



## Standard Terms and Conditions of Purchase of the ELPRO GROUP

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<b>0. Definitions</b>	
<b>STCoP</b>	these Standard Terms and Conditions of Purchase of the companies of the ELPRO Group.
<b>Buyer</b>	the Branch of the ELPRO Group that is identified on the Order.
<b>Order</b>	an instruction from the Buyer to the Supplier for the manufacture, purchase, and/or delivery of Goods and/or the performance of Services. An Order includes the price(s) of the Goods/Services ordered and an order value. In these STCoP, the term "Order" shall also refer to an Invoice. Instruction as defined below.
<b>Supplier</b>	the contracting party of the Buyer that is identified on the Order as the service provider, manufacturer, seller or supplier of the Goods set forth in the Order.
<b>Services</b>	activities or services that the Supplier performs for the Buyer on the basis of an Order.
<b>Intellectual Property</b>	copyright, registered and unregistered trademarks, service marks, trade names, trade secrets, mask works, patents, Confidential Information, license rights, and all improvements or modifications relating to any of the foregoing.
<b>Confidential Information</b>	information, materials, data, inventions, methods, know-how, trade secrets, models, designs, sketches, drawings, blueprints, patterns, and/or information concerning research and development, products, finances, the strategy, the business or other matters of the Buyer, of which the Supplier obtains knowledge or possession in connection with the Order or to which the Supplier otherwise gains access. Confidential Information includes without limitation Confidential Information of all companies of the ELPRO GROUP or their clients, customers, or employees.
<b>Goods</b>	tangible items that the Supplier manufactures and/or delivers for the Buyer on the basis of an Order.
<b>ELPRO GROUP</b>	ELPRO-BUCHS AG, Switzerland (Headquarter), ELPRO Services Inc., United States of America, ELPRO Messtechnik GmbH, Germany, ELPRO Benelux B.V., Netherlands, ELPRO UK Ltd., United Kingdom, ELPRO Nordic ApS, Denmark, ELPRO PTE. LTD., Singapore

