

## General Terms and Conditions for the Sales and Supply of Products of ELCON Systemtechnik GmbH

### 1. General conditions

1.1 The contractual relationship between ELCON (hereinafter referred to as "ELCON") and the Purchaser (hereinafter referred to as "Purchaser") shall be exclusively based upon these General Terms and Conditions for the Sale and Supply of Products (hereinafter referred to as "Conditions"). Unless expressly agreed in writing, no other terms and conditions shall apply.

1.2 These Conditions shall apply likewise to all future contractual relations between ELCON and the Purchaser, even in the case no special reference to these Conditions has been made in such contractual relations.

### 2. Offers

All offers made by ELCON shall be subject to confirmation, unless otherwise determined by ELCON in writing. Any technical data and descriptions shall only have binding effect if expressly acknowledged or accepted as binding in ELCON's written order confirmation. ELCON herewith reserves its industrial property rights and copyrights pertaining to all its documents.

### 3. Subject matter of contract and scope of delivery

3.1 The subject matter of contract, as well as nature and scope of ELCON's and the Purchaser's obligations are exclusively defined by ELCON's written order confirmation. Supplementary agreements shall become effective only upon ELCON's written consent. Any amendments on the subject matter of contract, as well as character and scope of the mutual obligations, are subject to prior written agreement between the Parties.

3.2 Consulting, installation, connection, maintenance, repair and any other services, which are not directly attributable to the supply of products as such, shall become part of ELCON's performance obligations only if and to the extent that they had been expressly agreed upon in writing.

### 4. Supply / Delivery time

4.1 Unless otherwise agreed in writing, deliveries shall be made ex works Hartmannsdorf or, in case of cross-border orders and supplies, on the conditions EXW Hartmannsdorf (Incoterms 2010).

4.2 ELCON shall be entitled to make partial deliveries provided they are performed in due time and appropriate quantities.

4.3 Delivery lead times shall be binding if they have been expressly acknowledged by ELCON in writing. Deviance of the stipulated time for delivery is subject to timely receipt of all documents which may have to be submitted by the Purchaser, and to the timely clarification of all preceding inquiries, commercial and technical aspects in connection with the delivery, as well as to the fulfillment of the agreed payment terms and other contractual obligations by the Purchaser. In the event aforesaid conditions are not yet fulfilled, the time for delivery shall be extended accordingly.

4.4 If non-fulfilment of ELCON's delivery obligations is caused by force majeure circumstances, such as labour disputes, lockouts or other events beyond ELCON's reasonable control, irrespective of whether they had been foreseeable or not, the time for delivery shall be accordingly extended, at least to the duration of these circumstances. Such events shall also include, among others, delayed deliveries from ELCON's sub-suppliers, unless they have been caused by ELCON itself.

4.5. The Purchaser shall be entitled to cancel the order as a consequence of delays in delivery only subject to the legal provisions and only under the condition that ELCON can be made liable for such delay. Any fixing of a time limit shall be effected (at least) in such a way that ELCON has to be granted the opportunity to repeat the production process and to enable ELCON the procurement (also in terms of time) of primary products if required. Cancellation of an order shall be notified to ELCON immediately after the expiry of the granted extension period.

4.6 The Purchaser shall not be entitled to refuse the acceptance of a delivery due to only minor defects.

### 5. Transfer of risk

The risk is passed onto the Purchaser with the dispatch to the first carrier; in case of cross-border orders and supplies the transfer of risk takes place in accordance with EXW (Incoterms 2010) Hartmannsdorf. If dispatch is delayed for reasons within the Purchaser's responsibility or if shipment is postponed at the Purchaser's request to a later delivery date than agreed upon, the risk passes onto the Purchaser on the working day that follows the day on which the Purchaser was given notice that goods are ready for dispatch. If requested by the Purchaser, ELCON may agree, but shall not be liable, to provide for respective insurance cover at the Purchaser's own expenses.

### 6. Prices / Pricing

6.1. Unless otherwise agreed in writing, prices are based on the price lists applicable on the date of dispatch. In case of small orders, ELCON reserves the right to levy reasonable additional charges.

6.2. Prices are specified in € (EUR), unless otherwise agreed upon. Prices are net prices ex works Hartmannsdorf, or – in case of crossborder orders – EXW (Incoterms 2010), Hartmannsdorf, including standard package, plus the relevant applicable value-added tax and shipping costs, if any.

