

# General Terms and Conditions of Purchase.

Ternica Systems GmbH (hereinafter referred to as "TERNICA SYSTEMS")

## 1. General

The following terms and conditions shall apply in the respective version to the purchase of goods or services, e.g. programming or lacquering/adhesive coating by TERNICA SYSTEMS. The validity of the supplier's general terms and conditions of business and/or payment is excluded. Any provisions deviating from these terms and conditions, whether verbal, written or electronic, shall only apply in the event of written confirmation by TERNICA SYSTEMS. This shall also apply if TERNICA SYSTEMS accepts deliveries or services without reservation in the knowledge of terms and conditions of the supplier that are contrary to or deviate from its terms and conditions of purchase. TERNICA SYSTEMS reserves the right to withdraw from the contract insofar as it includes deliveries or services which TERNICA SYSTEMS purchases for further processing or resale to third parties, if the third party ceases its payments, if insolvency proceedings or comparable legal proceedings have been filed by it or permissibly by another party, if such proceedings are opened or if the opening of such proceedings is rejected due to lack of assets. This right of withdrawal shall only exist if TERNICA SYSTEMS, after becoming aware of such a circumstance, immediately informs the contracting party thereof or if the contracting party otherwise becomes aware thereof.

## 2. Offer

The supplier is obliged to accept an order from TERNICA SYSTEMS in writing within a maximum period of 1 (one) week from receipt by way of a binding order confirmation. Otherwise, TERNICA SYSTEMS shall be released from its offer. If TERNICA SYSTEMS specifies a certain form of order confirmation, e.g. a form, this must be observed by the supplier.

## 3. Prices and terms of payment

- 3.1 The price stated in the order is binding. Price increases compared to prices stated in the order require the express prior written consent of TERNICA SYSTEMS. The acceptance of goods or services is always subject to the written consent of TERNICA SYSTEMS. The price includes delivery "free domicile" DDP TERNICA SYSTEMS Logistics Centre Arnstorf (Hainberg 40) INCOTERMS 2010 and packaging, unless otherwise agreed in writing.
- 3.2 Unless otherwise agreed, the supplier shall take back any packaging supplied at its own expense. TERNICA SYSTEMS shall make the packaging supplied available to the supplier EXW TERNICA SYSTEMS Logistics Centre Arnstorf (Hainberg 40) INCOTERMS 2010 for collection.
- 3.3 The supplier shall permanently implement a cost-saving programme with the aim of significantly reducing the costs for the goods to be delivered. Cost savings achieved by the Supplier in this respect shall be taken into account on a 50/50 basis for the benefit of both parties.

- 3.4 The statutory value added tax is included in the price and is shown as a separate item at the statutory rate on the day of invoicing. Invoices can only be processed if they are structured in an auditable manner in accordance with the specifications of the order and indicate the order number shown therein. Any excess or shortfall in performance shall be listed separately in the respective invoice.
- 3.5 Unless otherwise agreed in writing, TERNICA SYSTEMS shall pay the purchase price within 21 days, calculated from delivery and receipt of the invoice, with a 3% discount or within 30 days of receipt of the invoice strictly net. Only TERNICA SYSTEMS shall be entitled to rights of set-off and retention to the extent permitted by law. Payment by TERNICA SYSTEMS does not constitute recognition of conditions and prices. The time of payment has no influence on the supplier's liability for material defects and on the rights of complaint to which TERNICA SYSTEMS is entitled.

