

## **1. Scope of Validity / General Terms and Condition of the Customer**

The following Terms and Conditions in the version notified most recently to the Customer shall form the basis of and apply to all supplies of systems which may consist of PC and / or monitors and / or accessories ("Information Display Systems") by SHARP to the Customer. Customer's Terms and Conditions are excluded even if SHARP does not expressly exclude them.

## **2. Conclusion of Contract, Period of Obligation**

**2.1** The purchase of Information Display Systems is concluded by Individual Sales Contracts. These sales contracts are concluded by the customer's written purchase order and SHARP's written order confirmation. The customer will indicate in his purchase order the product name, model number, quantity, price, delivery date of the Information Display Systems as well as the delivery address.

**2.2** The Customer shall – unless otherwise stated in his purchase order – be tied for two (2) weeks to his purchase order.

**2.3** SHARP's supply obligation shall be subject to self-supply.

**2.4** If any export license or permission is required for the export of the Information Display Systems, SHARP will send out an order confirmation but the Individual Sales Contract shall come into effect only when such export license or permission has been obtained. The Customer agrees that, if due to delays in obtaining such license or permission the shipping date of Information Display Systems as set forth in the Individual Sales Contract is delayed such delay shall not constitute a breach by SHARP of the Individual Sales Contract; provided, however, that SHARP will ship the Information Display Systems as soon as practicable after obtaining such license or permission. If an export license or permission is not granted or granted only if SHARP fulfils certain obligations or conditions, SHARP shall be entitled to withdraw from the Individual Sales Contract by sending a written notice to the Customer within ten (10) days after being informed about such obligation or condition.

## **3. Payment Periods**

**3.1** Unless expressly agreed otherwise, all payments are to be effected free our payment office in Hamburg by remittance 30 days after delivery. Alternatively, the customer can grant SHARP 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 SHARP.

**3.2** If the Customer has to furnish a bank guarantee as security, the bank guarantee has to be issued by a major German Bank or Savings Bank and be valid for at least one year.

**3.3** If, after the conclusion of the contract, circumstances become known to us which jeopardize the solvency or credit worthiness of the Customer, SHARP shall be entitled to

- either postpone the outstanding deliveries until payment has been made
- or cancel all order confirmations for Information Display Systems not yet delivered unless the Customer makes payment in advance for the deliveries concerned at the latest 1 week before the agreed delivery date

## **4. Delivery Conditions, Delivery Dates, Delay**

**4.1** Unless the parties agree otherwise, the Information Display Systems are delivered C.I.P. Customer's principle place of business (according to Incoterms 2010).

**4.2** Delivery dates are only approximately agreed.

**4.3** A minimum delivery period time (lead time) agreed upon is calculated from the conclusion of the sales contract until the delivery of the Information Display Systems.

The lead time agreed upon has also to be respected when granting SHARP a (n extension of) deadline. The (extension of) deadline should not be less than half of the lead time.

**4.4** SHARP is entitled to perform partial delivery.

**4.5** If a delivery 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 on 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.

**4.6** 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 rules do not imply a change in the burden of proof to the detriment of the customer.

## **5. Force Majeure**

SHARP shall not incur any liability for failure to fulfill or any delay in fulfilling any of its obligations in the event that and to the extent that such failure is due to any impediment caused by Force Majeure. The foregoing provisions shall apply mutatis mutandis to any impediment caused by

- lack of sufficient supply of components, raw materials or auxiliary materials
- industrial action

unless SHARP could reasonably be expected to have taken the impediment into account or such impediment is due to SHARP's fault.

If such failure extends for a period of more than one (1) month, either party may without any liability on its part terminate the Individual Sales Contract by giving written notice to the other party. The foregoing provisions shall apply mutatis mutandis if the Customer fails to perform any of his obligations due to an impediment beyond his control.

## **6. Transport Damages/Incoming Inspection**

**6.1** The Information Display Systems must be examined for obvious defects, such as transport damages, and loss immediately upon receipt. All obvious damages must be set down in writing in the forwarder's receipt of delivery. If the Customer fails to set down the obvious defect in the forwarder's receipt of delivery or to notify the forwarder in time, he shall be deemed to have waived his right to assert any claim with respect to these defects.

**6.2** Within 2 weeks after receipt of each delivery / lot of Information Display Systems, the Customer shall carry out an incoming inspection and shall notify SHARP of the result. If any lot of Information Display Systems is rejected, the notification must include detailed information about the cause of the rejection. Should the customer fail to notify SHARP within the period specified hereinbefore, the customer's right to assert claims for the defect shall then lapse.

