

**SHARP Electronics GmbH**  
**General terms and conditions for the Energy-Shop (EU)**  
**- for business transactions with contractors only -**

## **1. Validity/clientele/language**

(1) All offers, purchase agreements, deliveries and services on the basis of orders from our registered Customers (hereinafter the "Customer") via our Energy-Shop <https://energyshop.sharp.eu> (hereinafter, the "Energy-Shop") are subject to these general terms and conditions. We expressly object to different or conflicting terms and conditions of the Customer.

(2) The product range in our Energy-Shop is aimed only at contractors. For purposes of these terms and conditions, a "Contractor" is an individual or legal person or a partnership with legal capacity who (which) at the conclusion of the contract is exercising their commercial or self-employed professional activity (§ 14 (1) of the German Civil Code (BGB)).

(3) Contracts with the Customer are only concluded in German or English, depending on whether the Customer places the order on the German-language or English-language page of the Energy-Shop. If the Customer's order goes through our German-language site, only the German version of these general terms and conditions shall apply. If the order is made through our English-language website, only the English version of these general terms and conditions shall apply.

## **2. Provider / Your contract partner**

Provider of the Energy-Shop and your contractual partner is:

Sharp Electronics GmbH (hereinafter "SHARP")

Nagelsweg 33 -35

20097 Hamburg

Germany

Registered office: Hamburg

Commercial register : Local court Hamburg No. HRB 125894

## **3. Conclusion of contract / storage and accessibility of the contract text**

(1) Our offers in the Energy-Shop are not binding.

(2) By placing an order in our Energy-Shop by clicking on the "Order" button, the Customer makes a binding offer to purchase the product concerned. The Customer is bound to this offer for two (2) weeks. Before sending his order, the Customer has the opportunity to correct any entries in his shopping cart, by either changing the quantity of his items or all deleting items by clicking on the recycle bin icon.

(3) We will send a confirmation of the receipt of the offer to the Customer by email immediately upon receipt of the offer. This order confirmation constitutes an acceptance of the offer from the Customer, unless at the same time we expressly reject the offer. The offer of the Customer and the order confirmation by SHARP forms the purchase agreement.

(4) The text of the agreement, consisting of the specific ordering information of the Customer and these general terms and conditions, will be stored by us and sent to the Customer together with the order confirmation by email. The Customer can see the terms and conditions in our Energy-Shop at any time. The order data will no longer be accessible over the Internet after conclusion of the contract for security reasons.

## **4. Prices and terms of payment**

(1) Unless otherwise agreed for an individual case, the respective current (net) prices specified at the time of ordering in our Energy-Shop, plus the statutory value added tax, shall apply.

(2) Subject to the provision in paragraph (3), we deliver only against payment in advance. Once the goods ordered are ready for delivery to the Customer, the Customer will receive an advance payment request for the purchase price to be paid by email. The purchase price is due and payable

without deduction within 5 business days after receipt of the advance payment request by the Customer.

(3) We reserve the right to give the Customer a credit limit for the purchase of the goods offered in the Energy-Shop at the time of the conclusion of the contract or at a later date at our sole discretion. In this case, the payment entitlements from the individual purchase agreements shall be due in accordance with the respective payment date set by us for this purpose. No discount shall be granted. We will be entitled to amend or withdraw the credit limit without notice, in the event that the creditworthiness or solvency of the Client are brought into serious questions for reasons which become known and which can be judged appropriate by any reasonable trader. In the event of the revocation or the exhaustion of the credit limit, we shall be entitled to make any outstanding deliveries only against advance payment in accordance with paragraph (2) or upon provision of a bank guarantee.

(4) Upon expiry of the agreed period for payment, the Customer shall be in default. The purchase price is to be made subject to interest during the delay at the applicable statutory default interest rate. We reserve also the right to claim further damages caused by delay, as well as the right to withdraw from the contract according to the legal regulations – having set a deadline for this where appropriate. Our claim to the commercial maturity interest (§ 353 of the German Commercial Code (HGB)) against merchants shall remain unaffected by this.

(5) The Customer may exert a right of retention only due to such claims that are undisputed or legally established or undisputed. In the event of defects of the delivery, the opposing rights of the Customer, in particular in accordance with section 7 paragraph (6) second sentence of these general terms and conditions shall remain unaffected.

## **5. Delivery and delivery time**

(1) Unless otherwise agreed, the delivery of goods ordered in the Energy-Shop within the European Union (EU) is carried out on the mainland to the named shipping address DDP (delivered, duty paid: Incoterms 2010). In the case of delivery to construction sites, the customer is responsible for securing the goods against theft, damage and environmental influences from the time of delivery by the forwarder. We reserve the right to charge additional costs (for transport, management, etc.) for deliveries outside the EU.