### 7. Terms of payment

7.1 Unless otherwise agreed in writing, invoices from ELCON shall be paid within 30 days net from the date of issuance without deductions. Payment shall be deemed to have been effected in time upon receipt of a credit note or other forms of payment on the due date by ELCON.

7.2 If a requested due payment is delayed by a Purchaser, all other accounts by ELCON towards the Purchaser shall automatically become due. In addition, notwithstanding any other rights, ELCON shall be entitled in case of delayed payment to charge default interest, at the minimum, however, on the basis of legal interest rates. Furthermore, if the Purchaser has defaulted in payment, ELCON shall be entitled to make use of its right of retention with respect to any open supplies and services.

7.3 The Purchaser is entitled to offset or make use of his right of retention only then if the respective counterclaims have been acknowledged by ELCON or with final effect legally established.

7.4 Unless otherwise agreed upon, all payments shall be effected in € (EUR).

7.5 ELCON shall be entitled to assign its accounts and claims against the Purchaser to any third parties.

### 8. Liability for defects

8.1 The effective assertion of warranty claims is subject to their timely notification. Obvious or apparent defects shall be notified in writing to ELCON immediately, at the latest within 8 days from the date of dispatch; latent defects require also an immediate and written notification, at the latest within 8 days from their detection. These deadlines shall be deemed accomplished only upon receipt of such notifications by ELCON in time. Notice of defect shall include description of the defect, date of order and number of delivery notice.

8.2 In case of a warranty claim ELCON is entitled to eliminate defects at its option by subsequent fulfilment, i.e. repair or replacement supply. The Purchaser's right to demand cancellation of the contract shall be subject to the legal requirements and only applicable if ELCON's attempts for subsequent fulfilment have failed twice. This does not affect the Purchaser's right to reduce the purchase price in case ELCON has failed in remedying the defects.

8.3 Any warranty claim shall be excluded if by a deficiency the product does not comply with its agreed specifications in minor aspects only or the product's usefulness is impaired only insignificantly, or if software errors are non-reproducible. ELCON's liability is also excluded in case of defects arising from or in connection with improper or negligent handling or maintenance, inappropriate storage, excessive stress, unsuitable equipment or natural tear and wear. ELCON's liability for defects will be excluded as well if the Purchaser or third parties carry out modifications

or improper repairs of ELCON products, or if they replace parts or apply consumable materials that do not comply with the original specifications.

8.4 Claims are subject to a limitation period of twelve months, unless longer warranty periods are required by law. The legal provisions concerning expiration, suspension and resumption of time limits remain unaffected.

8.5 The Purchaser's claims for compensation of the expenses borne by him in connection with the subsequent fulfilment, in particular costs for travel and transport, work and material are excluded insofar the delivered product has been subsequently shipped to a location other than the originally destined place of delivery, unless such disposal complies with the jointly envisaged use of the product.

8.6 Any and all liability for defects shall be restricted to direct damages, and, within this limitation, be limited further to an amount equal to the remuneration that is attributable to the defective delivery or partial delivery (if applicable). Any further warranty claims against ELCON including, in particular, claims for direct losses or consequential damages, shall be excluded.

8.7 The above exemptions from, and limitations of, liability do not apply where liability is compulsory by law in case of intention, gross negligence, or death, bodily injury or damage to health, or after having breached essential contractual obligations. Notwithstanding the aforesaid, the liability for breaching essential duties under a contract is limited to the typically foreseeable damage, unless the damage has been caused by intention or gross negligence, or in cases of death, bodily injury or damage to health. This provision shall not imply a change in the burden of proof to the detriment of the Purchaser.

### 9. Retention of title

9.1 All products supplied by ELCON shall remain ELCON's property until each and every account and claim against the Purchaser to which ELCON is entitled under the business relationship has been duly satisfied. If the Purchaser does not perform in accordance with the contract, particularly in case of default in payment, ELCON shall have the right to take back the products without prior termination of the contract.

9.2 In case of seizures or other interventions by third parties for the duration of the retention of title, the Purchaser is obliged to immediately notify ELCON in writing. The Purchaser is not entitled to dispose of the products beyond the regular course of business; in particular he must not pledge the retained goods or use them as security.