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- 1. Scope of application**
- 1.1 These standard terms and conditions of purchase (STCoP) apply to all business relations with our suppliers.
- 1.2 These STCoP apply exclusively. Deviating, contradictory or supplementary general terms and conditions of business of the Supplier shall only become part of the contract, insofar as we have expressly consented to their validity in writing. This consent requirement applies in any case, for example, even if we accept its deliveries unconditionally, knowing the general terms and conditions of the supplier.
- 1.3 Individual agreements made with the supplier (including side agreements, additions and amendments), such as quality agreements, loan contracts, etc., shall always take precedence over these STCoP. A written contract or our written confirmation is decisive for the content of such agreements.
- 1.4 Legal declarations and notices which are to be given to us by the supplier after conclusion of the contract (eg deadlines, reminders, declaration of rescission) shall be valid in writing only.
- 1.5 References to the validity of statutory provisions are only of clarification. Even without such clarification, the statutory provisions shall apply insofar as they are not directly modified or expressly excluded in these STCoP.
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- 2. General**
- 2.1 Orders shall be made either via the ELPRO's ordering system (eNventa order tool) or in writing (mail or email). Only Orders placed in this manner by the ELPRO shall be binding on the ELPRO. In exceptional cases, the ELPRO may place Orders by phone; provided that such Orders shall only be binding on ELPRO if confirmed by ELPRO in writing sometime later.
- 2.2 Supplier shall accept or reject an Order in writing within five (5) business days after receipt of the Order. The Order will be deemed accepted if Supplier (a) provides written acceptance or (b) has begun or later begins delivery of Goods or performance of Services referenced in the Order, or (c) does not reject an Order within (5) business days after receipt thereof, whichever is earlier.
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- 3. Pricing, Invoicing, Payment**
- 3.1 Unless otherwise agreed between the Parties, the pricing in the order (this does not apply to Invoice Instruction Document) shall be deemed fixed pricing and include, all expenses, charges and costs until such time as the ELPRO accepts the Goods and/or Services, including those resulting from extraordinary circumstances.
- 3.2 All correspondence from the Supplier to the ELPRO (e.g. delivery notes, order confirmation, invoice, etc.) must include the order number indicated by the ELPRO when placing the Order.
- 3.3 Unless otherwise agreed by the parties, the Supplier shall issue the invoice for the Goods/Services supplied to the ELPRO via email.
- 3.4 If electronic invoicing is not permitted by applicable law, rule, or regulation, the Supplier shall send the invoice to the address of the ELPRO set forth in the Order.
- 3.5 The Supplier shall deliver the invoice for the Order to the ELPRO monthly after the delivery or partial delivery of Goods, and/or the performance of Services or partial performance of Services, provided that any partial delivery of Goods and/or performance of Services has been approved by ELPRO in writing in advance.
- 3.6 Furthermore, the invoice for the Order shall fulfill the following requirements:
- (a) It shall include the ELPRO's address, including the name of the department of ELPRO, as indicated in the Order;
  - (b) It shall contain the details of the Order, including without limitation the Goods or Services ordered, Order number and the associated prices;
  - (c) It shall include the VAT numbers of the ELPRO and the Supplier (if available);
  - (d) All amounts shall be stated in the currency agreed upon in the Order;
  - (e) Any taxes shall be identified separately.
- 3.7 Unless otherwise agreed by the parties, the ELPRO shall only pay the invoice after:
- (a) the ELPRO has accepted the Goods or Services at the destination,
  - (b) the Supplier issued an invoice in accordance to this Section 3, and
  - (c) the ELPRO has received all requested documents.
- 3.8 Unless otherwise agreed by the Parties, the ELPRO shall pay the invoice within 60 (sixty) days of the invoice date.
- 3.9 The ELPRO is not required to pay an invoice if such invoice fails to meet the requirements of this Section 3.
- 3.10 If, notwithstanding Sect. 3.1, the Parties have agreed in writing in advance that Supplier shall invoice services based on actual hours worked instead of a fixed fee, then work hours outside normal work hours (including but not limited to: night work, weekend work, and work on holidays) shall be compensated according to the ELPRO's terms as communicated to the Supplier separately from time to time.
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- 4. Place of Performance, Transportation and Packaging, Benefit and Risk**
- 4.1 Unless otherwise agreed by the Parties in an Order, the place of delivery of Goods or performance of Services is the ELPROs address, as indicated in the Order.
- 4.2 Unless otherwise agreed, Goods shall be delivered FCA at address of the ELPRO (INCOTERMS 2010). In case of an arrangement different from the above, the preferred shipping company, customs agent, etc. shall be agreed upon in advance by the ELPRO's purchasing department.
- 4.3 Packaging materials used by Supplier shall ensure that shipping is safe and no damage is caused to the Goods. To the extent possible only environment-friendly, recyclable packaging shall be used. The Supplier's responsibility to take back the packaging shall be based on the applicable law, rules and regulations.
- 4.4 The title and risk shall pass to the ELPRO as soon as the ordered Goods have been duly accepted at the agreed place of delivery.
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- 5. Date of Delivery, Default in Delivery, Contractual Penalty**
- 5.1 The dates of delivery or performance indicated in the Order, order confirmation, or other agreement shall be understood to refer to dates of arrival at the place of performance.
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5.2 The dates of delivery or performance are fixed dates. Thus, any delay in the delivery of Goods or performance of Services by the Supplier shall constitute a default without the necessity of notice to the Supplier.

5.3 The Supplier shall inform the ELPRO immediately in writing upon the occurrence of events or circumstances that indicate that the agreed delivery date cannot be met or upon the Supplier becoming aware of such events or circumstances.

