All disputes, including those that are only considered such by one of the Parties, which may arise pursuant to this Agreement or from legal relationships arising from it, will be settled by the competent court in the 's-Hertogenbosch District Court.
- 23.3 In derogation from the previous paragraph, Enexis may decide that disputes will be submitted to an institute for alternative dispute settlement, with the exclusion of the ordinary courts.
- 23.4 The applicability of the "United Nations Convention on contracts for the International sale of goods" (the Vienna Sales Convention) is hereby excluded.

Article 24. Code of conduct

The Supplier Code of conduct applies to all Deliveries. The Supplier Code of Conduct is available by internet: <http://www.enexis.nl/inkoop>

Invoice requirements

Invoices which do not comply with Enexis and Dutch legal invoice requirements will not be accepted by Enexis and will be returned.

This document contains all requirements an invoice should satisfy. These consists of legal requirements, tax obligations and data that are important for Enexis' accounts.

Mandatory	
Dutch/EU legal requirements	
Email address for payment specification	
Suppliers' IBAN/Bank account numbers	

If applicable	
Additional costs (shipping costs)	
Agreed payment term	

In the case of a formal purchase order	
Order number(s)	
Order position(s)	
Service entry number (in the case of Service order positions)	

In the absence of a formal purchase order	
Personnel number of the Enexis employee who ordered the goods/services	
Name of the Enexis employee who ordered the goods/services	
Classification: Network plan + activity, co-order number or cost centre	
Article number and article description of the goods/services provided	

Digital invoices

Invoices should be sent to invoices@enexis.nl	
PDF version 1.4 (or lower) in accordance with the specifications published by Adobe	
One invoice per PDF	
The invoice and the related specifications are supplied as a single PDF file	
The invoice number(s) should be entered as the subject of the email	
The content of the accompanying email will not be processed	

Enexis invoice details

Enexis BV

PO Box 6

8000 AA Zwolle

The Netherlands

invoices@enexis.nl

VAT identification number: NL809561074B01

Chamber of Commerce number: 17131139