

# General Terms and Conditions

Status: October, 1st, 2021

## General

1. The following general terms and conditions (GTCs) shall exclusively apply to all business transactions between ELBRO AG and purchasers. These GTCs shall be binding for all current and future business transactions with ELBRO AG even if no specific reference is made to them (e.g. in connection with orders placed orally or by telephone). Alternative terms and conditions (such as alternative GTCs of the purchaser) shall not apply even if not explicitly invalidated. Alterations and ancillary agreements (with regard to special conditions) must be confirmed in writing by the management of ELBRO AG. The purchaser agrees to accept these GTCs at the latest on acceptance of the consignment if not before.
2. All offers are non-binding, i.e. the supplier reserves the right to accept or refuse an order placed on the basis of an offer.
3. All quoted prices are fixed prices. However, ELBRO AG reserves the right to invoice the price applicable on the date of dispatch or to withdraw from the agreement if the purchaser refuses to pay the revised price. ELBRO AG price lists do not include cartelised prices. Packing costs, shipment and postage will be invoiced separately.
4. All invoices are payable in Swiss Francs unless otherwise agreed.

## Offers and prices

- 5.1. Our prices are calculated in Swiss Francs (CHF) and do not include VAT. Prices do not include packing costs, shipment, postage and insurance. Invoiced will be the price valid on the date on which the consignment is dispatched. We reserve the right to revise our prices at any time.
- 5.2. We reserve the right to charge for customer-specific lighting plans and cost estimates prepared at the request of the customer if no order is subsequently placed.
- 5.3. Terms and conditions and submission requirements of the customer, which shall have no effect on the GTCs here specified, shall be binding for ELBRO AG only in so far as ELBRO AG has agreed in writing to accept these.

## Terms of Payment

6. Invoice amounts are to be paid net within 30 days.
7. Cheques shall be considered to be payment only when they have been honoured.
8. Purchasers shall have no right of offset of entitlements claimed by them. Purchaser claims made under warranty because of alleged defects do not release the purchaser from the obligation to pay unless a judicial decision to this effect has been made. Purchaser payments shall be first set against any interest, expenses or charges of any kind owing and will then be subsequently used to cover the least secure part of any outstanding debt. The purchaser shall not have the right to specify that payments shall be used to cover a specific part of an outstanding debt. Under certain conditions, ELBRO AG reserves the right to require payment in other forms; i.e. to require the provision of a security or prepayment prior to delivery or payment by cash on delivery. ELBRO AG shall not be required to pay interest on prepayments.

## Packing materials and disposal

- 9.1. The recipient shall be responsible for providing for the appropriate disposal of packing materials.
- 9.2. The Ordinance on the return, take-back and disposal of electrical and electronic equipment (VREG) has applied in Switzerland since 1 July 1998. Any hazardous materials present in equipment must be disposed of so that it does not damage the environment; usable materials must be reclaimed so that they can be recycled. We observe the current general guidelines of the Swiss compulsory prepaid disposal charge (vRG) committee.

## Delays in Payment

10. Any delay in payment will result in the cancellation of all payment accommodations and discounts (including wholesale discounts), also those granted on other outstanding claims of ELBRO AG, and payment of the full outstanding debt owed to ELBRO AG shall become immediately due. From the originally agreed settlement date, purchasers shall be charged interest at a rate of 9% p.a. on any outstanding payments. If a purchaser is in default of payment, also in connection with other transactions, ELBRO AG reserves the right to require payment in advance from the purchaser or to withdraw from the agreement. In these circumstances, ELBRO AG also reserves the right, in view of its retention of title, to require the return of the products in question; this alone shall not be considered as withdrawal from the agreement. On return of the products, the purchaser will be provided with a credit note for the current market value of the products. Refusal to accept an ordered consignment does not release the purchaser from the obligation to pay the agreed purchase price. In cases of delays of acceptance or payment, all costs arising in connection with reminders and collection expenses, including out-of-court legal fees and the expenses of creditor protection associations, will be charged to the account of the purchaser.

## Retention of Title

11. Any products supplied remain the property of ELBRO AG until the full purchase price has been paid (see Terms of Payment). If the products are combined or processed with other products, ELBRO AG shall retain part-ownership of the new product in accordance with the ratio of the value of the new product that is represented by its products. On appropriate resale of the products or the products that have been manufactured by the combination or processing with the ELBRO AG products, the purchaser must explicitly retain on behalf of ELBRO AG any still-existing (part-)ownership of ELBRO AG and stipulate that the corresponding purchase price be paid to ELBRO AG. Such payments will be credited to the purchaser (see Terms of Payment). If the products are sold on credit, the ownership claim shall be correspondingly converted to a claim on the purchase price. ELBRO AG has the right to inform the corresponding debtor of this claim at any time. The purchaser is obligated to notify ELBRO AG of the name of the debtor. ELBRO AG is to be immediately notified if situations occur (such as distraint of the products) that might put at risk retention of title by ELBRO AG and the third party is to be made aware of the retention of title by ELBRO AG.

