

## **Murata Electronics Europe B.V. GENERAL CONDITIONS OF TRADE**

*Registered at the Dutch Chambers of Commerce, April 2014*

### **Article 1 – Definitions and Interpretations**

For the purpose of these General Conditions:

- 1.1 MURATA shall mean MURATA ELECTRONICS Europe B.V., having its registered office at Wegalaan 2, 2132JC Hoofddorp, Haarlemmermeer, The Netherlands and registered under number 34208762 at the Trade Registry of the Chamber of Commerce and Industries in Amsterdam.
- 1.2 The Customer shall mean the natural person, legal entity, company or partnership entering into an agreement with MURATA for the purchase of MURATA Products.
- 1.3 Products shall mean the Products sold and to be delivered by MURATA according to the agreed specification and/or specification shown on the Order Acknowledgement.
- 1.4 Order Acknowledgement shall mean any written instrument confirming an order sent by letter, fax or electronic means in accordance with clause 3 hereof.
- 1.5 Acceptance Date shall mean the date of acceptance of a quotation as confirmed on a quotation document or form.
- 1.6 Days shall mean all calendar days.
- 1.7 With the exception of clause 6.3 hereunder, any failure to meet the time schedules or dates set forth in these General Conditions shall automatically constitute the failing party to be in default, without any formal notice being required.

### **Article 2 – Validity of these General Conditions**

- 2.1 These General Conditions shall apply to any offer and agreement for the purchase and sale of Products and to any ensuing obligation or other legal relationship between MURATA and the Customer.
- 2.2 The relevant General Conditions of the Customer shall also apply to the extent they do not conflict with these General Conditions. If any of the Customer's General Conditions are in conflict with these General Conditions, the latter shall prevail, even if the General Conditions of the Customer contain a similar prevalence clause.
- 2.3 Deviation from these General Conditions shall only be possible by mutual written agreement signed by both parties.

### **Article 3 – Offers and Acceptance**

- 3.1 MURATA shall notify the Customer of its acceptance of an order placed by the Customer by sending an Order Acknowledgement to the Customer. The agreement between MURATA and the Customer shall be deemed to exist when the Order Acknowledgement is sent, and not before.
- 3.2 Any quotation issued by MURATA shall be open for acceptance at any time up to and including the date shown on the quotation form. After this date, the quotation must be confirmed in writing by MURATA.
- 3.3 Any quotation is made on the basis that it will be accepted in full. In the event that the Customer places an order for only part of the quotation, a revised quotation may be sent to the Customer.
- 3.4 MURATA shall not be bound by modifications of, or supplements to orders and/or agreements until after it has accepted them in writing.

### **Article 4 – Prices**

- 4.1 Product prices shall be the prices stated on the Order Acknowledgement.
- 4.2 MURATA reserves the right to amend the Price to cover any alterations in the cost of labour, raw materials, transport or production in the event that the period between issuing the Order Acknowledgement and delivery exceeds 30 days.
- 4.3 MURATA reserves the right to adjust the Price should the Customer delay delivery or amend the ordered quantity.
- 4.4 If delivery of the Products is to be by instalments, each instalment shall be deemed a separate sale and the making of payment for each instalment on the due date shall be a condition precedent to future deliveries.
- 4.5 MURATA reserves the right to adjust the quantity of the Products from that shown on the Order Acknowledgement, in which case the total price and thus the invoice value shall be altered accordingly.
- 4.6 All prices shall be exclusive of VAT which, if applicable, shall be specified separately in the invoice. All prices shall be "FCA MURATA Warehouse premises" and any transportation from Murata's Warehouse premises shall be on the Customer's behalf whilst remaining the Customer's responsibility, and accordingly additionally be charged to the Customer.

### **Article 5 – Payment dates**

- 5.1 MURATA must receive payment within 30 days of the invoice date. Payments shall apply towards the outstanding invoice or the Customer's oldest outstanding invoice(s).
- 5.2 MURATA shall at any time have a right, prior to delivery, to require that the Customer gives sufficient security for the performance of its financial obligations, failing which MURATA may suspend or cease delivery of the Products, or terminate the agreement in accordance with Art. 11 of these General Conditions.
- 5.3 MURATA shall have the right, at any time, to require the Customer to pay cash upon delivery.
- 5.4 In case of non-payment or late payment, any other claims MURATA may have towards the Customer shall become due and payable upon formal notice, without proof of default.
- 5.5 In case of non-payment or late payment, the Customer shall also be obliged to pay interest on any payable amounts, without prior notification by MURATA . The interest shall be paid on the outstanding amounts due and payable and shall be calculated until the day the payment is made in full. The interest percentage shall be the interest rate determined by law plus 2%.
- 5.6 Any collection costs made by MURATA, in or out of court, shall be borne entirely by the Customer.

#### **Article 6 – Delivery and Risk**

6.1 Without prejudice to clauses 6.2, 6.3 and 6.4 hereunder, the Incoterm FCA MURATA Warehouse premises (Incoterms 2010 or the most recent version of the Incoterms issued by the ICC) shall be applicable to all agreements between MURATA and the Customer.

6.2 The Customer shall be responsible for the cost of delivery and for the risk for the carriage of the Products to its own premise. The risk and responsibility for the goods shall be transferred to Customer as soon as the Products are made available for delivery by MURATA in accordance with the FCA MURATA Warehouse premises Incoterm. Murata shall arrange customs declaration at its own risk and expense at the premises, if and to the extent applicable.

6.3 Claims for discrepancies in the Products or quantities shall be made by the Customer directly to MURATA within three days of receipt of the Products, or, if the Products are (claimed to be) not delivered within 14 days of the date of MURATA's invoice for the Products.