#### **4. Delivery dates - Terms of delivery**

- 4.1 The delivery time stated in the order and confirmed in the AB is binding and is guaranteed by the supplier. Any reservation of self-delivery by the supplier is expressly not accepted. The supplier assures to deliver exclusively new, unused original goods and to confirm this separately in writing upon request by TERNICA SYSTEMS. Services shall be performed professionally in industry-leading quality according to TERNICA SYSTEMS' specifications.
- 4.2 The supplier is obliged to inform TERNICA SYSTEMS immediately in writing if circumstances occur or become apparent to him which indicate that the agreed delivery time cannot be met. If, in such a case, accelerated transport of the goods is necessary in order to meet the agreed delivery dates, the supplier shall bear the additional expenses incurred for this in the event of delays for which he is responsible.
- 4.3 In the event of a delay in delivery on the part of the supplier, TERNICA SYSTEMS shall be entitled to the statutory claims. In particular, TERNICA SYSTEMS shall be entitled to withdraw from the contract after the fruitless expiry of a reasonable period of grace and to make a covering purchase and to charge the supplier for the additional costs incurred as a result.
- 4.4 In the event of a delay in delivery by the supplier, TERNICA SYSTEMS shall be entitled, without prejudice to other statutory claims, to demand payment from the supplier of a contractual penalty amounting to 0.5% of the order value affected by the delay per working day, but not more than 5% of the total order value. In addition, TERNICA SYSTEMS may claim damages, in particular but not limited to additional costs due to replacement procurement (e.g. more expensive goods, other delivery and payment terms, express costs), due to splitting of production lots (e.g. set-up costs, subsequent deliveries), due to process changes (e.g. subsequent manual assembly of otherwise machine-assembled delivery items), due to release processes at TERNICA SYSTEMS or its customers.
- 4.5 The application of § 341 para. 3 BGB is excluded.
- 4.6 Forfeited contractual penalties shall be offset against other claims for damages due to delay.

- 4.7 All dispatch notes, delivery notes, consignment notes, invoices and on the external packaging etc. shall contain the order references, reference numbers and other information required by TERNICA SYSTEMS and specified in the order.
- 4.8 Deliveries of goods shall always be made exclusively to the receiving point designated by TERNICA SYSTEMS.
- 4.9 The supplier shall be liable for damages and shall bear the costs arising from the non-observance of these handling and shipping specifications by him or by the vicarious agents and sub-suppliers commissioned by him. All consignments that cannot be accepted due to non-observance of these shipping instructions shall be stored at the supplier's expense and risk. TERNICA SYSTEMS shall be entitled in each case to determine the content and condition of such consignments. TERNICA SYSTEMS further reserves the right to reject deliveries that cannot be clearly identified at the expense and risk of the supplier.
- 4.10 The supplier owes stocking of spare parts for delivery items for the period of the agreed service life or the service life expected by TERNICA SYSTEMS or TERNICA SYSTEMS's customers according to experience. Insofar as customers of TERNICA SYSTEMS assert claims against TERNICA SYSTEMS due to this culpable non-compliance, the supplier shall indemnify TERNICA SYSTEMS against such claims.
- 4.11 TERNICA SYSTEMS is also entitled to postpone a delivery date by fax or e-mail by up to 6 months, provided that the postponement is at least 10 working days before the originally agreed delivery date.
- 4.12 In the event of EndOfLife or ProductChangeNotification information concerning delivery items, the supplier is obliged to take suitable measures to ensure delivery and to inform TERNICA SYSTEMS of this immediately after becoming aware of it. If the supplier culpably fails to take suitable measures or fails to do so in a timely manner, the supplier shall compensate TERNICA SYSTEMS for any damage incurred as a result. For this purpose, the supplier shall regularly inquire with its upstream suppliers about planned discontinuations, inform TERNICA SYSTEMS about possible alternative products and provide the relevant data sheets, samples, etc. without being asked to do so. Upon receipt of a notice of discontinuation, TERNICA SYSTEMS shall be given the option to place a final order with the supplier at the conditions applicable up to that point. The supplier shall provide TERNICA SYSTEMS with all documentation required for the use, installation, assembly, processing, storage, operation, maintenance, inspection, servicing and repair of the goods in good time, without being requested to do so and free of charge.

## 5. Quality assurance

- 5.1 Unless TERNICA SYSTEMS agrees a separate quality assurance agreement with the supplier, the following shall apply:
- The supplier shall bear sole responsibility for the fault-free quality of the goods or services delivered to TERNICA SYSTEMS. Any coordination of quality assurance measures with TERNICA SYSTEMS does not relieve the supplier of his responsibility for product quality. The supplier is committed to the zero-defect objective and will comply with this objective by taking appropriate measures (e.g. 100% outgoing goods inspection before delivery to TERNICA SYSTEMS).