(2) The customer can check in the "shopping cart" of the Energy-Shop whether the article is available.

(3) As soon as the ordered goods are available during the delivery month specified in the purchase order, if a credit limit has been granted to the Customer and the invoice amount of the order is within the framework of this credit limit, (c.f. section 4 paragraph (3)), they will be delivered to the Customer without delay. In the case of agreed delivery against payment in advance in accordance with section 4 paragraph (2), the Customer shall instead receive an advance payment request, which informs him that the ordered goods are available for immediate delivery and he will be prompted to pay. In this case, the delivery will be arranged, as soon as the purchase price (including VAT and possible shipping costs) is received in full in our account. "Delivery information" will be sent, notifying the Customer that the delivery of the ordered goods has been arranged. The shipping time, i.e. the time from the arrangement of the delivery until the arrival of the goods at the Customer, shall be 5-10 business days, depending on the destination. (EU-Mainland)

(4) If the Customer – contrary to the foregoing provisions – desires a fixed, binding delivery date, such a date must be specifically agreed with us.

(5) We undertake to immediately inform the Customer if circumstances arise or become apparent which mean that the goods are not ready for delivery in a timely manner or an agreed delivery date cannot be met. The obligation to comply with individually agreed delivery dates shall remain unaffected by this.

(6) Unless a ban on partial delivery is expressly agreed, we are entitled to do so if

- a partial delivery can be used by the Customer for the intended purpose of the contract,
- the delivery of the remainder of the ordered goods is ensured, and
- no significant additional expenses or additional costs are incurred by the Customer as a result of this (unless we agree to bear these expenses).

(7) We cannot be held responsible in cases of force majeure or other events that are unforeseeable at the time of the conclusion of the contract (such as malfunctions of any kind, difficulties in material

or energy procurement, transport delays, strikes, lawful lockouts, lack of labour, energy or raw materials, difficulties in obtaining necessary regulatory approvals, governmental actions or the lack thereof, incorrect or untimely delivery by suppliers), and that prevent us, our suppliers or a company entrusted by us with the performance contract, from executing the contract and releases us from the contractual obligations until the discontinuation of the force majeure. In the case of temporary obstacles, the delivery or service periods shall be extended or the delivery or performance dates shall be moved according to the period of the obstruction plus a reasonable start-up period. However, if the disruption lasts more than one month, each contracting party is entitled to rescind the contract in writing. Further claims are excluded in this case. Where cases of force majeure or labour disputes affect the operation of the Customer, the same applies to its contractual obligations.

(8) The start of our delay in delivery shall be determined according to the statutory regulations. In any case, a reminder by the Customer is required. If we are in default with the delivery, the Customer may demand flat-rate damages for the delay, where he proves that he has suffered damage as a result. The flat-rate shall be 0.5 % of the net price (value of the delivery) for each completed calendar week of delay, but no more than 5% of the goods delivered late. We reserve the right to establish that the Customer suffered no damage or only a substantially lower damage than the above flat rate. Compensation claims by the Customer beyond the flat rate are excluded, unless the delay is based on at least gross negligence or the claims relate to damages from injury to life, limb or health.

(9) In the event of a delivery delay and in the case that we are responsible for the delay (exception: the case in paragraph (7) sentence 3), the Customer can withdraw from the purchase contract only within the scope of the legal provisions, On our request, the Customer must declare within 2 weeks whether he is withdrawing from the contract due to the delay of delivery or demanding the delivery and/or compensation. The above liability provisions do not entail a change of the burden of proof to the disadvantage of the Customer.

## **6. Transport damage/acceptance/return of goods**

(1) Any damage to the delivered goods identified by the Customer shall be reported by the Customer immediately (in the case of obvious damage), and within 90 days of receipt of the goods (in the case of concealed damage) at <https://eservice.sharp.eu> SHARP is liable up to the first recipient of goods.

(2) The risk of accidental loss and accidental deterioration of the goods shall pass at the latest on delivery to the Customer. Where an inspection and acceptance (sign-off) is agreed, this shall be decisive for the passing of risk. For the remainder, the legal provisions of the contract law for work and services shall apply accordingly for an agreed sign-off. The transfer or sign-off is equivalent if the Customer is in delay of acceptance.