## Dispatch

12. Dispatch will be arranged directly by ELBRO AG in accordance with its operational capacities. Partial deliveries are permissible. Events that are outside the control of ELBRO AG (e.g. force majeure, strikes, lock-outs, etc.) will entitle ELBRO AG to postpone dispatch and, if necessary, withdraw from the agreement. On transfer of the products to the purchaser or release of the products for processing, all risk (loss, depreciation, damage, delay etc.) will be assigned to the purchaser. At the request of the purchaser, a consignment can be insured for transport at the purchaser's expense. The purchaser is to specify the insurance coverage and type. Please note that if the net purchase value of an individual order is less than CHF 50.00 (excluding costs of shipment and VAT), an additional processing fee of CHF 20.00 will be charged.

## Drawings and Documentation

13. ELBRO AG retains the exclusive property rights and copyrights to all its drawings, designs, cost estimates and other documentation. This material is entrusted to the personal care of the purchaser and may not be made available to third parties or reproduced without the prior written authorisation of

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Status: 16 November 2015

ELBRO AG. These are to be returned immediately to ELBRO AG on request. If the purchaser fails to conform to these requirements, ELBRO AG reserves the right to claim for damages and/or withdraw from the agreement.

## Shipment

14. ELBRO AG reserves the right to select the means of transport and the form of shipment. If the purchaser requires an alternative means of transport/form of shipment, the purchaser shall bear any additional associated costs.

15. Consignments will be shipped on the account and at the risk of the purchaser.

## Samples and return of consignments

16. We will charge for all samples that are modified or damaged by the recipient.

17. Returns will only be accepted if ELBRO AG agrees to this in writing; processing and shipping costs (equivalent to at least 10% of the purchase price) will be charged. ELBRO AG will not accept the return of products made in accordance with customer specifications or that have been specially ordered.

## Warranty

18.1. Our products are covered by a 2-year warranty. Excluded from this are parts subject to wear and tear; this also covers batteries and rechargeable batteries subject to a 6-month guarantee. For the above-specified period, the warranty covers all defects that are demonstrably due to material, design and construction errors on the part of the supplier.

18.2. Our warranty only covers products that are supplied by us. No other claim under warranty or for damages will be accepted. We will specifically not assume any liability for consequential losses arising in connection with transport, dismantling, installation etc.

18.3. Our warranty does not extend to materials which have been subjected to modification or repair or to defects arising as a consequence of failure to comply with installation or operating instructions.

18.4. In order to claim under warranty, the defective item must be returned appropriately packed and carriage-paid to ELBRO AG.

18.5. Our warranty covers product failure only. Variations in luminous flux in the case of LED modules, for example, are normal and are not covered by our warranty. Advances in technology and use-related alterations to the luminous flux of products mean that LED components that are subsequently supplied may exhibit differences in terms of light characteristics in comparison with the original products.

## Liability for Defects

19.1. Overt defects: Unless ELBRO AG is notified without delay in writing of defects that are detected during normal goods acceptance procedures, it will be assumed that the consignment has been accepted by the purchaser.

19.2. Concealed defects: Although ELBRO AG assumes responsibility for the supply of defect-free products, it can assume no liability for the actual use of a product by the purchaser. As soon as a defect becomes apparent, a written complaint must be submitted without delay otherwise it shall be assumed that the product has been accepted even with this defect. On receipt of legitimate complaints with regard to defects, ELBRO AG may, at its own discretion, choose to proceed as follows; either a) supply replacements for returned defective products, b) refund the purchase price and withdraw from the agreement or c) compensate the purchaser for the depreciated value of the products while maintaining the purchase agreement. All rights of the purchaser with regard to claims shall expire within 30 days of delivery unless recourse to legal process is taken within this period.

## Claims for Damages

20. ELBRO AG assumes no liability for claims for damages except in cases in which the claim arises in connection with demonstrable gross negligence on the part of ELBRO AG. The burden of proof lies with the purchaser.

## Applicable Law/Place of Performance/Court of Jurisdiction

21. All the business transactions of ELBRO AG are subject to Swiss law; the place of performance is Bülach, the court of jurisdiction is Dielsdorf.