

SHARP Electronics GmbH
Standard Terms and Conditions of Business - for commercial transactions only for finished products and spare parts-

1. Area of application / Self-supply / General Terms and Conditions of the Customer

These conditions shall be the basis and shall be deemed to be an integral part of all – even future – supply contracts for finished products and spare parts (together “goods”) negotiated or handled by or with us. Unless agreed otherwise in writing, our supply obligation shall be subject to self-supply. Deviating or opposing terms and conditions of the customer's are hereby expressly opposed.

2. Conclusion of contract, commitment period

Our quotations shall be not binding. With the conclusion of a supply contract, we do not assume an acquisition risk. The customer shall – unless otherwise stated in his purchase order – be tied for three (3) week's to his offer to purchase. In case we will not send any order acceptance, our acceptance will be effected by the delivery of the ordered goods.

3. Fixing of a deadline

If it is statutorily necessary to set a reasonable period for ourselves or the customer, this shall be at least 2 weeks.

4. Terms of payment, offsetting

We additionally charge € 8,90 for finished products, if the total net invoiced price of the order does not exceed € 250,--. For deliveries of spare parts we charge shipping costs in the amount of € 2,56 per each delivery. Unless expressly agreed otherwise (e.g. cash in advance), all payments are to be effected free our payment office in Hamburg by transfer within 14 days after delivery minus 2 % discount or 30 days after delivery without deduction. Decisive for the charging of discount for early payment in the case of transfer shall be the day the money is credited to our account. Discount for early payment may only be deducted when all of the due payment obligations from earlier business transactions have been met. Payments shall be offset by us initially against the least secured account receivable, in the case of equally secure accounts receivable against the oldest due account receivable, in each case.

Alternatively, the customer can grant us a SEPA Business to Business Direct Debit mandate. Collection of the direct debit shall be effected according to the date of payment agreed upon while considering the cash discount rate agreed upon for all discountable amounts. The deadline for pre-notification shall be reduced to five days. The customer guarantees to provide the funds in the account. Costs incurred due to non-payment or reversal of the direct debit payment shall be borne by the customer, provided that non-payment or reversal was not caused by us.

5. Decline of assets, offsetting, right of retention

If, after the conclusion of the contract, circumstances become known to us which play a major role in jeopardising the solvency or credit worthiness of the customer, as a result of which our entitlement to payment is threatened, we shall be entitled to reject fulfilment of our supply obligations until the counter-performance (payment) has been effected or adequate security has been provided for it. The customer can only offset on the basis of such accounts receivable or exercise a right of retention which is undisputed or has been the subject of a non-appealable court decision.

6. Delivery dates, part deliveries, Delay, Force Majeure

If the delivery date is not marked as “fixed” and confirmed by us expressly in writing as “fixed”, delivery shall take place in accordance with the contractual terms, if it arrives within one (1) week after the not binding delivery date. If the customer does not expressly emphasise a prohibition of part delivery in his purchase order, we shall be entitled to such to a reasonable extent. If a delivery of goods by us, which is not a fixed delivery, is delayed, the customer may, if he demonstrably suffered a loss therefrom, claim a compensation as liquidated damages of 0,5 % for every completed week of delay, but in no case more than a total of 5 % of the price of that part of the supplies which because of the delay could not be put to the intended use. Additional claims for damages of the customer because of delay of the supply are likewise limited to 5 % of the purchase price. This does not apply in cases of mandatory liability due to intent, gross negligence or due to injury of life, body or health. Cancellation of the contract by the customer based on statute shall be limited to cases where we are responsible for the delay. The customer shall declare on our request within 2 weeks whether the customer cancels the contract due to the delayed supplies or insists on the supplies to be carried out or on compensation. The above provisions do not imply a change in the burden of proof to the detriment of the customer. Cases of Force Majeure which prevent us, our components suppliers or a company entrusted by us with contract handling from handling the contract, shall exempt us from performance of the contract until the case of Force Majeure is over. If the following events are of considerable significance with regard to our obligation and are not our fault, not even with regard to the selection of our suppliers or sales companies, they shall be considered tantamount to cases of Force Majeure:

- a) Industrial dispute measures
- b) Absence of adequate supply with finished products, spare parts, raw materials and supplies.

