



General Terms and Conditions of Purchase

For all Purchase Orders of EBZ SysTec (Shanghai) Limited, PR China

I. General

- (a) These General Terms and Conditions of Purchase (hereinafter also referred to as the: “**Terms**”) shall apply exclusively to all Purchase orders of EBZ SysTec (Shanghai) Limited, PR China (hereinafter also referred to as the: “**Purchaser**”) from a Supplier based in the People`s Republic of China (hereinafter also referred to as the: “**PRC Supplier**”) or a Supplier based outside the People`s Republic of China (hereinafter also referred to as the: “**foreign Supplier**”).
- (b) Only the Purchaser`s Terms and Conditions of Purchase shall apply.
- (c) Any deviant General Terms and Conditions of the Supplier shall, even in case of unconditional acceptance of delivery, not be accepted by the Purchaser, neither partly or entirely, unless expressly approved to in writing by the Purchaser.

II. Purchase Orders

- (a) Purchase orders are only binding if placed in written form. It shall not be necessary for the Purchaser to sign orders. The written form shall be deemed to have been observed if orders are sent by fax, e-mail or another electronic data transmission system.
- (b) Documents used by the Supplier in course of business with the Purchaser shall quote the following: purchase order number, project number, works of origin, place of receipt, identification number, material master number/material master description, quantities and quantity units as well as Value-Added-Taxes (VAT) number (for imports from the EU) and the terms for delivery and payment. All documents must contain the designation “People`s Republic of China”.

III. Prices

All prices shall be fixed prices. They shall include everything the Supplier has to provide to fulfill its contractual obligations exclusive VAT.

[Foreign Supplier] In the absence of a differing agreement, the price shall include packaging and shall be “DDP” (Delivered Duty Paid) in accordance with Incoterms 2010. If terms of delivery are agreed in accordance with Incoterms 2010, whereby the Purchaser pays for the transportation, the Products shall be transported by a forwarding agent approved by the Purchaser. Unless otherwise agreed, however, the Supplier shall assume responsibility for notification of the consignment with the forwarding agent. The Supplier shall inform the Purchaser immediately if the forwarding agent does not collect the Products as confirmed in the notification.

[PRC Supplier] In the absence of a differing agreement, the price shall include packaging and the Supplier shall deliver the Products to the place designated by the Purchaser at the Supplier`s own costs.



IV. Specifications

- (a) Specifications include among other things that
- the Supplier assigns full title to the Purchaser of all technical documents (including of those of its sub-suppliers) as well as of documents necessary for maintenance and operation. These technical documents shall be issued in English and according to the international standard system SI;
 - the Supplier assigns all rights of use necessary for the Purchaser or any third party to make use of the supplies and services with due regard to possible patents, Supplementary Protection Certificates (SPC), brands, utility models or other intellectual property rights.
- (b) Quantity shall be as specified in the Order. The Purchaser may reject any delivery of excessive quantities at the expense of the Supplier.

V. Quality

- (a) The Supplier shall set up and maintain, for the whole duration of contractual performance, a documented quality assurance system appropriate in terms of type and extent and according to the latest state of the art. The Supplier shall keep records, especially on its quality inspections, and provide those records to the Purchaser on request.
- (b) The Supplier hereby agrees to quality audits conducted by the Purchaser or any agent in order to assess the effectiveness of its quality assurance system. For that purpose the Purchaser shall be entitled to enter the Supplier's operating premises up to four times per half a year within contractual performance. The Purchaser shall only be entitled to this during common business hours and/or hours of operation and after notice given minimum two workdays in advance. The Supplier shall within reason support the Purchaser in assessing the effectiveness of the Supplier's quality assurance system. Especially, if required and in accordance with any provision concerning data protection, the purchaser shall be granted access to all relevant documents.

VI. Period and Date of Delivery and/or Performance

- (a) Specified dates of delivery and/or performance shall be strictly observed. Binding period and date of delivery and/or performance is date of goods input at the purchaser. Unless delivery "free works" is agreed, the Supplier has to guarantee in-time-deliverance by considering time for loading and shipping.
The Purchaser may reject any goods delivered, or any services performed, prior to the agreed date.
- (b) The Supplier shall give notice of any failure to meet a deadline to the Purchaser immediately in writing.

