

SHARP Devices Europe GmbH
Standard Terms and Conditions of Business
- for the supply of SHARP brand components -

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 "SHARP" brand components ("components") by SHARP to the Customer. Customer's Terms and Conditions are excluded even if SHARP does not expressly countermand them.

2. Conclusion of Contract, Period of Obligation

The purchase of SHARP brand components 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 components as well as the delivery address. The Customer shall – unless otherwise stated in his purchase order – be tied for two (2) weeks to his purchase order. SHARP's supply obligation shall be subject to self-supply. If any export license or permission is required for the export of the components, SHARP will send out an order confirmation but the Individual Sales Contract shall come into effect only when such export license or permission shall have been obtained. The Customer agrees that, if due to delays in obtaining such license or permission the shipping date of components 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 components 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. Prices, Payment Periods

The component's price is subject to the sales contract between both parties. Unless expressly agreed otherwise, all payments are to be effected free our payment office in Hamburg by remittance 30 days after delivery. If the Customer has to furnish a bank guarantee, the bank guarantee has to be issued by a First Class German Bank and be valid for at least one year. 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 SHARP may

- either postpone the outstanding deliveries until payment has been made
- or cancel all order confirmations for components 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, Force Majeure

Unless the parties agree on the contrary, the components are delivered C.I.P., Customer's principle place of business (according to Incoterms 2000).

Delivery dates are only approximately agreed.

The agreed lead time is calculated from the conclusion of the sales contract until the delivery of the components.

The agreed lead time has to be respected when setting SHARP a deadline. The deadline should not be less than half of the lead time.

SHARP is entitled to perform part delivery.

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. 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. SHARP shall not incur any liability for any failure to fulfil 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 finished 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.

5. Retention of Title

SHARP retains title to the components which are delivered to the Customer until the purchase price has been paid in full (such components hereinafter referred to as "Collaterals"). The Customer is obliged to notify SHARP immediately of any attachment or seizure of the Collaterals. The Customer is entitled to resell the Collaterals in the ordinary course of business. In the event of the Customer defaulting payment, SHARP is entitled to withdraw the Collaterals. The exercise of this right does not represent a withdrawal from the contract. The Customer

undertakes to guarantee SHARP free access to the Collaterals.

6. Transport Damages/Incoming Inspection

The components must be examined for obvious transport damages and/or obvious loss immediately after arrival at their place of destination. All obvious damages and/or losses to the components in transit must be set down in writing in the forwarder's receipt of delivery. All other transport damages/loss in transit must be notified to the forwarder in writing within seven (7) calendar days from receipt of the components. If the Customer fails to notify the carrier in time, it shall be deemed to have waived its right to assert any claim with respect to transport damages/loss in transit. Within 2 weeks after receipt of each delivery / lot of the components, the Customer shall carry out an incoming inspection and shall notify SHARP of the result. If any lot of components 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 of rejection of the components shall then lapse, and the components shall be deemed to have been accepted by the Customer. If any components are rejected by the Customer and the rejection is justified, then SHARP shall at its choice either:

- (1) rework the rejected components; or
- (2) replace the rejected components with acceptable components.

The re-acceptance of components returned without demand is made without prejudice and does not represent withdrawal from the contract. Except for the transportation costs of rejected and replacement Components, there are no other or additional expenses or liabilities SHARP is to assume in connection with the rework or replacement.

7. Warranty

SHARP warrants for a period of twelve (12) months from the date of delivery of the components that they conform to the specification and are free from defects in material and workmanship. If the components show defects within the warranty period, Customer and SHARP undertake to proceed as follows:

- ⇒ When returning the defective Components to SHARP the Customer shall refer to the so-called return merchandise authorisation (RMA);
- ⇒ SHARP shall issue a *provisional* credit note;
- ⇒ After acceptance by SHARP of the components as defective, SHARP may, as it thinks best, fulfil its warranty obligation by either
 - repair of the defective components and return to the Customer under the Customer's reference number. The repaired components shall be marked with the date of outgoing inspection. The Customer must reimburse to SHARP the provisional credited amount; or
 - substitute delivery the Customer must reimburse to SHARP the provisional credited amount; or
 - annulment/cancellation of the Individual Sales Contract. The provisional credit amount becomes final.

If SHARP does not repair or replace the defective Components within four (4) months, the customer shall have the right to demand cancellation of the sales contract. Any other statutory rights for defective components can only be exercised, if the above mentioned RMA-procedure fails.

8. Liability

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.

9. Embargo Regulations

The Customer undertakes to meet the requirements of all embargo regulations, which are in force at the time of exporting the components, including but not limited to the Dual Use Regulation of the European Union. The Customer will be informed by SHARP of the components affected by the embargo regulations. The embargo liable components shall be marked in the relevant order confirmation. The Customer declares that it will not without the prior written consent of SHARP export the components 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.

If the Customer fails to meet its embargo requirements, then

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

10. Applicable Law, Jurisdiction

All supply transactions, including but not limited to the Individual Sales Contracts made between the parties shall be governed in all respects by the laws of Germany, however, excluding the United Nations Convention on Contracts for the International Sale of Goods. In case of legal dispute the courts of Hamburg shall have exclusive jurisdiction.