**6.3** If an Information Display System is rejected by the Customer and the rejection is justified, then SHARP shall at its choice either:

- (1) rework the rejected Information Display Systems; or
- (2) replace the rejected Information Display Systems with acceptable Information Display Systems.

**6.4** The re-acceptance of Information Display Systems returned without demand is made without prejudice and does not represent withdrawal from the contract.

**6.5** Except for the transportation costs for legitimately returned Information Display Systems, SHARP shall bear no other costs.

## **7. Extended retention of title, assignment of receivables**

**7.1** All of the Information Display Systems 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.

**7.2** The customer shall preserve the Information Display Systems 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 Information Display Systems subject to retention of title at any time during normal business hours. **7.3** In the event of attachment of the Information Display Systems subject to retention of title by third parties the customer shall draw attention to our ownership rights and inform us without delay.

**7.4** Pledging or transfer by way of security of the Information Display Systems subject to retention of title is not permitted.

**7.5** Machining or processing of the Information Display Systems 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 Information Display Systems subject to retention of title with the products 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 Information Display Systems subject to retention of title to the invoice value of the processed/mixed products of third parties. The new Information Display Systems shall to that extent be deemed to be Information Display Systems' subject to retention of title.

**7.6** The customer shall be entitled to sell the Information Display Systems 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. tortuous act) concerning the Information Display Systems 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 Information Display Systems 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 approve factoring if it has been ensured by the factor and confirmed to us that payments falling on our Information Display Systems subject to retention of title shall, up to the amount of the sum invoiced by us for these Information Display Systems, be passed on to us direct by the factor.

**7.7** Securities provided shall be released on request at our discretion, to the extent that their realizable value exceeds the receivables to be secured by more than 20% overall. Which securities we release, is at our discretion. The determination of the realizable value shall be effected as a lump-sum, starting from the price of the Information Display Systems shown on the customer's invoice (i.e. without any discounts and other deductions from the price) minus an average utilization mark-down in the amount of 1/3 of the price.

**7.8** We are entitled to revoke the direct debit authorization and/or to request the Information Display Systems subject to retention of title back for our security, if after delivery circumstances become known to us which jeopardize 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 authorization the customer shall be obliged to immediately make known to us 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.

**7.9** 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.

## **8. Warranty**

**8.1** SHARP warrants that the Information Display Systems conform to the property specification and are free from defects in material and workmanship.

**8.2** 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.

**8.3** 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.

**8.4** Claims for damages because of defective goods are subject to Item 11.

## **9. Statutory limitation of defective Information Display Systems claims**

**9.1** Unless otherwise agreed, defective Information Display Systems claims shall be subject to the statute of limitations as a matter of principle 24 months after delivery to the customer.

**9.2** If the Information Display Systems have been sold to a consumer by the customer directly or by one of the purchasers in the supply chain, the defective Information Display Systems 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 Information Display Systems claims of his immediate customer, but not later than five (5) years after delivery to the customer by us.

**9.3** If the defective Information Display Systems have been used for a building in accordance with their usual manner of use and the Information Display System caused the defect to the building, the defective goods claims for these Information Display Systems shall be subject to the statute of limitations of five (5) years after delivery.

## **10. Embargo Regulations**

**10.1** The Customer undertakes to meet the requirements of all embargo regulations, which are in force at the time of exporting the Information Display Systems, including but not limited to the Dual Use Regulation of the European Union.

**10.2** The Customer will be informed by SHARP of the Information Display Systems affected by the embargo regulations. The embargo liable Information Display Systems shall be marked in the relevant order confirmation.

**10.3** The Customer declares that it will not without the prior written consent of SHARP export the Information Display Systems outside the territory of the European Economic Area and countries associated with the E.E.A. SHARP shall only be entitled to refuse its consent in case of reasonable doubts that the Customer and/or its customer will not observe the applicable embargo regulations.

**10.4** If the Customer fails to meet its embargo requirements, then SHARP shall be entitled

- to withhold or cancel outstanding orders; and
- if due to this reason the German authorities impose a fine on SHARP, to charge this fine against any fund or credit note.

#### **11. Damages**

**11.1** We do not accept liability for damage caused by simple negligence, except if it is damage arising from physical injury or harm to life or health or serious organizational flaws or violation of significant contractual obligations.

**11.2** 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.

**11.3** 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.

**11.4** Liability under the Product Liability Act is not affected by the above regulations.

#### **12. Rights to use software**

As far as the delivery (also) comprises 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. 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 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, Jurisdiction**

**14.1** All supply transactions, including the Individual Sales Contracts made between the parties shall be governed by the laws of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of goods.

**14.2** In case of legal dispute the courts of Hamburg shall have exclusive jurisdiction.