VII. Delivery and Storage

- (a) **[Foreign Supplier]** The delivery (including the transfer of risk) shall comply with the trade terms (in particular Incoterms 2010) usual in the automotive industry and specified in the



order and at the place of receipt/use or collection specified by the Purchaser in the order. In the absence of such a provision, the delivery shall be made DDP (Incoterms 2010) to the place of receipt or use specified in the order. In this case the risk is transferred at the time of delivery to the agreed place of receipt/use. If the parties agreed on prices “ex factory/ex works”, “ex warehouse” or “FCA” the Supplier shall commission a transport company listed in the Purchaser’s Order. The Purchaser shall bear the freight charges in this case.

[PRC Supplier] The Supplier shall deliver the Products to the place designated by the Purchaser at the Supplier’s own cost. The risk shall be transferred upon delivery.

- (b) If any delivery and/or performance is done by installment this shall be indicated by the Supplier as such. Any bill of delivery shall be submitted to the Purchaser as a single copy.
- (c) If weighing is necessary, the weight determined on the Purchaser’s calibrated scales shall prevail.
- (d) Where the Supplier is entitled to the return of any packaging needed for delivery this shall be clearly indicated by note in any bill of delivery. If such note is missing, the Purchaser shall be entitled to dispose of the packing at the Supplier’s expense. In this case, the Supplier’s claim for return of the packing or any compensation shall be deemed expired. This shall not apply if the personnel assigned by the Purchaser to process shipment were aware, or were unaware by act of gross negligence, of such right of the Supplier.
- (e) Any Storage of items needed for the contractual performance, and for which it is necessary to store them at the Purchaser’s premises, shall only take place at designated storage areas. For these items, the Supplier shall bear full responsibility and risk until transfer of risk to the Purchaser.
- (f) Transport shall be in compliance with all applicable national or international statutory provisions, **[Foreign Supplier]** especially those of the German “Law on Transport of Dangerous Goods” (*Gesetz über die Beförderung gefährlicher Güter [GGBefG]*) and the respective German Ordinance on Dangerous Goods (*Gefahrgutverordnung*) including respective enclosures and annexes to the particular provision.
- (g) If delivered by rail, declaration of goods in the bill of lading shall comply with all current and valid regulations of the respective railroad companies. Any cost and damages arising from incorrect or omitted declaration shall be at the expense of the Supplier.

VIII. Assignment and Transfer

- (a) The Supplier shall not assign or transfer any of its rights and/or obligations under the contract to any third party without prior consent of the Purchaser.
- (b) In order to obtain such consent the Supplier shall disclose all relevant information – especially the name – on the third party in question.
- (c) **[Foreign Supplier]** § 354a of the German Commercial Code (*Handelsgesetzbuch [HGB]*) shall remain unaffected.

IX. Termination of Contract

- (a) In addition to its statutory rights to withdraw and rights of termination the Purchaser may withdraw from, or terminate, the contract in the event of



- the Supplier ceasing delivery to its customers for any reason the Purchaser is not responsible for;
 - a significant deterioration in the Supplier's financial circumstances or threat of such deterioration and this deterioration or threat of deterioration endangering performance of the contractual obligations;
 - illiquidity or debt overload on part of the Supplier; or
 - the Supplier ceasing payment.
- (b) The Purchaser may also withdraw from, or terminate, the contract in the event of the filing of insolvency over the Supplier's assets with the insolvency court. In this case the Purchaser may acquire any materials and/or semi-finished products including any special tools and equipment at appropriate conditions.

X. Invoicing, Payment, Offsetting

- (a) Payment shall be made as agreed in the Contract. Any delivery and/or performance prior to the specified date shall not affect any respite related to this deadline.
- (b) The Supplier shall only be entitled to offset against undisputed, legally decided or no longer contestable claims as well as claims directed to costs of correction of faults or completion of work.
- (c) Any invoice shall be sent separately to the Purchaser's invoice verification department including all documents necessary for such verification.