- The supplier shall have a quality management system in accordance with ISO 9001 (current version) or a comparable quality management system and shall prove this to TERNICA SYSTEMS. TERNICA SYSTEMS shall monitor the supplier accordingly. The supplier guarantees that the production or distribution processes used for the manufacture or distribution of the goods comply with the latest state of the art as well as all applicable legal provisions. The same applies mutatis mutandis to services, e.g. programming or painting/gluing.
- Supplied components must comply with the component requirements from J-STD002 and J-STD020 for further processing. The supplier undertakes to provide quality packaging, in particular with regard to ESD (according to DIN EN 61340) and moisture protection (according to J-STD033).
- Before changing production processes or materials of the goods, the supplier shall notify TERNICA SYSTEMS in good time so that TERNICA SYSTEMS can check whether the change may have an adverse effect. The same shall apply mutatis mutandis to services.
- The delivery of products with date codes older than twenty-four (24) months is not permitted; otherwise TERNICA SYSTEMS may refuse to accept the delivery at the expense and risk of the supplier. In deviating cases, item-specific written exceptions must be granted by TERNICA SYSTEMS prior to delivery.
- TERNICA SYSTEMS must be informed of any changes in production sites or sub-suppliers without being asked to do so.

5.2 TERNICA SYSTEMS reserves the right to carry out spot checks according to AQL in accordance with ISO 2859 or 3951 and is entitled to reject the entire delivery without compensation if the permissible defect rate is found to be exceeded. Likewise, TERNICA SYSTEMS shall be entitled to reject the entire delivery without compensation if a defect rate of 10 (ten) dpm is determined to have been exceeded in the case of catalogue articles or 300 (three hundred) dpm in the case of drawing parts.

## 6. Initial sampling

6.1 Unless TERNICA SYSTEMS agrees a separate quality assurance agreement with the supplier, the following shall apply:

- If requested, the supplier shall carry out initial sampling in accordance with the sampling documents agreed with TERNICA SYSTEMS and send them to EMPB TERNICA SYSTEMS.
- IMDS data must always be provided in the MDS system.
- A series delivery may only be made after approval of the EMPB or written agreement with TERNICA SYSTEMS.
- In case of rejection of the EMPB, a new sampling must be carried out.

6.2 In the following cases, TERNICA SYSTEMS reserves the right to arrange for initial sampling:

- For new parts
- In case of changes to the product
- In the case of changes to drawings or specifications,
- In the case of changes to sub-suppliers
- In the event of changes to raw materials
- In the event of a change in production locations
- In the event of delivery and production interruptions of more than one year

- In case of change or repair of tools or creation of new tools.
- 6.3 Unless otherwise requested, samples shall be sent individually packaged and clearly marked as initial samples.