6.4 Delivery dates are indicative; late delivery shall not entitle the Customer to consider the agreement dissolved or claim damages. MURATA shall not be liable for delayed deliveries or the consequences thereof.

6.5 The Customer agrees to be fully responsible for the transportation agreement for the Products and the transportation of the Products and Customer shall maintain adequate transportation insurance for this purpose.

#### **Article 7 – Transfer of title**

7.1 The title to the Products shall pass to the Customer upon the performance of Customer's financial obligations to MURATA with respect to the Products and related orders. Until such moment,

MURATA shall retain ownership of the delivered Products. The Customer shall be deemed to keep the Products for MURATA and shall not be allowed to transfer the Products to a third party for use, sale, lease, to effect a fiduciary transfer of title or to create any other third party rights in the Products, or have such rights created, unless the Customer has obtained MURATA's prior written permission to do so.

7.2 The Customer shall be liable to MURATA for any loss of, or any damage to Products owned by MURATA by virtue of the first paragraph of this Article. The Customer shall be obliged to adequately insure the Products and keep them insured until the moment when the legal title passes to the Customer.

#### **Article 8 – Limitation of liability**

8.1 MURATA warrants the Products to be free of defects in materials and workmanship for a period of one year from the date of delivery. During this period, MURATA shall repair or replace any defective Products without charge. Except for cases of wilful act or gross negligence, MURATA shall not be liable for any loss or damage suffered by the Customer that is directly or indirectly caused by any of the sold Products, by the use or application of such Products or defects therein, or caused by improper maintenance of the Products. In no event will MURATA's liability for damages exceed twice the value of the Product(s) causing the damage involved.

8.2 Without prejudice to the general liability referred to in the first paragraph of this Article, MURATA hereby expressly excludes any liability for compensation for any direct or indirect damage that may be attributed to MURATA on the grounds of non-performance and/or any wrongful act by MURATA, its employees or representatives.

8.3 Customer will indemnify and hold MURATA harmless for any and all claims by third parties related to the Products delivered.

#### **Article 9 – Force Majeure**

In connection with the performance of the obligations of either party under these General Conditions and/or any other agreement, the parties may only refer to the presence of a force majeure situation in respect of facts and circumstances beyond the control of the party concerned, that are not for the party's risk or reasonably attributable to the party under the applicable law, provided that the respective party is not already in default of those obligations under the agreement before the occurrence of the force majeure situation. The following are examples of force majeure situations but by no means an exclusive summary: non-delivery or late delivery by suppliers, illness of employees of MURATA, defective aids or means of transport, fire, strikes, traffic obstructions, shortage of raw material and catalysts, fuels or electricity, excessive temporary surge in demand by customers, war, civil war, riots, frost, flood, storm, ice, snow and similar weather conditions.

#### **Article 10 – Waiver of rights**

If MURATA fails at any time to exercise any rights in connection with the Customer under these General Conditions or any agreement with the Customer, or if MURATA does not respond to a violation of these General Conditions or any other agreement, this shall by no means be regarded as a waiver for any subsequent violations of MURATA's rights or subsequent breach of the Customers obligations, nor shall it in any way affect MURATA's rights under these General Conditions or other agreements.

#### **Article 11 – Dissolution**

11.1 The Customer shall be in default by operation of law in the case of

- a) non-performance or improper performance by the Customer of its obligations under any agreement with MURATA and/or these General Conditions, upon written notice;
- b) late performance, by exceeding the date of performance.

11.2 The Customer shall be deemed in default by operation of law:

- a) if the Customer is bankrupt, is granted suspension of payments or if an application is filed for either of these purposes; if the Customer ceases to pay, or if its business is liquidated or has ceased to be operative; or
- b) in the case of a full or partial take-over by a third party, if the Customer's assets are attached or in the case of an attachment of all goods and chattels found on the Customer's premises.

11.3 In the event the Customer is in default, MURATA may terminate the agreement in full or in part without judicial intervention, without prejudice, however, to MURATA's rights to claim damages and without incurring liability for any damages on the part of the defaulting party.

#### **Article 12 – Exclusion of settlement**

Even if the Customer is of the opinion that the delivered Products are defective, the customer shall fulfill all its obligations under these General Conditions and the agreements and the Customer shall not have the right to offset its own claims against or suspend payments in connection with a claim it has been brought against MURATA.

#### **Article 13 – Order cancellations**

13.1 No cancellation or amendment of any order will be accepted unless received by MURATA in writing at least 70 days in the case of standard products or 120 days in the case of custom designed products before the delivery date notified by MURATA to the Customer.

13.2 Notwithstanding 13.1 above no cancellation or amendment of an order will be accepted where goods have been ordered or purchased by MURATA to meet the Customer's special requirements or where a special price has been negotiated.

13.3 MURATA reserves the right to levy cancellation charges in the event of any order amendment or cancellation up to the full value of the amendment or cancellation.

#### **Article 14 – Miscellaneous**

14.1 The Customer shall not assign any rights or delegate any duties hereunder.

14.2 MURATA reserves the right to sub-contract any or all of its obligations hereunder.

14.3 Paragraph headings are added for the ease of reference only and shall not affect the meaning of the conditions.

#### **Article 15 – Governing law**

The agreements between MURATA and the Customer, the ensuing obligations and these General Conditions shall be governed by the laws of the Netherlands. The Vienna Convention on the Sale of Goods, 1980, is not applicable.

#### **Article 16 – Competent Court**

Any disputes that may arise between MURATA and the Customer shall be submitted to the competent court in the district where MURATA has its registered office, unless MURATA agrees to refer the matter to the competent district court in the district where the Customer has its registered office.