

General Terms and Conditions of Purchase of Elotech Industrieelektronik GmbH
Revised: Januar 2016

Art. 1 General

1. These General Terms and Conditions of Purchase shall apply to all purchase orders for deliveries and services (hereinafter generally referred to as “deliveries”) provided to Elotech Industrieelektronik GmbH (hereinafter referred to as “Elotech” or the “ordering party”) by any seller, contractor, or party obliged to render a service (hereinafter generally referred to as “supplier”).
2. Elotech’s General Terms and Conditions of Purchase shall apply exclusively. Terms and conditions of the supplier which conflict with or differ from Elotech’s General Terms and Conditions of Purchase shall not be accepted. Elotech’s General Terms and Conditions of Purchase shall also apply when Elotech takes delivery without reservation while being aware of the supplier’s terms and conditions which conflicting with or differ from Elotech’s General Terms and Conditions of Purchase.
3. These General Terms and Conditions of Purchase shall only apply with respect to entrepreneurs, legal entities subject to public law and special funds under public law as defined by Section 310 (1) *BGB* [German Civil Code].
4. Elotech’s General Terms and Conditions of Purchase shall apply as amended as general contract to all subsequent business transactions and future contracts as well with the same supplier without Elotech being required to refer to these General Terms and Conditions of Purchase again in every individual case.
5. Individual agreements concluded with the supplier in a specific case (including any collateral agreements, modifications and amendments) shall take precedence over these General Terms and Conditions of Purchase in every case. The content of such agreements shall be governed by a written contract or written confirmation by Elotech.
6. Legally relevant representations and notifications (e.g., notices setting deadlines, reminders, declarations of rescission) to be provided by the supplier to Elotech after conclusion of the contract shall only be valid when given in writing.

Art. 2 Quotation, order processing

1. Purchase orders, changes, modifications, collateral agreements and other declarations by Elotech shall only be binding if made or confirmed by Elotech in writing. The written form shall also be deemed to be complied with where communications are sent by electronic data transfer.

2. Elotech may correct incorrect or erroneous purchase orders in whole or in part by unilateral, written declaration. The ordering party's liability shall be limited in this respect to reliance damage. Elotech shall not be liable for obviously incorrect purchase orders.
3. The supplier shall adhere in its quotation strictly to Elotech's enquiry and in case of deviations shall expressly point them. The supplier shall not charge Elotech for the quotation.
4. Elotech shall in principle provide the general contract, individual orders and call-offs (hereinafter referred to as orders) in writing. This accordingly applies to communication by telefax, email and remote data transmission. Orders placed verbally shall be confirmed in writing immediately.
5. The purchase order shall be deemed to be accepted unless the supplier objects within 5 working days. Notwithstanding the foregoing, the supplier shall be obliged to confirm each purchase order in writing. Elotech shall have the right to cancel or change a purchase order free of charge until the supplier confirms the purchase order in writing.
6. Elotech's purchase order number must be clearly visible on all confirmations, delivery notes, invoices and other correspondence. Order confirmations that do not conform with the purchase order must be explicitly identified on the one hand in respect of these deviations and shall require on the other hand the ordering party's written consent to conclude the contract. The supplier shall furthermore be obliged to draw Elotech's attention in the order confirmation to changes compared with earlier contract terms or catalogue data.
7. A delivery note must be included with all deliveries which indicates Elotech's purchase order data, the quantity delivered and gives a precise description of the goods.
8. Drawings, requirements for construction and testing and Elotech's packaging and shipping instructions (where available) transmitted to the supplier in connection with Elotech's purchase orders shall form an integral part of the purchase order. If Elotech's purchase orders, any related drawings and other manufacturing requirements do not stipulate any specific, clearly designated materials or manufacturing processes, the supplier shall then be fully liable for selecting the materials and for the production process used.
9. The supplier shall notify Elotech in writing of any changes in the composition of the processed material or the constructional design compared with similar deliveries or services previously provided to Elotech before manufacturing begins and before providing the deliveries or services. Such changes shall require the prior written consent of Elotech.
10. The supplier shall furthermore notify Elotech in writing of any concerns with respect to the usability of the ordered item for its intended purpose immediately after the relevant circumstances become known.
11. Elotech reserves the rights to ownership of images, drawings, calculations and other

documents provided to the supplier. This shall also apply to Elotech's copyrights if the documents can be protected by copyright. The documents may not be made accessible to third parties without Elotech's express written consent. They shall be used exclusively for the purposes stated in Elotech's purchase order; they shall be returned to Elotech at Elotech's written request but at the latest, without being requested to do so, after the order has been processed. They shall not be disclosed to third parties; the provision in 10.4 below shall apply additionally in this respect. The supplier shall have no right of retention with regard to such documents. Excluded from this is retention within the meaning of compliance with legal requirements.

