

## General Terms and Conditions of Sale

### 1 General

- 1.1 These Terms and Conditions (hereinafter referred to as "GTC") shall apply to all quotations, orders, deliveries and performance of ERNI Electronics K.K. (hereinafter referred to as "ERNI") with any company or person who places order with ERNI (hereinafter referred to as "Customer") for products ("Products") and services ("Services").
- 1.2 Upon placing of the order with ERNI, the Customer shall be deemed as having accepted these GTC. These GTC shall form part of and be deemed incorporated in the provisions of each purchase order entered into between ERNI and the Customer. Any changes, including any additions or deletions to the purchase order shall only be effective if confirmed by ERNI in writing executed by an authorized signatory of ERNI.
- 1.3 No other terms and conditions, including any terms of the Customer which may be attached to any order, sales literature, delivery note or other document, which are inconsistent with these GTC will apply to the supply of Products and Services by ERNI unless agreed in writing by an authorized signatory of ERNI. In the absence of such written agreement by ERNI, the Customer shall be deemed to have withdrawn and/or waived its terms and conditions and to contract with ERNI solely on the basis of these GTC and the supply of the Products and/or Services by ERNI to the Customer shall not constitute or be deemed to constitute acceptance by ERNI of the Customer's terms and conditions. ERNI reserves the right to amend these GTCs from time to time. Any amendments to the GTC shall be notified to customers and announced on the ERNI website at [www.erni.com](http://www.erni.com).

### 2 Prices and Quotation

- 2.1 The price of Products is based on the standard minimum order quantity and Services as set out by ERNI in an official quotation to the Customer. ERNI reserves the right to change the prices at any time prior to receipt by ERNI of written acceptance of the quotation by the Customer. The Customer acknowledges that prices and Products are subject to change at any time prior to written acceptance by the Customer of the quotation within the timeframe stipulated in the quotation.
- 2.2 The quotations of ERNI are valid for 60 calendar days from the date issued and are subject to revocation by ERNI at any time prior to receipt by ERNI of written acceptance by the Customer. Revocation by ERNI of quotations shall be by way of notice and such revocations shall be effective immediately upon issue and receipt by the Customer.
- 2.3 For the avoidance of doubt, the Customer shall only be capable of accepting ERNI quotations based on the specified quantity, Product and Services set out in the official quotation and any amendments by the Customer to details of the quotation shall not be binding on ERNI and shall instead be subject to acceptance by ERNI as an order pursuant to clause 3 below.

### 3 Purchase Orders

- 3.1 ERNI reserves the right to decline to trade with any company or person. ERNI may decline to accept any purchase order (including any purchase orders which are unsolicited or where the Customer has amended the details set out in an official quotation of ERNI), whether or not payment has been received, by giving notice of non-acceptance to the Customer by telephone, email or facsimile within a reasonable period of receipt of the order by ERNI. Purchase orders shall not be considered as confirmed until the Customer has received written acceptance by ERNI. Agents or representative agencies of ERNI have no authority to accept any orders on behalf of ERNI. If ERNI rejects a purchase order for which payment has been taken, it will refund the amount to the Customer as soon as reasonably practicable.
- 3.2 A minimum order value of USD250 (before prevailing good and service tax at the exchange rate determined by ERNI) is required for any order acceptance.
- 3.3 The Customer must submit purchase orders using the ERNI part numbers and the priced units. If the Customer orders the wrong product or number of products, or duplicates orders, the provisions of clause 8 (Cancellation and Returns) will apply.
- 3.4 Formal quotations accepted by the Customer and purchase orders accepted by ERNI shall hereinafter collectively be referred to as an "order".

### 4 Scope of Delivery and Delivery Time

- 4.1 ERNI may use a third-party delivery agent to deliver goods to Customer.
- 4.2 The delivery date is considered to be:
  - i. where ERNI is arranging for delivery to the Customer's designated location, the date the Products leave the warehouse; or
  - ii. where the Customer has made arrangement to receive the Products from ERNI's designated warehouse, the date ERNI advises the Customer of the readiness for shipment.
- 4.3 The Customer acknowledges and agrees that time is not of the essence and claims for damages due to a delay in delivery shall be excluded.

