
GENERAL CONDITIONS OF PURCHASE

1. Scope

- 1.1. The following General Conditions of Purchase apply to all goods and/or services acquired or purchased by ELNIC GmbH ("ELNIC") from the Supplier.
- 1.2. Any general conditions of business of the Supplier that deviate from or amplify these General Conditions of Purchase are not legally binding on ELNIC, even if ELNIC does not explicitly contradict them or even if the Supplier declares its wish to deliver only on its general conditions of business.

2. Formation of Contract

- 2.1. If the Supplier does not accept in writing any order from ELNIC within two weeks of it being received, or signify its intention of doing so by making delivery, then this ELNIC order shall expire. The date of receipt of the acceptance and/or the delivery itself determines whether the two-week period has expired.
- 2.2. The order acceptance must contain all essential order information, including the exact description of the goods or services ordered, the order number, prices, and dates of order and delivery.
- 2.3. Additions or changes to the order by the Supplier are to be considered as a new quotation and effective only if ELNIC has confirmed them in writing.

3. Prices

- 3.1. The Supplier's prices are subject to INCOTERMS 2000.
- 3.2. The agreed prices are in principle fixed prices, and rule out subsequent additions or price increases of any kind, unless other types of price have been agreed.

4. Payment Terms and Conditions

- 4.1. The Supplier's invoices must contain all the details requested in the order for each delivery.
- 4.2. Unless otherwise agreed, ELNIC payments are in principle made by bank transfer, within 14 days of delivery and receipt of invoice with 3 % cash discount, within 30 days with 2 % cash discount, or within 90 days without deduction. Discount deduction is permissible even in cases of set-off or retention of claims on account of defects.
- 4.3. Without ELNIC's prior written consent, the Supplier has no right to assign its claims on ELNIC or to have them recovered by third parties.

5. Delivery Dates, Place of Performance

- 5.1. The delivery date agreed is legally binding. Advance deliveries and deliveries after the agreed delivery date are only permissible with prior written consent from ELNIC.
- 5.2. The punctuality of deliveries is determined by their arrival at the delivery address specified by ELNIC. The Supplier must inform ELNIC immediately if, and as soon as, it becomes apparent that it may not comply with the delivery date. Acceptance by ELNIC of any delayed delivery does not imply any waiver of rights to compensation.
- 5.3. If the Supplier falls behind on delivery, ELNIC shall be entitled to claim a contractual penalty of 0.5% of the order value for each week of delay, up to a maximum of 10% of the order value. This shall not limit the rights of ELNIC to claim for damages occurred. The Supplier is at liberty to bring forward proof that some lesser damage, or no damage, has arisen for ELNIC because of the delay.
- 5.4. ELNIC is not obliged to accept part deliveries. The remaining quantity still to be delivered must be listed on the delivery note in the case of part dispatches that have been agreed.
- 5.5. The delivery address detailed in the order is the place of performance for the Supplier's deliveries or services. If a delivery address is not detailed and if this does not follow from the nature of the debt obligation, the Supplier must ask ELNIC about it.

6. Dispatch, passing of Risk

- 6.1. The Supplier must properly pack and dispatch all goods to be delivered, and comply in this respect with all relevant regulations concerning packaging and dispatch. The Supplier is liable for all damages arising for ELNIC because of improper or inadequate packaging.
- 6.2. Shipping documentation such as delivery slips and packing lists must accompany the deliveries. The order numbers must be detailed on all documents.
- 6.3. Any additional costs arising for ELNIC on account of disregard of the above provisions will be charged to the Supplier.

6.4. In the case of deliveries not involving installation or assembly, the risk passes on their arrival at the delivery address specified by ELNIC. In the cases of deliveries involving installation or assembly, and of services, risk passes when acceptance is granted at the installation site.

7. ELNIC's Rights in Case of Defects

7.1. The Supplier is responsible for defects in the delivery objects for a period of two and a half years from passing of risk. In the case of buildings and works, the success of which consists in the provision of services in planning and supervising them, the period is extended to five years from their acceptance.

7.2. ELNIC will notify the Supplier of defects immediately and in writing, to the extent that such defects are identified in the course of ordinary business activities.

7.3. If a delivery object turns out to be defective during the warranty period, ELNIC may demand subsequent performance, i.e. at its option removal of the defect(s) or supply of goods or services free of defect(s). ELNIC may assert these rights in addition to its claim for performance and even prior to the passing of risk if the defects are identified at that point in time.

7.4. If the subsequent performance by the Supplier fails, if the Supplier refuses subsequent performance, or if the Supplier does not bring about subsequent performance within an appropriate period of grace set by ELNIC, then ELNIC may abate the purchase price, or withdraw from the contract and demand reimbursement for expenditure incurred in vain or compensation in damages in lieu of performance.

7.5. The Supplier undertakes to thoroughly examine the delivery objects for defects and to do everything to avoid any product liability. If claims are made on ELNIC on account of the defectiveness of any product and if the defectiveness is based wholly or partially on any defect(s) in the Supplier's delivery, then ELNIC may also demand indemnification vis-a-vis third parties instead of compensation for all damage. The Supplier's obligation to pay compensation for damages also encompasses the costs of any precautionary recall operation to prevent losses, if this is feasible. The Supplier is obliged to take out appropriate insurance against all damage risks in conjunction with product liability.