12. In the event of a deviation from the original purchase order (incl. delivery date), the supplier shall notify Elotech of the value, weight and shipment date in writing before shipping the goods.
13. If the supplier has to provide samples, test records, quality documents or other documents, the completeness of the delivery and service shall also require submission of such documents.
14. If, apart from the standard products manufactured by the supplier, the supplier also manufactures products which are developed and manufactured as specified by Elotech (hereinafter referred to as: "proprietary developments"), such proprietary developments shall not be resold to third parties.
15. The supplier undertakes to comply at all times with the specifications commissioned by Elotech and shall not change them without the prior written consent of Elotech. Elotech reserves the right at any time to change the specifications should this be necessary pursuant to applicable legal regulations. Elotech further reserves the right to extend the specifications to storage and transport requirements. Elotech shall notify the supplier immediately of any such change.

Art. 3 Prices, freight, packaging, insurance

1. The price indicated in the purchase order shall be binding. Turnover tax additionally incurred shall be indicated separately at the legally valid rate.
2. Elotech shall only bear insurance costs if they were agreed in writing.
3. Unless otherwise agreed, deliveries shall be made DDP (Incoterms 2010) (including packaging costs) to the place of delivery designated by Elotech.
4. The supplier may only assert general price increases that occur between the purchase order being placed and the time of delivery if and in so far as this is expressly and specifically provided for in the contract.

Art. 4 Terms of payment

1. Elotech can only process invoices if they are issued according to the specifications in Elotech's purchase order and the purchase order number in particular is indicated therein. The supplier shall be responsible for any consequences resulting from failure to comply with this obligation unless the supplier proves that it is not responsible for such consequences.
2. Elotech shall have the right in particular to withhold payments due as long as Elotech still has any claims against the supplier resulting from incomplete or defective deliveries.
3. Payment claims shall be due only upon delivery/provision of a service. A 3 % cash discount shall be deducted from the corresponding payment if it is made within [14] days of receipt of the invoice, otherwise the net invoice amount shall be paid within [30] days of receipt of the invoice.
4. If delivery is made or the invoice issued early, the payment period shall not begin before the agreed delivery date.
5. In the absence of one or several of the required legal or above-mentioned particulars and if this delays processing by Elotech within the scope of the ordinary course of business, the payment period stated in paragraph 3 shall be extended by the period of delay. Cash discount may also be deducted if Elotech offsets or withholds payments in a reasonable amount due to defects. The payment period for the amounts withheld shall begin after defects have been removed in full.
6. The supplier shall not have the right to assign its claims under the contractual relationship to third parties. This shall not apply in the case of pecuniary claims.
7. Elotech shall owe default interest at most in the amount due according to legal provisions.
8. The supplier shall have a right of set-off and/or retention only where counterclaims are recognised by declaratory judgment or are undisputed or are ready for final judgment in proceedings pending in court.
9. The ordering party shall default in payment only if the ordering party fails to pay within 5 working days, despite proper delivery and invoicing and receipt of a written reminder from the supplier which the supplier shall issue after payment becomes due.
10. The ordering party shall have the right to set off all undisputed claims it has against the supplier against the supplier's claims against Elotech. If Elotech is entitled to claims against other companies affiliated with the supplier, Elotech shall have the right to withhold payments due to the supplier in a corresponding amount until the claims against this company are settled.