### 5 Inspection, Transit Delay and Non-Delivery

- 5.1 The Customer must inspect all Products as soon as is reasonably possible after delivery. If there are missing Products, defective Products or any non-compliant issues discovered by the Customer after such inspection, the Customer shall, within 10 calendar days of the date of delivery give written notice to ERNI of such issues and the details thereof.
- 5.2 Upon receipt of the Customer's written notice in compliance with clause 5.1:
  - i. where there is any defect in a Product that is apparent on reasonable examination, ERNI shall, at ERNI's discretion, replace the Product or refund the purchase price;
  - ii. where there is a shortfall in Products delivered, ERNI shall, at its discretion, deliver the missing Products or refund the price of the missing Products;
  - iii. Where delivery of the Products is not in accordance with the order, ERNI shall, at ERNI's discretion, replace the Products or to take back any Products not in accordance with the order met and refund the purchase price.
- 5.3 If the Customer fails to give any written notice in compliance with clause 5.1, the Customer shall be deemed to have accepted the Products as being in accordance with the order and free from apparent defects. ERNI's record of the Products dispatched (including the quantity) shall be conclusive evidence of the products received by the Customer, unless proved otherwise by the Customer.

- 5.4 The remedies set out above are the Customer's exclusive contractual and statutory remedies for non-delivery, short delivery and where there are apparent defects in the Products or delivery of Products not in accordance with the order. ERNI shall not be liable for any losses, consequential or otherwise, or for costs (including legal costs), expenses, liabilities, loss of profits, business or economic loss, depletion of goodwill, damages, claims, demands, proceedings, judgments or otherwise arising from these circumstances.

### 6 Passage of Risk and Acceptance

- 6.1 Ownership of any Product supplied shall not pass to the Customer until full payment of the purchase price of the Products and of all other amounts owed to ERNI has been made. If the Customer is late in paying any sum due to ERNI, ERNI shall be entitled to the immediate return of all Products where ownership has not passed to the Customer.
- 6.2 In the case of Products where the Customer has made arrangement to receive the Products from ERNI's designated warehouse, ERNI's obligation is restricted to the provision of the Products in a ready-for-shipment form. The Customer is obligated to pick up the Products no later than 7 calendar days following receipt of notification from ERNI advising the Customer of the readiness for shipment of the Products.
- 6.3 Risk of loss of or damage to the Products shall pass to the Customer upon the delivery of the Products or notification of the readiness-for-shipment or the handover of the Products to the person carrying out the transport (as the case may be). This will apply independently of whether further Services have been agreed. In the case of Products to be delivered to the Customer's designated location, risk of loss of or damage to the products shall pass to the Customer on delivery to the designated location, unless the Customer fails to take delivery of the products, in which case such risk shall pass to the Customer at the time when ERNI has attempted to deliver the Products.

### 7 Payment and GST

- 7.1 Credit terms are available subject to ERNI's absolute discretion. If credit has been granted, upon delivery of the Customer's orders, ERNI will issue that Customer with an invoice. The standard credit term by which payment must be made is 30 calendar days from date of invoice. For Telegraphic Transfer in Advance ("TTA") payment and cash on delivery ("COD") payment, ERNI will issue that Customer with a debit note. Such invoice will be sent by email in PDF format unless otherwise agreed between ERNI and the Customer. All payments must be made without any set-off, deduction or counterclaim.
- 7.2 ERNI reserves the right at any time to revoke any credit extended to the Customer without giving a reason therefor.
- 7.3 If ERNI has not granted credit to the Customer, payment must be made in advance prior to delivery.
- 7.4 All prices are exclusive of consumption tax applicable in Japan, which ERNI will add at the rate applicable at the date of order acceptance.

### 8 Cancellations and Returns

- 8.1 ERNI may, at its discretion, allow the Customer to cancel an order subject to the Customer reimbursing to ERNI all costs and expenses incurred by ERNI together with a processing charge. Order cancellation is subject to confirmation in writing by ERNI's authorized signatory.