## **7. Transfer of risk - inspection for defects - warranty**

- 7.1 Unless otherwise agreed in writing, delivery shall be made free domicile.
- 7.2 TERNICA SYSTEMS shall be obliged to inspect the goods within the scope of the incoming goods inspection carried out within a reasonable period of time in the ordinary course of business for identity, correspondence in terms of content or number between the order and the delivery as well as for obvious and externally recognisable transport damage. In all other respects, the quality assurance in clause 5 shall apply. The supplier shall carry out an outgoing goods inspection.
- 7.3 An inspection of the delivered goods for quantity, identity and other quality deviations shall be carried out by TERNICA SYSTEMS exclusively on the basis of the delivery documentation and the marking on the outermost packaging of the goods. There shall be no further obligation to carry out a technical incoming goods inspection. TERNICA SYSTEMS shall notify the supplier of any defects detected in the ordinary course of business by TERNICA SYSTEMS or by the customers of TERNICA SYSTEMS. Otherwise, the application of § 377 HGB (German Commercial Code) shall be excluded.
- 7.4 Complaints of defective performance can be made within 8 working days after the transfer of risk by TERNICA SYSTEMS, furthermore also after the expiry of this period in the case of hidden defects within 8 days of becoming aware of them. The supplier is obliged to remedy defects in the delivered goods immediately after becoming aware of them, at the latest after notification of defects. The assertion of a defect within the scope of a notification of defects by TERNICA SYSTEMS is initially sufficient.
- 7.5 The processing of notices of defects and error reports shall be carried out via debit notes to the supplier. Offsetting or the assertion of a right of retention against outstanding claims of the supplier shall take place on a regular basis. After receipt of the notice of defects, the supplier shall be obliged to submit to TERNICA SYSTEMS within a maximum period of 10 working days by means of an 8D report a description of the cause of the defect, the determination of the defect and the proposed measures for the elimination of the defect. TERNICA SYSTEMS shall have the right, without prejudice to its statutory warranty claims, to demand reimbursement from the supplier of the internal processing, testing and sorting costs incurred up to the complete elimination of the defect - including the costs for test reports prepared or arranged by TERNICA SYSTEMS within the scope of the defect determination, insofar as the defect determined is not demonstrably the responsibility of TERNICA SYSTEMS. Furthermore, the supplier shall in particular, but not only, reimburse TERNICA SYSTEMS for analysis costs (e.g. grinding and laboratory costs) and additional testing costs (e.g. special, repeat testing).
- 7.6 After a notice of defect has been issued, all stocks held by the supplier and TERNICA SYSTEMS shall be checked by the supplier. If repeated or further inspections are necessary as a result of defects, the supplier shall bear all material and personnel costs for this; this shall apply to the same extent to the material certificates of the input materials purchased

from the supplier. TERNICA SYSTEMS shall be entitled to the full statutory warranty claims. Defects shall be remedied at the discretion of TERNICA SYSTEMS by way of supplementary performance either by rectification of the defect or by new delivery of defect-free goods. Associated delivery documentation shall, if necessary, also be corrected by the supplier without delay. After unsuccessful expiry of a reasonable period of time set for the rectification of the defect or for the new delivery, TERNICA SYSTEMS may withdraw from the contract, make a covering purchase or reduce the agreed remuneration. In any case, TERNICA SYSTEMS shall also be entitled to demand compensation from the supplier for the costs caused, damages and proven futile expenses as well as all expenses necessary for the purpose of rectifying the defect or for the new delivery. This includes in particular, but is not limited to, additional costs due to replacement procurement (e.g. more expensive goods, other delivery and payment terms, express costs), due to splitting of production batches (e.g. set-up costs, subsequent deliveries), due to process changes (e.g. subsequent manual assembly of otherwise machine-assembled delivery items), due to release processes at TERNICA, due to the fact that TERNICA is not able to deliver a new delivery.

## **8. Liability - Product liability - Liability insurance - Export control - RoHS conformity - Conflict minerals**

- 8.1 The supplier shall be liable for all personal injury, property damage and financial loss culpably caused by him, his legal representative or his vicarious agents in connection with the fulfilment of his contractual obligations. Insofar as the supplier is liable in particular within the meaning of the German Product Liability Act (ProdHaftG) or in accordance with §§ 823 ff. BGB, the supplier shall be obliged to indemnify TERNICA SYSTEMS against all claims of third parties upon first request insofar as the cause lies within the supplier's sphere of control and organisation and the supplier itself is liable in relation to third parties or is otherwise responsible for the case of liability. Within this framework, the supplier is furthermore obliged to reimburse TERNICA SYSTEMS for any proven necessary expenses arising from or in connection with a recall action carried out by BM, insofar as this recall action is necessary due to legal provisions or due to circumstances which would cause a prudent businessman to carry out a recall action in order to avert imminent damage - including non-pecuniary damage. TERNICA SYSTEMS shall inform the supplier as far as possible and reasonable about the content and scope of the recall measures to be carried out and give him the opportunity to comment.
- 8.2 In order to secure any claims for compensation, the supplier shall take out sufficient business and product liability insurance and maintain it until the expiry of the warranty period of the last order confirmed by the supplier and provide evidence of it upon request. This insurance must include an extended product liability insurance (damage due to combination, mixing, processing or further processing or treatment as well as dismantling and installation costs) in an appropriate amount of at least EUR 3,000,000.00 lump sum for personal injury and property damage and cover the possibly increased risk of distribution, in particular in the USA, Canada or similar. If TERNICA SYSTEMS is entitled to further claims for damages, these shall remain unaffected. The supplier shall be responsible for ensuring that the products or parts thereof to be supplied by him are not subject to national or international import or export restrictions.