Art. 5 Delivery dates

1. The delivery date indicated in Elotech's purchase order shall be binding and must be complied with. If the supplier fails to comply with an agreed delivery date, the supplier shall be deemed in default without a reminder being required. The supplier shall be obliged to notify Elotech immediately in writing if circumstances occur or become apparent to the supplier which indicate that an agreed delivery time cannot be complied with. This shall not, however, affect the supplier's responsibility and obligation to comply with the agreed delivery date. Timeliness for compliance with the delivery date shall be determined by delivery to the place of delivery specified by Elotech. The supplier may only invoke the absence of necessary documents to be provided by the ordering party if the supplier has not received such documents within a reasonable time despite having requested them in good time.
2. In the event of default in delivery, Elotech shall be entitled to legal claims. This shall not affect the provision in paragraph 5.3. Elotech shall furthermore have the right to procure a replacement or take remedial action itself or through third parties, irrespective of other legal claims.
3. If the supplier exceeds the delivery date, the supplier shall be obliged to pay a contractual penalty. This shall amount to 0.3 % per working day of default but shall not exceed 5 % of the total net amount of remuneration indicated on the invoice. Elotech shall have the right to claim this contractual penalty until the date of final payment even if Elotech has not expressly reserved the right to do so when taking the late delivery. The contract penalty shall be set off against any damage caused by default to be compensated by the supplier. Elotech shall have the right to deduct the contractual penalty automatically from the invoice amount.
4. Partial deliveries and early deliveries shall be admissible only with Elotech's prior written consent and shall not oblige Elotech to make any partial payment or early payment.
5. If Elotech incurs costs, especially transport costs, road charges, labour costs, material costs or costs for an incoming goods inspection that exceeds the usual scope, as a result of delivery of the object of the contract which is inconsistent with the contract, the supplier shall bear resp. reimburse such costs.
6. If Elotech's failure to take or accept delivery is due to force majeure, industrial disputes or other events outside Elotech's control, Elotech can request the delivery in whole or in part at a later date without the supplier being able to assert any claims whatsoever against Elotech. If the delivery is postponed, however, for longer than three months, either contracting partner shall have the right to rescind the contract. In such case, no contracting partner shall be able to assert any claims whatsoever against the other contracting partner.
7. Delivery periods begin on the date the purchase order is shipped. If a delivery period is

agreed, the supplier shall notify the exact date of delivery at least two full working days (48 hours) prior to delivery.

8. If the supplier discontinues delivery, a provisional insolvency administrator is appointed or insolvency proceedings are instituted against the supplier's assets, the ordering party shall have the right to terminate the contract without notice in whole or in part without claims being derived against Elotech as a result. If Elotech terminates the contract, services performed by then shall be invoiced at contract prices only if they can be used by the ordering party as intended. Invoicing shall take account of any damage incurred by Elotech.
9. Elotech shall have the right at any time to cancel an order without the supplier being able to derive any rights whatsoever from this if the supplier defaults in its delivery by more than 7 calendar days despite reminder. In such case, Elotech shall be entitled to damages for non-performance.

Art. 6 Liability for defects

1. Where applicable, the commercial duty to examine and give notice of defects shall be governed by legal provisions (Section 377 HGB [German Commercial Code]) subject to the following proviso:
2. The supplier warrants that its deliveries have the contractually guaranteed properties, the deliveries are manufactured to a high quality and are consistent with the best industrial standards, the generally recognised state of the art and the relevant provisions, especially of authorities and professional associations, and are free of faults which diminish or reduce the value or fitness for customary use or the use stipulated under the contract. The deliveries shall be safe, marketable and fit for the required use and comply with the specifications in every respect.
3. The deliveries shall furthermore be marked in accordance with the specifications and legal provisions (the latter includes in particular the country of manufacture and the country/countries of destination).
4. Elotech's duty to examine shall be limited to defects which become apparent to Elotech (e.g. damage in transit, wrong and short delivery). No duty to examine shall exist if acceptance has been agreed. This shall otherwise depend on the extent to which an inspection is expedient in the ordinary course of business when considering the circumstances of the individual case. This shall not affect Elotech's duty to give notice of defects detected at a later date. In every case, Elotech's notification of defects (notice of defects) shall be deemed immediate and timely if issued within ten working days. In the case of hidden defects, the time limit for notification of defects shall commence as of their detection. Where quantities are larger, inspections of the goods by Elotech shall be limited to random samples. Defects that are not detected here shall be deemed concealed/hidden.