5.4 In the event of a delivery default by the Supplier, the ELPRO has the right to claim a contractual penalty in the amount of 0.15% of the net Order value for each day of default, but not exceeding 10% of the net order value. The ELPRO reserves the right to avail itself of any other available statutory and contractual remedies. The ELPRO may demand the contractual penalty in addition to other statutory or contractual remedies available to it. If the Supplier is in default for a partial delivery, then the contractual penalty shall be calculated based on the price of the total units of Goods to be provided by the Supplier the use or operation of which is impaired by the partial delivery.

Excluded from this are cases of force majeure which the supplier cannot be made responsible for.

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#### **6. Origin of Goods, tariff number, regulations in international trade**

6.1 The Supplier shall indicate the origin of Goods, the customs tariff number and, if applicable, the dangerous goods description of each supplied Goods, and shall update this information on a regular basis. The Supplier shall be liable for the accuracy of this information. Changes in the dangerous goods description, the production site, the origin of goods or the tariff number, shall be reported to the ELPRO in writing. Since such changes usually indicate changes in the guaranteed specifications of the supplied Goods, the supply of such Goods is only permitted after written approval of an amended Order by the ELPRO. The ELPRO reserves the right to refuse the authorization of such amended Order without giving reasons and without any liability to the ELPRO. In the event of refusal of the authorization, Goods with a different origin or tariff number can no longer be delivered to the ELPRO and any existing Orders shall be cancelled without any liability to the ELPRO. In the event of a cancellation of an Order pursuant to this provision, the Supplier shall indemnify and hold the ELPRO harmless for any damages the ELPRO incurred due to such cancellation. For products which are manufactured by the supplier as a service the ELPRO shall provide the applicable customs tariff numbers to the supplier.

6.2 The Supplier shall comply with the applicable national export control regulations of the dispatch location (including sanctioned list screening, embargo lists, dual-use goods list, etc.) – notwithstanding the above – those of the EU and the USA (see also [www.ausfuhrkontrolle.info](http://www.ausfuhrkontrolle.info) and [www.bis.doc.gov](http://www.bis.doc.gov)). The Supplier shall be in compliance with these regulations. In such a case, the Supplier shall unequivocally indicate the affected Goods in its quotations, Order confirmations and all other shipping related documentation with comprehensible traceable GKN / ECCN (Goods control number, Export control Classification number).

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#### **7. Warranty**

7.1 Upon confirmation or acceptance of the Order, the Supplier warrants that the Goods comply with applicable local laws and regulations, meet the specifications and requirements defined in the Order and have characteristics which the ELPRO may expect in good faith even in the absence of a specific agreement.

7.2 The Supplier warrants that the Goods shall be free of any defects and are suitable for their usual purpose known to the Supplier and that Services are performed in a diligent manner and otherwise in compliance with the Order.

7.3 The Supplier agrees to provide the ELPRO, at the Supplier's own expense, with a sufficient number of declarations of conformity (CE, WEEE, RoHS, REACH) and other documentation required or agreed upon. The Supplier shall grant the ELPRO access to the documentation regarding risk analyses and the security concept for the Order at any time upon request (if applicable).

7.4 The Supplier warrants to the ELPRO that no rights of third parties, including but not limited to Swiss or foreign patent and other Intellectual Property rights, are infringed by the production and/or delivery and use of the Goods or the performance of Services. The Supplier shall indemnify the ELPRO and hold it harmless against third-party claims for damages that are based on the infringement of third-party rights by the Supplier's Goods or Services.

7.5 The ELPRO checks the goods or the services of the supplier for obvious visual defects at the time of delivery. The function check remains unaffected.

7.6 The warranty period shall be 24 months from the date of acceptance of the Goods or Services by the ELPRO. The ELPRO may notify the ELPRO of any defects and assert warranty claims within the entire warranty period. In the event of a full replacement of Goods or Services pursuant to the warranty hereunder, the warranty period of 24 months shall start anew from the date of receipt of the replacement Goods or re-performance of Services by the ELPRO.