(3) If the Customer is in default of acceptance, if he refrains from an act of participation or delays our delivery for other reasons for which the Customer is responsible, we are entitled to demand the resulting damages, including additional expenditure (e.g. storage costs). We may calculate storage costs of 0.5% of the net invoice amount per month, starting from the third week without affection on our other rights. We reserve the right to demonstrate an increased level of damage. However, the flat rate payment is to be off-set against further monetary claims. The Customer reserves the right to demonstrate that we suffered no damage at all or only substantially lower damages than the above flat rate.

(4) For the sake of the orderly processing of returns of goods, the Customer undertakes submit an application at <https://eservice.sharp.eu> The return of the goods will then be initiated by us. The customer may not return goods unsolicited. Costs arising from such an unsolicited return shall be charged to the customer. In the event of definitive return, we shall credit you with the time value specified by us for the day of the return at our reasonable discretion.

## **7. Material defects**

(1) Unless otherwise agreed below, the statutory provisions shall apply to the rights of the Customer for defects (including incorrect and reduced delivery and improper installation or poor assembly instructions). The special regulations for final delivery of the goods to a consumer shall remain unaffected in all cases (supplier recourse in accordance with §§ 478, 479 BGB).

(2) The primary basis of our liability is the agreement reached regarding the nature of the goods. The product descriptions and installation instructions for SHARP products offered in the Energy-

Shop labelled as the nature of the goods, as well as the goods/product components of other manufacturers made available to the Customer for download in his order in the Energy-Shop, shall be deemed as agreement on the nature of the goods.

(3) As far as the quality is not agreed, the legal provisions are to be used to assess whether a defect exists or not (§ 434 (1) sentences 2 and 3 BGB). We accept no liability for public statements made by manufacturers of other than SHARP or other third parties (e.g. advertising statements).

(4) The claims of the Customer for defects require that he has fulfilled his statutory examination and complaint obligations (§§ 377, 381 HGB). If a defect is identified during the investigation or later date, we are to be informed of this in writing without delay. The report is considered without delay if it takes place within two weeks, where the timely dispatch of the display is sufficient to meet the deadline. Regardless of this duty to inspect and give notice of defects, the Customer is obliged to report obvious defects (including incorrect and reduced delivery) within two weeks following delivery in writing; again the timely dispatch of the display is sufficient to meet the deadline. If the Customer fails to perform the proper examination or report a defect, our liability for the non-disclosed defect shall be excluded.

(5) If the supplied goods are defective, we can first decide whether we will provide subsequent fulfilment by rectifying the defect (repair) or by delivering faultless goods (replacement delivery). Our right to refuse subsequent performance under the statutory conditions remains unaffected.

(6) We are entitled to make the due performance dependent on the fact that the buyer pays the purchase price. The Customer is, however, entitled to withhold a reasonable portion of the purchase price in relation to the defect.

(7) The Customer has to give us the time and opportunity required for subsequent performance, in particular to pass on the goods for inspection purposes. In the event of a replacement delivery, the Customer must return the defective item to us according to the legal regulations and return any benefits of use. Subsequent performance does not include the removal of the defective item nor renewed installation if we were not originally committed to the installation.

(8) The expenses required for the purpose of testing and subsequent performance, in particular transport, travel, labour and material costs (not: removal and installation costs) shall be borne by us if there is in fact a defect. If the purchased goods are subsequently brought by the Customer to a place other than the agreed place of delivery, and that this is not in line with its intended use, he may not demand the reimbursement of the associated expenses in the context of the subsequent performance. If a request from the Customer to remedy a defect subsequently turns out to be unjustified, we shall be entitled to demand reimbursement from the Customer for the costs incurred as a result.

(9) In urgent cases, e.g. a risk to operational safety or to prevent of excessive damage, the Customer has the right to eliminate the defect himself and to demand compensation for the objectively necessary expenses from us. We must be informed of such a self-remedy immediately, beforehand if possible. The right of self performance does not exist if we would be entitled to refuse a corresponding subsequent performance under the statutory provisions.

(10) If the supplementary performance has failed or a reasonable period to be set by the Customer for subsequent performance has unsuccessfully expired or this period is dispensable under the statutory provisions, the Customer may withdraw from the purchase agreement or reduce the purchase price. However, there shall be no right of withdrawal in the case of a minor deficiency.

(11) Claims from the Customer for damages due to defects shall only exist under the terms of section 9 and are otherwise excluded.

(12) Claims for material defects – including contractual or statutory claims for damages – shall become time-barred in 12 months after delivery to the Customer, unless these relate to reimbursement according to § 478 (2) BGB or claims due to injury of life, limb or health, an intentional or grossly negligent breach of duty or fraudulent concealment of a defect. If the goods have been sold to a consumer either by the Customer directly or through one of the buyer in the supply chain, the claims shall expire not earlier than two (2) months after the date in which the Customer has fulfilled the claims for defects of his direct customer, but not later than five (5) years after delivery by us to the Customer. If defective goods have been used for a building according to their usual use and have caused the building to be defective, the period of limitations shall be five (5) years after delivery. The periods of limitation outlined in the Product Liability Act shall remain unaffected.