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- 8.2 In the event of cancellation of part of any order only, ERNI may invoice the Customer any difference in selling price per unit applicable to the actual quantity dispatched up to the time of cancellation compared to the quantity ordered.
- 8.3 A processing charge will be imposed in respect of all Products returned other than due to defects covered by the warranty as set out in clause 9 (Warranty). ERNI reserves the right to apply a handling charge of USD50 at prevailing exchange rate as determined by ERNI and other fees incurred by ERNI in relation to the cancelled order including without limitation finance, storage, transportation and design fee.
- 8.4 ERNI may, at its discretion, allow the Customer return Products to ERNI, and receive a credit or refund and on the following conditions:
- The Customer must contact ERNI in advance to obtain ERNI's prior agreement for a return and have received a return number which is to be quoted on all relevant paperwork;
  - Any return must be made within 30 calendar days of the date of delivery;
  - Products must be returned to ERNI in their original condition and packaging, unused and in a condition, which will enable them to be immediately fit for re-sale;
- 8.5 Where the Customer returns products to ERNI not in accordance with clause 8.4 (i) – (iii) above ERNI may refuse to accept the return and the Customer shall bear all costs and expenses incurred by ERNI if ERNI is required to re-deliver the Products to the Customer.
- 8.6 ERNI accepts no responsibility for any loss of or damage to Products in transit from Customer to ERNI or for any items received by ERNI with them.
- 9. Warranty**
- 9.1 ERNI warrants that to the best of its knowledge, all Products supplied by ERNI are free from defects to the extent that they can be considered "fit for purpose" based on the purpose and uses set out in ERNI's sales literature.
- 9.2 To the extent permitted by law, in the event of any such Product being unmerchantable, and subject to the provisions of clause 5 (Inspection, Transit Delays and Non-Delivery) surrounding defects apparent on delivery, ERNI will (at its option) replace or repair the Product or refund the purchase price.
- 9.3 These warranties shall not apply to any defect which arises from improper use, failure to follow the product instructions, or any repair or modification made without the consent of ERNI.
- 9.4 To the extent permitted by law, the remedies set out in this clause 9 shall be the Customer's sole remedies for any breach of warranty and in respect of the supply or non-supply of Products and/or Services.
- 9.5 The availability of the remedies set out in this clause 9 is subject to:
- a claim being made in writing to ERNI, prior to the return of any defective Product, and within 12 months of the original date of delivery or date of service, or such other periods as may be indicated by ERNI for specific Products or Services from time to time in writing; and
  - the Customer returning of the relevant Products, in accordance with ERNI's instructions and suitably packaged. In particular, for any returns, the Customer must obtain a return number from ERNI and quote this on all paperwork in respect of the Products and the nature of any claimed defect.
- 9.6 Where the Customer returns defective products otherwise than in accordance with these provisions, ERNI may refuse such Products and return them to the Customer at the cost of the Customer.
- 9.7 Any returned Products which are replaced by ERNI shall become the property of ERNI. Title of replacement Products shall pass to the Customer in accordance with the provisions of clause 6 (Passage of Risk and Acceptance), and the period of the replacement Product's warranty shall be the unexpired period of the defective Product's warranty.
- 9.8 Save as expressly provided in these terms and conditions of sale, all implied warranties, terms and conditions (whether statutory or otherwise) concerning the supply or non-supply of Products and/or Services are excluded to the fullest extent permitted by law (including, without limitation, the implied terms of satisfactory quality, fitness for purpose and provision of services with reasonable care and skill).
- 9.9 Except as required by law, ERNI will not be liable to the Customer for any loss, damage or liability of any kind whatsoever which arises out of the breach of implied warranties, terms or conditions (statutory or otherwise) or breach of implied warranties, terms or conditions (statutory or otherwise) or breach of any other duty of any kind imposed on ERNI by operation of law. The Customer acknowledges that it is responsible for ensuring that the Products and Services it

orders are fit for the purposes for which it intends to use them.