9.3 The Purchaser shall have the right to resell the supplied products in the ordinary course of business, on condition that all accounts and claims against his customers or third parties for payment of the related invoice (including VAT) are assigned to ELCON, regardless of whether or not the supplied products have been reworked prior to the resale. Irrespective of the assignment, the Purchaser shall remain empowered to collect the accounts arising from resale. This does not affect ELCON's right to collect payment by itself, but ELCON will not collect the money as long as the Purchaser complies with his payment obligations, is not in default, does not file a petition for opening insolvency proceedings or suspends payments. If the Purchaser suspends payments, ELCON may request from the Purchaser to disclose the names of the debtors to whom the accounts have been assigned, to provide ELCON with any information ELCON may need to enforce its rights against the debtor, to hand over relevant documents and inform the debtors (third parties) about the assignment.

9.4 If the net realizable value of the securities assigned to ELCON exceeds ELCON's receivables by more than 10%, ELCON commits itself, upon the Purchaser's request, to release the assigned securities at its option.

### 10. Take-back and disposal of WEEE equipment

10.1 Unless otherwise compulsorily stipulated by the Directive 2002/96/EC on Waste Electrical and Electronic Equipment (WEEE Directive) and its transposition into applicable national law, the Purchaser accepts responsibility and costs for the take-back and disposal of the end-of-life ELCON products, thereby indemnifying ELCON from its obligations in accordance with § 10 (2) of the German Electrical and Electronic Equipment Act (ElektroG) and any third-party claims arising out of or in connection therewith.

10.2 The Purchaser shall contractually commit third-parties, to whom he distributes ELCON products, to duly dispose of those products at the end of their life in accordance with the legal provisions at the third parties' own expense and to ensure that similar obligations will be imposed by such third parties on the respective follow-up customer in case the products are re-distributed again. If the Purchaser fails to contractually commit third parties to whom he distributes ELCON products to accept the obligations for their disposal and to commit follow-up customers in the distribution chain, the obligation for the take-back and disposal of the end-of-life products shall remain with, and be fulfilled by, the Purchaser.

10.3 ELCON's claim to have its obligations under the WEEE regulations and applicable national law taken over/assumed by the Purchaser shall expire at the earliest two years after the product has finally put out of service. The two-year term for expiry suspension shall start, at the earliest, upon receipt by ELCON of a written statement from the Purchaser that the product has reached its end of life.

### 11. Exclusion / limitation of damage claims

11.1 Unless already determined in clause 8.6 above, any and all claims for damages or expenses (hereinafter: damage claims) of the Purchaser against ELCON, irrespective of their legal grounds, in particular arising from faults upon the conclusion of contracts, breach of contractual obligations or unlawful acts, shall be excluded.

11.2 The aforesaid does not apply where liability is compulsory by law in case of wilful misconduct, gross negligence, death, bodily injury or damage to health or in case ELCON has breached essential contractual obligations. The liability for non-fulfilment of essential contractual obligations shall be limited, however, to the compensation of the typical foreseeable damage, unless such events have been caused by intention or gross negligence or unless liability is mandatory due to the offending of life, personal injuries or damage to health. This limitation does not imply a change in the burden of proof to the detriment of the Purchaser.

### 12. Miscellaneous

12.1. Any claims against ELCON, regardless of their reason, may be assigned by the Purchaser to third parties only with ELCON's written consent.

12.2. Place of performance shall be ELCON's registered place of business.

12.3. Place of jurisdiction for all disputes with merchants who have been entered as such in the commercial register (Vollkaufmann), legal entities under public law, or statutory separate estates, or persons without domestic court of jurisdiction, including disputes about bills and cheques, shall be Chemnitz. ELCON at his option shall also have the right, to institute proceedings with the competent court of jurisdiction at the Purchaser's registered place of business.

12.4. The applicable law shall be the substantive law of the Federal Republic of Germany.

12.5 In connection with the above and for the sake of good order ELCON points out that it is bound to current German law, particularly to the Foreign Trade and Payments Law ("Außenwirtschaftsgesetz") including the statutory orders enacted on basis of this Law and all other foreign trade regulations. All supplies and services to be rendered by ELCON are therefore subject to the condition that the relevant permits and licenses have been granted and all other export requirements have been met.

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