If the disruption persists for longer than one month, either party to the contract shall be entitled to cancel the contract in writing. All further claims shall in this case be excluded. If cases of Force Majeure or industrial dispute measures affect the customer's works, the same shall apply by analogy to his contractual obligations.

7. Shipping, damage in transit, delay in acceptance, return of goods, provisional taking-back

Unless expressly agreed otherwise, shipping of the goods shall be effected D.D.P. customer's domicile (according to Incoterms 2000). If upon delivery of the goods damage (i.e. a loss or damage to the substance) is externally detectable on the goods, the customer must record the loss or the damage in a receipt certificate to be signed by the customer and the deliverer (carrier). Damages not externally detectable must be reported by the customer to the deliverer without delay, at the latest, however, on the 6th day after delivery and in writing. The obligations of examination and complaint in relation to us under commercial law shall remain unaffected by this. In the event of delay in acceptance by the customer we can, without prejudice to any other rights, from the third week invoice storage charges in the amount of 0.5 percent of the net invoice amount per month or part month. For the orderly handling of returns of goods the customer undertakes to complete the “Taking-back application” made available on request and to return it to us. After examination of the reason for sending back, the customer shall receive an approved fetch-back note which contains a SHARP take-back number. Fetching back of the goods appropriately marked with the SHARP take-back number is then arranged for by us. If, departing from the taking-back procedure described above, we accept goods returned without our requesting them, taking-back shall initially be provisional. In the event of final taking-back we shall credit the current market value determined by us at our reasonable discretion for the day of taking-back.

8. Extended retention of title, assignment of receivables

All of the goods delivered shall remain our property until the complete payment of all of the receivables – also future ones – owed to us from the business relationship with the customer. The customer shall preserve the goods subject to retention of title free of charge for us with the due care and diligence of a prudent businessman. The customer undertakes to grant us

access to the goods subject to retention of title at any time during normal business hours. In the event of attachment of the goods subject to retention of title by third parties the customer shall draw attention to our ownership rights and inform us without delay. Pledging or transfer by way of security of the goods subject to retention of title is not permitted. Machining or processing of the goods subject to retention of title shall be carried out for us as manufacturers in the sense of Art. 950 of the German Civil Code without committing us thereunder. In the case of processing or mixing of the goods subject to retention of title with the goods of third parties we shall be entitled to a share of co-ownership of the new item according to the ratio of the invoice value of the goods subject to retention of title to the invoice value of the processed/mixed goods of third parties. The new goods shall to that extent be deemed to be goods subject to retention of title. The customer shall be entitled to sell the goods subject to retention of title in an orderly business transaction as long as he punctually meets his contractual obligations and in particular fulfils the following conditions. The claims arising from re-sale or on other legal grounds (e.g. tortious act) concerning the goods subject to retention of title, in particular accounts receivable, the customer shall already now be assigned to us to the full extent, or, in the case of processed/mixed goods in accordance with the part of our co-ownership. We accept the assignment. If the claims arising from re-sales are allocated to a current account relationship already existing between the customer and his own customers, all of the balance receivables from the current account up to the level of the amount which corresponds to the original current-account related receivable shall be assigned. We revocably empower the customer to assert the claims assigned to us and to himself collect the receivables assigned to us for our account in his own name. Amounts collected are to be used immediately for the payment of our due receivables. Further assignment of accounts receivable assigned to us shall be excluded without our consent. This shall also apply to sale to and collection by a factor. We shall issue approval for factoring if it has been ensured by the factor and confirmed to us that payments falling on our goods subject to retention of title shall, up to the amount of the sum invoiced by us for these goods, be passed on to us direct by the factor. Securities provided shall be released on request at our discretion, to the extent that their realisable value exceeds the receivables to be secured by more than 20% overall. The determination of the realisable value shall be effected as a lump-sum, starting from the price of the goods shown on the customer's invoice (i.e. without any discounts and other deductions from the price) minus an average utilisation mark-down in the amount of 1/3 of the price. We are entitled to revoke the direct debit authorisation and/or to request the goods subject to retention of title back for our security, if after delivery circumstances become known to us which jeopardise orderly performance of the contract on the part of the customer (e.g. application for the opening of insolvency or composition proceedings, decline of assets, default in payment etc.). After the revocation of the direct debit authorisation the customer shall be obliged to make known to us without delay the receivables assigned and their debtors without delay, to transmit all of the data necessary for collection including the associated documents and to disclose the assignment to the third-party debtor. The customer hereby undertakes and gives an assurance to inform us without delay, if his assets situation could endanger the orderly meeting of his obligations existing or to be entered into in relations with us. This obligation shall exist up to the complete settlement of all open invoices from the supply relationship, in particular in the case of the conclusion of follow-up contracts.