5. Elotech shall be entitled in full to legal claims in respect of defects. Irrespective of the foregoing, Elotech shall have the right at its option to request the supplier to remove the defects or provide replacement. In such case, the supplier shall be obliged to bear all expenses required for the purpose of removing the defects or providing replacement, including any costs of disassembly and assembly. Elotech expressly reserves the right to damages, especially the right to damages due to non-performance. Elotech shall have the right to remove defects itself at the supplier's expense if danger is imminent or there is a need for particularly urgent action. If the contract is rescinded, the supplier shall bear the costs of disassembly, removal, return transport and shall take charge of disposal.
6. The period of limitation for claims based on defects is >24< months, calculated as of transfer of risk.
7. Where there are specific indications of defective deliveries, Elotech shall have the right to inspect the goods itself or have them inspected by a technical testing institute at the supplier's expense in order to determine their fitness for purpose.
8. Taking delivery of goods for processing which are defective or are suspected of being defective shall not exclude liability claims based on defects against the supplier if Elotech notifies the supplier in writing that Elotech is obliged to process such goods on an interim basis for the time being in order to enable Elotech to meet its own delivery commitments to customers and to avoid further damage. If Elotech incurs costs in such case due to increased installation work or repair or improvement work during processing, the supplier shall reimburse such costs to Elotech upon presentation of proof.
9. The limitation period for claims based on defects shall be suspended upon the supplier's receipt of Elotech's written notice of defects. In the event of replacement and removal of defects, the limitation period shall begin again for any parts replaced and reworked unless Elotech had to assume from the supplier's conduct that the supplier did not consider itself obliged to take this action but delivered the replacement or removed the defect only as a gesture of goodwill or for similar reasons.

Art. 7 Product liability, indemnity, third-party liability insurance

1. The supplier undertakes to indemnify Elotech (and any company affiliated with Elotech) upon first demand against any liability towards third parties resp. third-party liability claims resulting from the manufacture, delivery or storage of the deliveries/products (product liability). The supplier shall be obliged to reimburse Elotech for payments made to compensate for justified claims. The duty to indemnify and reimburse shall not apply if the underlying event is proved to be due to grossly negligent or intentional misconduct of Elotech or one of Elotech's employees, representatives, vicarious agents or companies affiliated with Elotech. The supplier

shall be obliged to notify Elotech immediately of any action brought against the supplier or the assertion of claims and, at Elotech's request, shall make available all related documents.

2. In the context of the supplier's liability for claims within the meaning of paragraph 7.1, the supplier shall also be obliged to reimburse any expenses arising from or in connection with a recall conducted by Elotech or Elotech's customers. Elotech shall notify the supplier as far as practicable and reasonable of the content and scope of the recall to be conducted, and shall give the supplier the opportunity to comment. This shall not affect other legal claims (Sections 683, 670 *BGB* in conjunction with Sections 830, 840, 426, 254 *BGB*).
3. The supplier undertakes to take out extensive third-party liability insurance for personal injury and property damage, including product liability, with a renowned insurance company providing for a minimum amount of cover of € 3 million per damage claim/property damage claim. Such insurance shall include the supplier's affiliated companies if they are involved in a service which falls within the scope of these "General Terms and Conditions of Purchase".
The supplier undertakes to provide Elotech on request with confirmations as proof of cover. Each confirmation shall specify the volume of its cover.

Art. 8 Third-party property rights

1. The supplier undertakes to ensure that no third-party industrial property rights and other rights in countries of the European Union or other countries where the supplier manufactures the products or has them manufactured are infringed in connection with the supplier's delivery.
2. If a third party makes any claim against Elotech in this respect, the supplier shall be obliged to indemnify Elotech against such claims upon first written request. This shall not apply if the supplier is not responsible for such infringement of third-party rights. In the event of indemnity, Elotech shall not have the right to conclude any agreements whatsoever with third parties without the supplier's consent, in particular to conclude any settlement.
3. The supplier's duty to indemnify shall relate to all expenses that Elotech necessarily incurs resulting from or in connection with any claim made by a third party.

Art. 9 Retention of title, manufacturing equipment

1. Retention of title by the supplier shall only form an integral part of the contract if retention of title expires upon payment of the price agreed for the goods subject to retention of title and Elotech is authorised to resell and process in the ordinary course of business. No further retention of title by the supplier shall be accepted.