## **8. Intellectual property rights**

(1) In accordance with this section 8, we vouch that the delivered goods are free from third-party industrial property rights or copyrights. Each contracting party will notify the other party immediately in writing if claims are asserted against them due to the infringement of such rights.

(2) In the event that the delivered goods violate an industrial property right or copyright of a third party, we will modify or replace the delivery item at our discretion and at our expense so that no rights more of third parties are infringed, but the delivery item continues to meet the contractual functions, or give the Customer the right to use the item by concluding a licence contract. If we are not able to do this within a reasonable period of time, the Customer is entitled to withdraw from the contract or to reduce the purchase price. Any claims for damages from the Customer are subject to the limitations in section 9 of these terms and conditions.

(3) In the event of infringement by products of other manufacturers that are delivered by us, we will assert our claims against the manufacturers and suppliers for the Customer's account at our discretion or cede such claims to the Customers. Claims against us in these cases in accordance with this section 8 shall only exist if the judicial enforcement of the above mentioned claims against the manufacturers and suppliers was unsuccessful or is hopeless, for example, due to insolvency.

## **9. Liability for damages due to fault**

(1) Our liability for damages, regardless of the legal reason, in particular for impossibility, delay, defective or incorrect delivery, breach of contract, infringement of duties during contractual negotiations and tort is limited in accordance with this section 9, where this relates to fault.

(2) We shall not be liable in the event of simple negligence of our bodies, legal representatives, employees or other vicarious agents, unless this is an infringement of essential contractual obligations. The commitment to the timely delivery of the delivery item, its freedom from defects affecting its functionality or usability more than just insignificantly, as well as consulting, protection and care duties, which should allow the contractual use of the delivery item by the Customer or his buyers or to protect the life or limb of personnel of the Customer or to protecting the Customer's property from major damage are essential contractual obligations in this regard.

(3) As far as we are liable in accordance with paragraph 9 section 2 for damages on their merits, this liability is limited to damage that we have foreseen as a possible consequence of a breach of a contract or we would have had to have anticipated in due diligence on conclusion of the contract. Indirect damages and consequential damages that are due to defects of the delivered goods are only eligible for compensation insofar as such damage is typically to be expected given the intended use of the delivery item.

(4) The above liability exclusions and limitations shall apply in same extent in favour of our bodies, statutory representatives, employees, and other agents.

(5) As far as we provide technical information or advice and the information or advice is not part of the contractually agreed scope owed by us, this shall be provided free of charge and under exclusion of any liability.

(6) The limitations of this section 9 do not apply to our liability due to deliberate actions, for guaranteed characteristics, due to injury of life, limb or health or according to the product liability law.

## **10. Extended retention of title / Assignment of claims**

(1) All delivered goods shall remain our property until complete payment of all pending receivables owed to us from the business relationship with the Customer, including future receivables. The Customer shall keep the goods subject to retention of title for us free of charge with the diligence of any reasonable trader. The Customer agrees to grant us access to the goods subject to retention of title at any time during normal business hours. In the case of third party access to the goods subject to retention of title, the Customer will indicate our ownership of the goods and notify us immediately. Pledging or assigning the goods as security is not permitted. Editing or processing the reserved goods shall be carried out for us as manufacturer within the meaning of § 950 BGB, without this obliging us. In the case of the processing or mixing of the goods subject to retention of title with goods of third parties, we are entitled to co-ownership of the new property according to the proportion of the invoice value of the goods subject to retention of title to the invoice value of the mixed/processed goods of third parties. The new goods shall be deemed goods subject to retention of title in this regard.