9. Defective Products

If the customer demands subsequent performance without rightly invoking recourse due to a purchase of consumer goods, we can remedy the defective products at our discretion by repair or reworking or delivery of a replacement. In the event of recourse due to a purchase of consumer goods the customer shall have the right of choice, he having to prove by suitable means that the goods have been sold by him or another purchaser in the supply chain to a consumer. In the case of replacement the customer shall be obliged to hand over the benefits of use drawn from the use of the goods contemporaneously with replacement. If subsequent performance fails or is impossible or is refused by us, is unacceptable for the customer or is not carried out by us within the reasonable period of time set by the customer, the customer can cancel the supply contract or demand a reduction of the purchase price. The customer can also cancel the contract immediately if there are any special circumstances which justify this after the weighing-up of both sides' interests. If the goods are subsequently brought by the customer to a place other than the place of delivery agreed upon, without bringing to this place corresponding to the use of the goods for the intended purpose, the customer cannot demand replacement of the expense thus incurred within the scope of subsequent performance. Claims for damages because of defective goods are subject to Item 11.

10. Statutory limitation of defective goods claims

Unless otherwise agreed, defective goods claims shall be subject to the statute of limitations as a matter of principle 12 months after delivery to the customer. If the goods have been sold to a consumer by the customer directly or by one of the purchasers in the supply chain, the defective goods shall be subject to the statute of limitations at the earliest two (2) months after the point in time in which the customer has satisfied the defective goods claims of his immediate customer, but not later than five (5) years after delivery to the customer by us. If the defective goods have been used in accordance with their usual manner of use for a building structure and if it caused its defectiveness, the defective goods claims for these goods shall be subject to the statute of limitations five (5) years after delivery.

11. Damages

We do not accept liability for damage caused by simple negligence, unless damage is involved for which we would be responsible irrespective of negligent behaviour (e.g. product liability), or damage from physical injury, harm to life or health or the violation of significant contractual obligations. In the case of the violation of significant contractual obligations our liability is, in the case of simple negligence, restricted to such damage, the occurrence of which we could reasonably foresee at the time of the conclusion of the contract. For the replacement of data we shall accept responsibility only when the customer has ensured that these data are reproducible, in the sense of orderly data processing from data stock held in readiness in machine-readable form, with reasonable effort and expenditure.

12. Rights to use software

As far as the subject of the supply business transaction is (also) the permanent provision of software, the customer shall acquire a non-exclusive, geographically and time-wise unlimited right of use for the use of the software on one device. The program may only be copied for the purpose of the production of a program copy which is used for securing the program, unless a back-up copy is included in the scope of supply. Upon change of the hardware the software is to be deleted on the hardware used so far. The customer shall be entitled to sell the software or to give it away permanently to third parties, provided that the acquiring third party declares itself to be in agreement with the continued application of the above terms and conditions also in relation to him. In the case of passing-on the software is to be deleted on the hardware used by the customer and all program copies

SHARP Electronics GmbH

Standard Terms and Conditions of Business - for commercial transactions only for finished products and spare parts-

including any possible back-up copies are to be handed over to third party or diskettes not handed over are to be destroyed.

13. Data privacy

The customer's data shall be subject to data processing for order handling and sales statistics.

14. Applicable law, venue

The law of the Federal Republic of Germany applicable to business between residents shall apply. The sole venue for all disputes between the parties resulting from or in connection with the business relationship shall be Hamburg, unless another venue is mandatory according to the law.