2. If Elotech provides parts to the supplier, Elotech shall retain title to them. The supplier shall process or modify on behalf of Elotech. If Elotech's goods subject to retention of title are processed with other items not owned by Elotech, Elotech shall acquire co-ownership in the new item in the ratio of the value of Elotech's item to the other processed items at the time of processing. The supplier shall hold these items in safekeeping for Elotech, shall identify them in its warehouse management as provided and shall be liable to Elotech for loss of or damage to the items provided and shall notify Elotech immediately of any legal or actual impairment of such items.
3. Elotech shall retain full title to drawings, gauges, models, samples, testing devices, tools and the like made available to the supplier and these items shall be identified accordingly. The supplier shall be obliged to insure these items against fire, water damage and theft at their replacement value for the benefit of Elotech and to prove the existence of the insurance to Elotech. The supplier shall be obliged to perform any maintenance work required on Elotech's tools in due time at the supplier's expense. The supplier shall notify Elotech of any failures immediately. When the tools are returned, they must be in a perfect technical and visual condition. Costs of repair shall be borne by the supplier. Manufacturing equipment shall be returned to Elotech at the latest when the contract ends or otherwise upon first request. This shall also apply to the drawings unless Elotech requests the supplier in writing to destroy them and to provide a written declaration to Elotech confirming their destruction.
4. Manufacturing equipment may only be made available to third parties or otherwise used or exploited with Elotech's written consent. This shall also apply to the products manufactured using such manufacturing equipment.
5. If the supplier undertakes by contract to manufacture tools (or testing devices), the tools (or testing devices) shall become the property of the ordering party after completion and payment of the manufacturing costs. If the tools (or testing devices) remain with the supplier to manufacture parts, the tools, instead of being handed over, shall be held by the supplier on behalf of Elotech. Elotech shall provide the tools to the supplier only for production purposes. Elotech shall have the right at any time to request the supplier to surrender the tools (or testing devices).
6. In the event of delivery difficulties, Elotech shall have the right to request the return of the drawings, gauges, tools etc. provided to the supplier pursuant to paragraph 9.3 free of charge, without the supplier being entitled to any right of retention thereto.

Art. 10 Proof of origin, spare parts and secrecy

1. The supplier shall be obliged to provide Elotech immediately with certificates of proof of origin, supplier's declarations, statistical commodity codes resp. certificates issued in connection with the securing of preferential treatment and any other documents and data pursuant to the legal provisions of foreign trade.

2. Unless otherwise agreed, the supplier shall be obliged to hold spare parts available for products delivered to Elotech for a period of 15 years after delivery.
3. If the supplier intends to discontinue the production of spare parts for the products delivered to Elotech, the supplier shall notify Elotech of this immediately after taking the decision to discontinue production. Notwithstanding paragraph 10.2 above, such decision must be taken at least six months before production is discontinued.
4. The supplier shall be obliged to maintain strict secrecy with regard to business and company secrets which are provided to the supplier by Elotech or which become known to the supplier. They may only be disclosed to third parties with Elotech's express written consent. The obligation of secrecy (except for information in the public domain) shall also survive termination of the contract for a period of 5 years. When the delivery relationship ends, the supplier shall on request surrender all documents, objects and other documents containing information of this kind to Elotech.
5. The supplier may only refer to its business relationship with Elotech in publications or for advertising purposes with the prior written consent of Elotech.

Art. 11 Compliance

11.1 General

1. The supplier undertakes to comply with the respective legal regulations governing the treatment of employees, environmental protection and health and safety at work and to work in its activities to reduce adverse effects on human health and the environment.
2. If the supplier repeatedly acts illegally and/or despite corresponding notice and fails to prove that the violation of the law was remedied as far as possible and appropriate arrangements were taken to prevent violations of the law in the future, Elotech reserves the right to rescind existing contracts or to terminate them in an exceptional case.

11.2 Inspection of the company

1. Elotech shall have the right at any time to inspect
 - a) the supplier's business premises where the products are manufactured;
 - b) all the supplier's other business premises, equipment and the documents relating to the manufacture, storage and transport of the products and all related components; and
 - c) products before their delivery to Elotech.
2. Elotech shall have the right to have these activities performed by an independent company which Elotech may choose freely for the purpose of such inspection. Elotech gives preference in principle to suppliers that have implemented at least a quality

management system pursuant to ISO 9001 (latest revision) and can prove this at any time upon request.