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#### **8. Non-Performance or Faulty Performance**

8.1 In the event of delay in delivery, a warranty claim or any other breach of the Order or the STCoP, it is at the ELPRO's sole discretion to cancel the Order (cancellation), reduce the price of the Goods or Services set forth in the Order (reduction), or demand that the Supplier cure the defective Goods delivered or re-performance of the Services, free of charge, or the delivery of different Goods or the performance of different Services of equivalent value as the defective Goods or Services. In addition to the above, the ELPRO has the right to assert any other claim for direct damages.

8.2 In lieu of asserting the rights set forth above, the ELPRO may waive performance of the Order and demand indemnification for all losses, damages, costs or expenses directly or indirectly suffered by the ELPRO as a result of the failure to deliver conforming Goods or perform conforming Services.

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#### **9. Insurance, Product Liability**

9.1 The Supplier is required to obtain adequate product-liability insurance, valid worldwide and adequate transportation insurance for the Goods and services to be delivered in accordance with the Order. The ELPRO has the right to inspect the insurance policies at any time.

9.2 The Supplier is required to inform the ELPRO immediately and in writing about any and all risks and problems associated with its Goods or with delivery of the same.

9.3 To the extent the Supplier is liable for a product defect, the Supplier is required, in particular, to indemnify the ELPRO and hold it harmless, upon first request, against losses incurred by the ELPRO as a result of the product defect or against claims for damages brought by third parties.

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#### **10. Drawings, Tools, Models, Materials**

10.1 Drawings, tools, models, materials that the ELPRO makes available to the Supplier shall remain the property of the ELPRO. The Supplier shall not make them available to any third party without the written consent of the ELPRO.

10.2 Tools, equipment, gauges, etc. that have been paid for by the ELPRO are the property of the same. The Supplier must label these items as "Property of the ELPRO", store them appropriately, keep them in good working condition and fully insure them, at its own expense, against all types of damage. Tools must be inventoried separately, and the stock of tools must be reported in writing to the ELPRO at the end of the year.

10.3 If applicable the details with respect to the handling of loaned material shall be set forth in a loan agreement which is deemed as applicable document for the business relationship of ELPRO and Supplier.

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#### **11. Confidentiality**

11.1 The Supplier shall not disclose any Confidential Information of the ELPRO and shall refrain from making such information available to any third party.

11.2 The inclusion of our company in a reference list, the reference to our business relationship or the use of our order for advertising purposes is only permitted after obtaining our consent.

11.3 If the Order is assigned to a third party (subsupplier or subcontractor) pursuant to Art. 12.2, then the Supplier must require its subsuppliers or subcontractors to sign contracts in which they are likewise bound by the duties of confidentiality set forth in this Sect. 10.

11.4 The duty of confidentiality shall survive the termination of the contractual relationship or the cooperation between the ELPRO and the Supplier, without limitation.

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#### **12. Intellectual Property**

12.1 If, in the course of executing the Order, the Supplier develops Intellectual Property that is based on confidential information of the ELPRO and/or on drawings, tools, models, and/or materials of the ELPRO then the Supplier shall immediately notify the ELPRO of this situation and must transfer to the same all rights and claims to such Intellectual Property irrevocably, free of encumbrances and free of charge.

12.2 If rights are not transferable, a license for the use of these products shall be given to the ELPRO.

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**13. Subsuppliers and Subcontractors**

13.1 The Supplier shall be liable for its subsuppliers and subcontractors to the same extent as the Supplier itself is liable to the best of their knowledge and belief.

13.2 The Supplier shall not assign the Order to any third party (subsupplier or subcontractor) without the prior written consent of the ELPRO.

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**14. Special Duties of the Supplier****14.1 Quality Assurance**

As agreed with the Supplier, the Supplier must establish and maintain a documented, state-of-the-art quality assurance system of suitable type and scope. The Supplier must prepare records, in particular, concerning its quality tests, and shall make these available to the ELPRO upon request. During regular business hours and hours of operation, the ELPRO has the right to conduct quality audits at the Supplier's premises upon prior notice. The purpose of these audits is to verify the efficiency and accuracy of the quality assurance system. Inspections are conducted by employees of the department in charge of quality assurance who are bound by confidentiality vis-à-vis third parties. Each Party shall bear the expenses incurred by it in connection with the audit. Further details may be regulated in a separate master quality agreement which shall be deemed as a document applicable to the business relationship of the parties.