- 9.10 In giving the warranties set out above, ERNI does not exclude or limit any application of relevant law where to do so would contravene that law or cause any term of these conditions to be void ("Non-Excludable Condition"). These warranties are in addition to any Non-Excludable Conditions.

### 10 Export Control and Limitations of Use

- 10.1 Products of ERNI may be subjected to export control restrictions of Japan, Singapore, United Kingdom, United States of America, European Union and other countries ("Export Laws"). The Customer shall comply with all such Export Laws and obtain any license or permit required to transfer, export, re-export or import the products.
- 10.2 The Customer shall not, directly or indirectly, sell, permit to be sold, dispose of, export, re-export or otherwise provide products to any country or entity under sanction or embargo administered by Japan, Singapore, Germany, United Kingdom, United States of America, European Union or any other country.
- 10.3 The Customer certifies that Products purchased from ERNI will not be used, sold or incorporated into products used directly or indirectly in the design, development, production or use of chemical, biological or nuclear weapons, delivery vehicles and systems of the same or in the development of any weapons of mass destruction.

### 11 Liability

- 11.1 ERNI shall not be under any liability for damage, losses (whether direct, indirect or consequential), expenses, liabilities, loss of profits, business or economic loss, depletion of goodwill, costs (including legal costs), claims, demands, proceedings, judgments or otherwise resulting from the failure to give advice or information or the giving of incorrect advice or information whether or not due to its negligence or that of its employees, agents or sub-contractors.
- 11.2 ERNI shall not be liable for economic loss, punitive damages, loss of revenue, loss of profits or expected future business, damage to reputation or goodwill, loss of any order or contract or any consequential or indirect loss or damage, all as may result from, or be connected with:
- any express or implied terms of the contract between ERNI and the Customer, or of any order accepted by ERNI;
  - any duty of any kind imposed on ERNI by law arising out of or in relation to the contract between ERNI and the Customer or order;
  - any defect in the Products or Services;
  - intellectual property rights infringement; or
  - any other loss whatsoever arising out of these terms and conditions of sale.
- 11.3 Nothing in these terms and conditions of sale (including without limitation this clause 11) shall exclude or limit the liability of ERNI for death or personal injury caused by the intent or gross negligence of ERNI or its employees, agents or sub-contractors, or for fraud or anything else which cannot by law be limited or excluded.

### 12 Force Majeure

- 12.1 A force majeure event is any event beyond the reasonable control of ERNI (including but not limited to government actions, war, fire, explosion, earthquake, flood, labour disputes, traffic congestion, the downtime of any external line, or ERNI's inability to procure services, materials or articles required for the performance of the contract except at enhanced prices). If ERNI is prevented or restricted from carrying out all or any of its obligations under these terms and conditions of sale by reason of any force majeure event, then ERNI shall be relieved of its obligations during the period that such event continues, and shall not be liable for any delay and/or failure in the performance of its obligations during such period. If the force majeure event continues for a period longer than fourteen calendar days, ERNI may cancel the affected order or cancel the whole or any part of these terms and conditions of sale, without any liability to the Customer.

### 13 Intellectual Property Right

- 13.1 ERNI retains all intellectual property rights, whether registered or unregistered, including without limitation, trademarks, patents, and copyright of all documents, ERNI website, drawing rights, design rights, models, other data provided or redeveloped.

### 14 Limitations

- 14.1 Notwithstanding anything herein, the aggregate liability of ERNI under any order, irrespective of the legal ground (whether in contract, tort, breach of statutory duty or otherwise) shall be not exceed [100%] of the net order value of the order, save that this clause shall not limit or exclude any liability of which cannot be effectively excluded in law such as damages caused by wilful misconduct, death of or personal injury to any person caused by intent or gross negligence. Unless prohibited by



law, any claims shall be made within 12 months from the date of delivery.