- 8.3 Should a product or parts thereof be subject to such import or export restrictions, the supplier shall procure the necessary import or export licences for worldwide export by TERNICA SYSTEMS at his own expense. The supplier shall expressly exempt TERNICA SYSTEMS from any liability and responsibility in the external relationship, irrespective of the legal grounds, for violations of import or export restrictions for which the supplier is responsible and shall bear all damages incurred by TERNICA SYSTEMS as a result in the event of a violation.
- 8.4 TERNICA SYSTEMS shall only order RoHS-compliant goods. Thus, the supplier shall be responsible for ensuring that the products or parts thereof to be supplied by him comply without restriction with all statutory provisions and are suitable for RoHS-compliant manufacturing processes. The supplier is obliged to provide IMDS data via MDS free of charge upon request by TERNICA SYSTEMS.
- 8.5 In the event of culpable infringements of RoHS conformity regulations, the supplier shall expressly release TERNICA SYSTEMS from any liability and responsibility in the external relationship, irrespective of the legal grounds, and shall bear all damages incurred by TERNICA SYSTEMS as a result in the event of an infringement. Insofar as contractual products cannot be demonstrably delivered in conformity with RoHS, TERNICA SYSTEMS reserves the right to withdraw from the respective framework or individual order free of charge for TERNICA SYSTEMS.
- 8.6 TERNICA SYSTEMS is obliged to comply with legal and customer prohibitions or restrictions regarding the use of materials, including hazardous substances and conflict minerals. Therefore, the supplier shall ensure that all products delivered to TERNICA SYSTEMS comply with the requirements of all relevant regulations and laws. In particular, the supplier is obliged to comply with all applicable laws and standards regarding ingredients, in particular the End-of-Life Vehicles Directive, to establish guidelines regarding conflict minerals and to determine the origin of the minerals with due diligence, to ensure a supply free of conflict minerals and to provide TERNICA SYSTEMS with proof of compliance with these requirements in a timely manner upon request. The Code of Conduct for Suppliers of TERNICA SYSTEMS must be complied with. The current version of this code can be viewed at <http://www.ternica-systems.de>.

## 9. Data protection clause

Personal data from the contract may only be used for the purpose of contract processing, customer care, market and opinion research as well as for own advertising campaigns. In this respect, personal data of the customer accruing within the framework of the contractual relationship and required for its execution shall be stored by TERNICA SYSTEMS. As far as this is necessary for the execution of the contract, the data will also be transmitted to other companies which are entrusted by TERNICA SYSTEMS in a permissible way with the execution of the contract or parts of it.

## 10. Place of jurisdiction, applicable law

- 10.1 The place of performance is our registered office in Arnstorf. The place of jurisdiction shall be our registered office if the supplier is also a merchant, a legal entity under public law or a special fund under public law. The same shall apply if he has no general place of jurisdiction

in Germany or moves his registered office abroad after conclusion of the contract. We are also entitled to sue him at other admissible places of jurisdiction.

- 10.2 The legal relationship shall be governed solely by the substantive law of the Federal Republic of Germany to the exclusion of private international law and the UN Convention on Contracts for the International Sale of Goods.

## 11. Severability clause

Should individual provisions of the contract with the customer, including these terms and conditions, be or become invalid in whole or in part, this shall not affect the validity of the remaining provisions. The wholly or partially invalid provision shall be replaced by a provision whose economic success comes as close as possible to that of the invalid provision. The same shall apply mutatis mutandis if a loophole in need of filling arises during the execution of the contract, or if a provision has become pointless or impracticable as a result of changed circumstances.