11.3 Laboratory tests

The supplier shall be obliged, in the event of different assumptions of the parties concerning the quality of the deliveries, to carry out at its own expense analyses or tests on deliveries or samples or components thereof according to a series of tests to be determined by Elotech in the specific case. For this purpose, the supplier undertakes to send samples to a laboratory to be determined by Elotech. The supplier shall bear the reasonable costs of such laboratory testing by a third-party laboratory.

11.4 Retention of documents

The supplier undertakes to retain documents concerning the manufacture, storage, supply and sale of the deliveries for a period of at least 5 years as of the date of delivery and to make these documents available to Elotech upon request.

11.5 Environmental regulations

1. The supplier guarantees that the relevant environmental regulations, guidelines and standards for the manufacture, transport, operation and disposal of the deliveries shall be complied with. The supplier shall ensure by providing appropriate information and training that the employees and agents working for the supplier also comply with this provision.
2. The supplier undertakes to use environmentally compatible materials and production methods to manufacture the deliveries. The supplier undertakes furthermore to ensure at all times that the deliveries and production methods remain state of the art in terms of environmental compatibility and to prevent or use best efforts to reduce negative effects on the environment. The supplier shall submit proposals in writing to Elotech in this respect for innovations and improvements to the goods to be delivered and production methods.

11.6 Child labour

The supplier confirms that the production of the deliveries/goods supplied to Elotech shall comply with existing regulations under national law with respect to the prohibition of child

labour. If no such legal prohibition exists in the supplier's country, children under 14 may not be employed in production. The minimum age for dangerous work is 18.

1. The supplier must take note that this confirmation applies to the entire production process including all preliminary stages and upstream products and includes sub-contractors and third-party suppliers.

11.7 Hazardous substances and conflict materials

1. The supplier shall comply with the *Gefahrstoffverordnung (GefStoffV)* [German Ordinance on Hazardous Substances] in the delivery of goods, in particular shall package, mark the goods in question accordingly and shall expressly indicate hazardous substances on the delivery note.
2. The supplier shall comply with the requirements of Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (Restriction of Hazardous Substances - RoHS) and Directive No 2002/96/EC on waste electrical and electronic equipment (Waste from Electrical and Electronic Equipment - WEEE) and the requirements for national implementation, in particular of the *Elektro- und Elektronikgerätengesetzes (ElektroG)* [German Electrical and Electronic Equipment Act], shall accordingly mark the packaging of the goods and confirm RoHS compliance by indicating "RoHS-compliant" on the delivery note.
3. The supplier shall comply, without being requested to do so, with the obligation under Article 33 of the REACH Regulation (EC No 1907/2006) when delivering the goods.
4. The supplier shall not use any conflict minerals within the meaning of Section 1502 of the US American Dodd-Frank Act for the manufacture of the deliveries to be supplied and shall only purchase products from its suppliers that do contain any such conflict minerals.
5. If the duties under 1-4 of this provision (paragraph 11.7) are violated, Elotech shall have the right to refuse to take delivery of the goods and shall rescind the contract without previously setting a time limit and regardless of the supplier's fault. This shall not affect further claims by Elotech.

§ 12 Place of jurisdiction and place of performance

1. If the supplier is a merchant, legal entity subject to public law or special fund under public law, the exclusive place of jurisdiction for any disputes arising from the contractual relationship shall be the place of Elotech's registered office. Elotech shall, however, have the right, at Elotech's option, to bring an action at the place of performance of the delivery obligation or at the place of the supplier's registered office.

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2. These General Terms and Conditions of Purchase and all legal relationships between EloTech and the supplier shall be governed by the law of the Federal Republic of Germany, to the exclusion of the UN Sales Convention.
Amendments of/modifications to these General Terms and Conditions of Purchase, including amendment of the requirement of written form, shall only be valid when given in writing.
3. If individual paragraphs of these Terms and Conditions of Purchase are invalid in whole or in part, this shall not affect the remaining provisions of the contract. An invalid provision shall be replaced by the legal provision or, in the absence of such provision, by such provision which the parties would have been permitted to agree in good faith if they had been aware of the invalidity.