**15 Anti-Bribery**

15.1 The Customer shall (and shall ensure that persons associated with it or other persons who are providing goods or services in connection with these Terms and Conditions shall) comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption and shall:

- i. not (directly or indirectly) induce any employee, agent or subcontractor of ERNI to make any concession to or confer any benefit on the Customer, refrain or withhold from doing any act, in return for any gift, money, or other inducement;
- ii. not do or omit to do any act that will cause or lead ERNI to be in breach of any of the applicable laws, statutes, regulations relating to anti-bribery and anti-corruption;
- iii. promptly report to ERNI any request or demand for any undue financial or other advantage of any kind received by the Customer in connection with the performance of this contract;

15.2 The Customer is informed that:

- i. ERNI employees are not permitted to accept gifts of more than token value, loans, excessive entertainment or other substantial favours from any company or individual that does business with ERNI or seeks to do so;
- ii. ERNI employees are not permitted to solicit gifts or other favours from any company or individual that does business with ERNI, or seeks to do so; and
- iii. entertainment of ERNI employees is acceptable only if it has a justifiable business purpose. It should be of a reasonable nature and such that ERNI's employees, agents or contractors, can reciprocate.

15.3 Any breach of this clause 15 shall be a material breach of these terms and conditions which is incapable of remedy.

**16 Data Protection and Customer Information**

16.1 The Customer acknowledges and consents to ERNI's collection, use and/or disclosure and transfer of personal data of the Customer's officers or employees, which Customer may furnish to ERNI:

- i. for the purposes of providing the Products or Services;
- ii. to ERNI's affiliated entities and agents with whom ERNI may deal with in connection with the provision of the Products and Services in Japan, Singapore, Switzerland and the European Economic Area, (collectively the "Purposes").

Where the Customer provides ERNI with any personal data or personal data of third parties (including without limitation the Customer's directors, officers or executives, if any), the Customer warrants and confirms that it has obtained all necessary consents to do so, and that ERNI may collect, use and disclose such personal data for the Purposes and the Customer will indemnify ERNI in respect of any penalties, liabilities, claims, demands, losses and damages as a result of the Customer's breach of such warranty.

**17 Termination**

17.1 Notwithstanding anything herein, if at any time after the commencement of an order, the Customer commits a material or persistent breach of the relevant order and/or these GTC and (if such a breach is remediable) fails to remedy that breach within 7 days after receiving notice of the breach; commits a material breach which cannot be remedied, then ERNI may forthwith terminate the relevant order with immediate effect and such termination shall be without prejudice to any obligations or rights of ERNI which have accrued prior to such termination.

**18 Law and Jurisdiction**

18.1 The contract between ERNI and the Customer based on these GTC as applicable to each Customer order and any other matter related thereto shall be governed by and interpreted in accordance with the laws of Japan and the Customer submits to the exclusive jurisdiction of the Tokyo District Court for the first instance.

18.2 If any part of these GTC is found to be unenforceable by any court or competent authority or would be found to be unenforceable if it were interpreted or construed in a particular way, then it is the parties' express intention that the relevant wording should be interpreted or construed so as to avoid such a finding and that, in the event of such a finding, the remainder of the provision in question shall be interpreted or construed to give it full effect.

**19. Miscellaneous**

19.1 Any notice or other communication required to be given under or in connection with an order and/or these GTC shall be in writing and shall be delivered or sent to the other party at its address, fax number or email address set out in the relevant order or such other address, fax number or email address as the

addressee has by five (5) days' prior written notice specified to the other party. Any such notice, demand or other communication so addressed to the relevant party shall be deemed to have been duly given delivered (i) if given or made by hand delivery, at the time of delivery; (ii) if given or made by posted letter, on the fifth (5th) day after posting (if given by pre-paid registered mail); (iii) if given or made by telefax, when immediately upon transmission with telefax confirmed transmission slip; or (iv) if given or made by email, immediately upon transmission.

19.2 No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of these GTC or any order shall either be or be deemed to be a waiver or in any way prejudice any right of that party under these GTC or any order.

19.3 The Customer shall not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under any order and/or these GTC without the prior written consent of ERNI.

19.4 These GTC have been prepared in the English language which shall be legally binding and prevail over any translation made or to be made.

19.5 Registered office: ERNI Electronics K.K., 3-20-9 Shibaura, Minato-ku, Tokyo, Japan.

Date of Issuance: 6 March 2019