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**14.2 Safety and the Environment**

For matters regarding the environment, safety, and industrial hygiene in connection with the manufacture and/or delivery of goods or the performance of services, the Supplier must (a) comply with all applicable national, cantonal, and local laws and regulations, (b) inform the ELPRO immediately concerning all significant adverse events (such as fire, explosions, accidents and the like), (c) inform the ELPRO immediately concerning any allegations made against the Supplier or declaration of Supplier's violations of applicable legal provisions and (d) immediately take any and all reasonable remedial measures requested by the ELPRO, including but not limited to implementing reasonable and important elements of methods that the ELPRO itself utilizes in its own operations regarding environmental protection, safety, and industrial hygiene.

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**14.3 Anti-corruption Provisions (FCPA)**

The Parties expressly state that they comply with applicable anti-corruption laws and the substantive provisions of other applicable anti-corruption laws, in particular those enacted in order to enforce the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of November 21, 1997 and the appendixes to the same ("**Convention**"). Neither of the Parties shall make payments or offer items of value to any government official (public official).

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**14.4 Policies on the Hiring of Minors**

These policies apply to suppliers that hire persons under the age of 18 ("Minors").

(a) *Age, health, and safety* – No person under the age of 16 may be hired. No person between the ages of 16 and 18 may be hired unless the employment complies with the health, safety and ethical provisions of the "International Labor Organization Convention 138" on the minimum age for employment.

(b) *Working hours* – No minor may be asked to work more than 48 hours a week and more than 12 hours of overtime on a regular basis or to work more than six days a week.

(c) *Laws and provisions* – No minor may be hired if the employment fails to comply with all laws and provisions in effect concerning age, working hours, compensation, health and safety.

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**14.5 Privacy**

The supplier undertakes all measures to comply with the EU General Data Protection Regulation (DSGVO) as well as other locally valid laws, regulations and provisions in this respect and to indemnify ELPRO.

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**15. Miscellaneous Provisions****15.1 Chemicals**

In accordance with Commission Directive 2001/58/EC, every delivery of chemicals for production and maintenance must be accompanied by an appropriate safety data sheet.

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**15.2 Other Regulated Substances**

Before delivering substances that are prohibited by law or subject to special regulations, the Supplier must contact the ELPRO's purchasing department in order to clarify whether and to what extent a permit is required.

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**15.3 Cleanliness and Freedom from Residue**

Parts/Surfaces (of ready to use products, measuring equipment, etc.) shall satisfy the following conditions:

- no residues on oil, grease or any other lubricant is present on the surface of the parts;

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**15.4 Supplier code of Conduct**

All of ELPRO Group suppliers must adhere to ELPRO Supplier Code of Conduct. The current version in effect is always available on the ELPRO website.

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**15.5 Severability Clause**

If any individual provision agreed upon in these STCoP or Order is invalid or impracticable, whether in whole or in part, then this shall not affect the validity of the remaining provisions hereof.

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**15.6 Governing Law, Place of Jurisdiction**

These STCoP and the Orders, to which they apply, including the jurisdiction clause, shall be governed by Swiss law without giving effect to the principles of conflicts of law thereof or the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 (CISG).

The competent courts of the ELPRO's principal place of business shall have exclusive jurisdiction over all disputes arising from or in connection with these STCoP and the Orders.

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**15.7 Contract Term**

These STCoP shall be concluded for an indefinite period and shall enter into force by both Parties at the time of acceptance of the Order. It may, however, be terminated by 12 months at the end of the month by each contracting party. However, the termination of the terms and conditions has no effect on the continuity of other contracts concluded between the signatory parties under the scope of these STCoP. Their content shall continue to apply for the relevant contracts.

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