(2) The Customer is entitled to sell the goods subject to retention of title in the ordinary course of business as long as he fulfils his contractual obligations in time and in particular meets the following conditions. The Customer shall assign claims resulting from the resale or any other legal basis (e.g. tort) with regard to the goods subject to retention of title, in particular amounts receivable, to in full by way of security with immediate effect, or in the case of processed/mixed goods according to the proportion of our co-ownership. We accept the assignment. If the claims arising from resale are placed in an existing current account relationship between the Customer and its customer, all balance claims from the current account transfer shall be assigned up to the amount which corresponds to the original amount receivable linked to the current account for the goods subject to retention of title. We revocably authorise the Customer to assert the claims assigned to us and to collect the claims assigned to us for our account in his own name. Recovered amounts are to be used immediately to pay our due amounts receivable. The further assignment of the receivables assigned to us without our consent is excluded. This also applies to the sale and confiscation by a factor. We shall agree to the factoring if it has been ensured by the factor and confirmed to us that payments for these goods up to the amount provided by us are forwarded by the factor directly to us. Granted securities shall be released on request at our discretion if their total realisable value exceeds the claims to be secured by more than 20%. The realisable value is calculated at a flat rate, starting from the price of the goods designated on the invoice of the Customer (i.e. no price deductions) minus an average recovery discount amounting to 1/3 of this price.

(3) We are entitled to revoke the direct debit authorisation and/or to reclaim goods subject to retention of title for our security if, after delivery, circumstances become known to us, which lead us to question the proper performance of the contract by the Customer (e.g. application for insolvency proceedings, insolvency, payment default etc.). After cancellation of the authorisation, the Customer undertakes to inform us of the assigned claims and their debtors without delay, to provide us all information necessary for the collection including the documentation, as well as to disclose the assignment to the third-party debtor. The Customer hereby undertakes and warrants to promptly notify us if his financial situation could endanger the proper performance of his existing or incoming liabilities. This obligation shall last until all open invoices from the supply relationship are paid in full, in particular in the event of subsequent contracts.

## **11. Guarantee**

SHARP gives its end customers a product and performance guarantee for the photovoltaic modules marketed under the trademark "SHARP". The guarantee certificate can be viewed and downloaded in the Energy-Shop. The manufacturers of other products (e.g. inverters, batteries, mounting system, other accessories) give their own guarantee for their respective products. Claims under this guarantee must be asserted against the manufacturer directly. The claims of the Customer in accordance with section 7 of these terms and conditions remain unaffected by the guarantee granted to the end customer.

## **12. Obligations of the Customer during the installation and for the resale / Observing installation instructions / Service and customer service**

(1) If the Customer installs the goods purchased in the Energy-Shop of himself for an end customer or if he has them installed through a vicarious agent, the Customer must observe the following duties:

- (a) The Customer shall guarantee the technical and correct installation and proper connection of the products for the end customer.
- (b) The Customer shall also ensure during installation that the required installation steps for the delivered goods are followed, and any warning notes are observed.
- (c) The Customer is required to fulfil the legitimate claims of the end customers for defects and to perform work within the framework of the warranty granted by SHARP. To ensure that the demands of end customers are brought into line with their own material defect claims and the rights of SHARP and that the SHARP warranty conditions are observed, SHARP shall immediately inform the Customer of any material defects and warranty cases and will coordinate the next steps with us. This obligation applies regardless of the commercial inspection and complaint obligations of the Customer. The Customer is entitled to reimbursement for work under the framework of the SHARP warranty, the amount of which shall be agreed between SHARP and the Customer on a case by case basis.

(2) If the Customer does not carry out the installation for the end customer himself, but resells the goods purchased from us to a third party, he has to consider in particular the following information:

- (a) The goods may only be resold to installers, whose qualifying ensures the appropriate and proper installation, connection and a possible repair of the contract products for end customers and who meet the conditions for seamless technical customer service.
- (b) During the sale, the Customer shall explicitly refer his buyers to the obligations contained in section 12 (1) letters (a) to (c) of these terms and conditions and shall contractually ensure that the buyer declares these obligations as binding on itself instead of the Customer.

### **13. Software usage rights**

Where the delivery transaction (also) involves the permanent provision of software, the Customer shall acquire a non-exclusive, spatially and temporally unlimited right of use for the use of the software provided on a device. The programme may only be copied for the purpose of making a copy of the programme which serves as a programme backup only, unless a backup is included. In the event that the hardware is changed, the software on the previously used hardware is to be deleted. The Customer is entitled to sell or give away the software to third parties permanently, provided that the acquiring third party agrees to the continuing applicability of the above terms and conditions. In the event of a transfer, the software on the hardware used by the Customers is to be deleted and all copies of the programme, including any backup copies, are to be given to the third party or any discs not handed over are to be destroyed.

### **14. Data protection and Cookie Policy**

(1) We refer to the latest data protection information and cookie guidelines at <https://energyshop.sharp.eu>

### **15. Choice of law, court of jurisdiction**

The law of the Federal Republic of Germany shall apply to transactions between residents of Germany. The exclusive place of jurisdiction for all disputes between the parties arising due to or on the occasion of the business relationship is Hamburg, unless the law prescribes a different jurisdiction as compulsory.

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