XI. Claims Arising from Liability for Defects

- (a) The Supplier shall procure that all deliveries and/or performances are of the agreed quality and suitable for the use intended under the contract.
- (b) Period of limitation for claims arising from defects shall begin at the time all goods have been delivered and/or performances have been performed according to specifications. If the parties agreed to acceptance of the goods and/or performances period of limitation shall begin at the date of acceptance.
- (c) Statutory period of limitation for claims arising from defects shall apply to these claims. If such period is two years at most, in regard to defects notified by the Purchaser within the period of limitation, the period shall end no earlier than six months from the date of such notification.
- (d) Any control of incoming goods is carried out by the Purchaser only in respect of variations in identity and quantity, in respect of defects visible externally and in respect of any other apparent defects. Any such variations and/or defects shall be notified immediately by the Purchaser. The Purchaser reserves any advanced control of incoming goods. Otherwise notifications of defects shall be given immediately as soon as those are determined during the course of ordinary business.
- [Foreign Supplier]** In respect to the last the Supplier shall waive the objection of delayed notification provided in §§ 377, 381 subpar. 2 of the German Commercial Code (*Handelsgesetzbuch [HGB]*).
- (e) In case of defect, the Purchaser may eliminate the defect itself or have it eliminated by third parties following the fruitless expiration of a respite set to the Supplier for supplementary



performance. In such case the Purchaser may also claim compensation of necessary expenditures.

The Purchaser shall not be entitled to these rights if the Supplier denies supplementary performance with good reason.

The Purchaser shall be entitled to the same right if

- the Supplier denies supplementary performance genuinely and definitely;
- supplementary performance has failed; or
- special circumstances vindicate an immediate self-help after consideration of both parties' interests.

Any of Purchaser's statutory claims based on defects shall remain unaffected.

XII. Place of Fulfillment

Place of fulfillment for all deliveries and/or performances shall be the place of receipt specified by the Purchaser.

XIII. Non-Disclosure Agreement

(a) The Supplier shall not disclose to any third party any knowledge of the Purchaser's, and its clients', operational proceedings, facilities, equipment, documents, data, information etc. gained in the context of the Supplier's activities for the Purchaser.

This non-disclosure agreement shall not apply if the information in question

- was publicly known before disclosure or became publicly known after disclosure with no fault of the Supplier;
- was known to the Supplier before disclosure by the Purchaser;
- was devised independently by the Supplier not using the information in question available at the Purchaser's and without any contribution of persons having access to such information in question available at the Purchaser's; or
- has to be made available to any third party based on administrative order or adjudication.

(b) The Supplier shall be under the above obligations of non-disclosure even after tender of offer. The same shall apply after completion of contract.

(c) The Supplier shall impose corresponding obligations of non-disclosure on its auxiliary persons and vicarious agents.

XIV. Data Protection

In accordance with the relevant national and international Data Protection Acts, the Purchaser points out that data concerning the Supplier will be stored in order to process the current and any future contracts as well as to comply with legal regulations, especially commercial accounting standards.

XV. Applicable Law

[Foreign Supplier] The contract shall be governed by the law of the Federal Republic of Germany with the exclusion of

- its International Private Law (conflict of laws) as well as
- the United Nations Convention on Contracts for the International Sale of Goods (CISG) dated April 11th, 1980 in its latest version.



[PRC Supplier] The contract shall be governed by the law of the PRC.

XVI. Court of Jurisdiction, Arbitration

Any disputes arising out of or in connection with the contract which cannot be resolved amicably by the Parties within 30 days after the dispute has arisen, shall be finally submitted for arbitration.

[Foreign Supplier] The arbitration shall be held before the *International Chamber of Commerce* (“**ICC**”) in Paris, France, acting on the basis of ICC’s Rules of Arbitration. The arbitration proceedings shall be conducted in English language.

[PRC Supplier] The arbitration shall be held before the *China International Economic and Trade Arbitration Commission* (“**CIETAC**”), Shanghai Sub-Commission, in Shanghai, acting on the basis of CIETAC’s Rules of Arbitration. The arbitration proceedings shall be conducted in Chinese language.

XVII. Prevail Clause

[Foreign Supplier] These Terms shall be valid in both English and Chinese language versions and the contract shall be signed in both English and Chinese language versions and in two original sets. Each Party shall hold one original set. Both language versions shall be equally authentic and binding. In case of discrepancies between the two language versions, the English language version shall prevail.

[PRC Supplier] These Terms shall be valid in both English and Chinese language versions and the contract shall be signed in both English and Chinese language versions and in two original sets. Each Party shall hold one original set. Both language versions shall be equally authentic and binding. In case of discrepancies between the two language versions, the Chinese language version shall prevail.