7.6. In so far as any third party makes claims against ELNIC on account of the breach of any industrial property rights, copyright or other right because of goods and/or services delivered by the Supplier and used by ELNIC in accordance with the contract, the Supplier will comprehensively indemnify ELNIC in relation to the third party from recourse of every kind. ELNIC will support the Supplier reasonably in the case of it defending itself against unjustified claims by third parties, in which case the Supplier shall assume the costs incurred by ELNIC in this connection.

7.7. If it turns out during the guarantee period that any work is defective, ELNIC may demand subsequent performance, whereupon the Supplier may at its option remedy the defect or manufacture a new work. ELNIC may assert this subsequent performance in addition to its claim for performance and even prior to the passing of risk if the defects are identified at that point in time.

7.8. If the subsequent performance by the Supplier fails, if such subsequent performance is unreasonable for ELNIC, if the Supplier refuses subsequent performance, or if the Supplier does not bring about subsequent performance within an appropriate period of grace set by ELNIC, then ELNIC may itself remedy the defect(s) and demand of the Supplier reimbursement of the necessary expenditure - including in the form of an advance disbursement.

7.9. Alternatively ELNIC may, in the conditions covered in clause 7.8 above, abate the purchase price or withdraw from the contract and demand reimbursement for expenditure incurred in vain or compensation for damages in lieu of performance.

7.10. In all the aforementioned cases the Supplier may not make the subsequent performance dependent on the proportionate or full payment by ELNIC of the payment that has been agreed. The Supplier must bear the expenditure necessary to achieve the subsequent performance, including transportation of goods, travel costs, and labour and material costs.

8. Duty of Instruction, Information and Care

8.1. If ELNIC has informed the Supplier about the intended use of the deliveries, or if the Supplier can discern such purpose in use without being expressly advised of it, then the Supplier is obliged to inform ELNIC immediately in the event that the Supplier's deliveries are unsuitable for that purpose of use.

8.2. ELNIC must be notified immediately and in writing of circumstances that may jeopardise compliance with delivery dates that have been agreed, so that further action may be clarified.

8.3. The Supplier must notify ELNIC immediately and in writing of changes in the way processed material is made up, or in the way construction is carried out, as against any similar deliveries that have been made to ELNIC hitherto. Such changes require written consent by ELNIC.

8.4. The Supplier must ensure that its deliveries and services match up to the requirements of the regulations on

protection of the environment, prevention of accidents, and other industrial safety, to the rules governing safety in technical terms, and to all other legal regulations that apply in the Federal Republic of Germany and/or countries determined in the respective purchase order by ELNIC, and must for each delivery advise ELNIC of any particular requirements concerning handling and waste disposal that are not generally known.

9. Provisioning by ELNIC

- 9.1.** All documentation and items of all kinds made available to the Supplier by ELNIC shall remain the latter's property. They must be used exclusively for the provision of the goods and services ordered. The Supplier must insure such materials handed over to it against loss and deterioration. The Supplier has no right of retention to any such materials made available by ELNIC.
- 9.2.** In so far as goods passed over by ELNIC to the Supplier are processed or reshaped by the latter into a new movable item, ELNIC shall be deemed to be their manufacturer. In the case of their being combined with or inseparably integrated into other goods, ELNIC shall acquire joint ownership in the new item in proportion to the value that the goods had at the time of the combination or integration. If the combination or integration is made in such a way that the Supplier's goods can be regarded as the main component, then it is understood and agreed that the Supplier transfers proportional joint ownership to ELNIC, whereas the Supplier shall hold such joint ownership for ELNIC without payment.

10. Confidentiality

- 10.1.** Orders from ELNIC must be treated confidentially. The Supplier furthermore undertakes to keep secret commercial and technical information and documents that are not generally known but do become known to it as a result of the business relationship, and to use such information and documents exclusively for providing the goods and services ordered. It must bind any possible subcontractors to secrecy in the same way.

11. Spare Parts, Availability

- 11.1.** The Supplier is obliged to deliver spare parts to ELNIC for the duration of the normal period of technical service life, but for at least ten years following the last delivery, on appropriate conditions.
- 11.2.** If, after the period specified in clause 11.1 above has expired or during the said period the Supplier discontinues delivery of the order item concerned, it must advise ELNIC in due time and in writing of the discontinuation of the product with reference to the ELNIC order number. Furthermore, the Supplier must also give ELNIC an opportunity to place a last order.
- 11.3.** The Supplier is obliged to safeguard manufacturing documentation for a period of 10 years following the last delivery, and to make it available to the purchaser on request.

12. Final Provisions

- 12.1.** The law of the Federal Republic of Germany shall apply to all legal relationships between ELNIC and its suppliers, with the exclusion of the provisions of the Convention on the International Sale of Goods (CISG).
- 12.2.** Rosenheim is the exclusive place of jurisdiction for all legal disputes arising out of the business relationship.
- 12.3.** Changes and additions to contract and supplementary agreements must be in writing. The same applies for any waiver to this clause on written form.
- 12.4.** Should any of the above provisions be or become ineffective, the validity of the other provisions shall remain unaffected. An effective ruling, which comes as close as possible to these General Conditions of Purchase as a whole and to the contractual arrangements in actual, legal and commercial terms, shall replace the ineffective provisions. The same procedure must be followed if these General Conditions of Purchase were to reveal any gap.

ELNIC GmbH