

# STANDARD TERMS AND CONDITIONS FOR SALES OF ROHM PRODUCTS

2018/6/5

These Standard Terms and Conditions (the “Terms and Conditions”) set forth the basic terms that apply to all transactions between ROHM Co., Ltd. and its affiliates (collectively, “ROHM”) and buyer (“Buyer”) regarding all products and services manufactured and/or sold by ROHM (“ROHM Products”). Please read these Terms and Conditions carefully in their entirety, as ROHM’s acceptance of the Buyer’s purchase order is conditioned upon the Buyer’s agreement to each and every term and condition contained herein.

## 1. Precondition

Buyer is deemed to have agreed to these Terms and Conditions, upon any of the following by Buyer, its affiliates, agents or representatives:

- (i) acceptance of these Terms and Conditions in writing or by electronic means; or
- (ii) transmission of any purchase order for ROHM Products in writing or by electronic means either to ROHM or to any of its agents or representatives; or
- (iii) receipt of delivered ROHM Products or payments therefor.

## 2. Determination of the Price and Purchase Order

Any prices of ROHM Products quoted by ROHM to Buyer are subject to change, adjustment or withdrawal without prior notice, unless otherwise indicated in written quotation or unless otherwise agreed between ROHM and Buyer in writing. Unless otherwise agreed between ROHM and Buyer, the selling price of ROHM Products shall be the price indicated in ROHM’s written or electronic acceptance of the purchase order, and ROHM will charge Buyer such selling price. ROHM may, at its discretion, reject any purchase order.

## 3. Title, Risk of Loss, and Delivery

- 3.1 The title of ROHM Products and the risk of loss of or damage to ROHM Products shall pass to Buyer when the ROHM Products are delivered by ROHM to the freight carrier; unless otherwise agreed in writing between ROHM and Buyer. Buyer shall not be exempted from its obligations or liabilities under these Terms and Conditions for the reason of any loss of or damage to the ROHM Products occurring after such delivery.
- 3.2 Unless otherwise agreed in writing between ROHM and Buyer, in case of overseas shipments, Buyer shall be responsible for all import taxes, other taxes and overhead expenses incurred, as well as all required approvals or licenses and proceedings.

3.3 ROHM may ship ROHM Products by partial shipment.

3.4 The date of delivery shall be an estimate only, and ROHM shall not be liable for any damage, loss or expense incurred by Buyer, even if the delivery of ROHM Products is not made on or before the applicable scheduled date.

3.5 Buyer shall inspect the delivered ROHM Products immediately after their delivery. If ROHM does not receive any written objection or notice of rejection by Buyer within thirty (30) days after the delivery thereof, the ROHM Products shall be deemed to have passed the acceptance inspection of Buyer, and Buyer shall be deemed to have waived any and all claims with respect to the shipment of wrong products, insufficiency in quantity or visible defects.

## 4. Payment Terms

- 4.1 Unless otherwise agreed in writing between ROHM and Buyer, or otherwise designated by ROHM, the due date for payment shall be within thirty (30) days from the invoice date indicated in the invoice; provided, however, that ROHM may, with advance notice to Buyer, change, at its own discretion, the payment terms (such as changing the terms of payment to advance payment, payment on delivery, or assurance by letter of credit), depending on the financial and other status of Buyer.
- 4.2 Interest will accrue on any late payment at the rate of fourteen percent (14%) per annum or the maximum statutory interest rate permitted under the applicable laws, whichever is lower.

## 5. Taxes

Unless otherwise agreed in writing between ROHM and Buyer, all selling prices shall be exclusive of any taxes or duties, and Buyer shall be responsible for paying all the taxes and duties applicable in relation to the purchase of ROHM Products. If any consumption tax is applicable to the sale of ROHM Products to Buyer, it shall be added to the selling price, and be

paid by Buyer.

## 6. Force Majeure and Limitation on Production, etc.

- 6.1 ROHM shall not be liable for, nor be deemed to have breached any contract in relation to, any default due to fire, flood, natural disaster, earthquake, explosion, power failure, terrorism, communication failure, lack of electric power, lack of fuels, lack of machines, lack of equipment, lack of materials, or lack of labor, labor dispute, insurgence, war, riot, disturbance, civil commotion, act of governments, embargo, accident, any laws or regulations, order or judgment by courts, force majeure or any other cause that is beyond the control of ROHM.
- 6.2 In case of shortage of ROHM Products or strain in the production capacity of ROHM due to the cause mentioned above, ROHM may, at its discretion, allocate and adjust the quantity and timing of the production and the delivery to Buyer of ROHM Products. In such cases, ROHM shall have no liability to Buyer, and shall not be deemed to have breached any contract.

## 7. Limited Warranty

- 7.1 Subject to the provisions set forth in Article 7, ROHM warrants that ROHM Products are in conformity with specifications, data sheets and instructions for use that are issued by ROHM or are published on its websites; provided, however, that if other consent is made in writing between ROHM and Buyer, such consent shall prevail. The warranties under Article 7 shall last for one (1) year from the date of shipment of ROHM Products for Buyer.
- 7.2 The warranty under Article 7.1 shall be subject to the following conditions that: (i) the allegedly defective ROHM Products are returned to ROHM so that the cause of the alleged defect may be inspected; (ii) such defective condition can be reproduced at ROHM; and (iii) ROHM confirms that such defect is not in conformity with the warranties provided by ROHM. Notwithstanding Article 7.1, ROHM shall not be liable for any defect that is caused by the use or nonuse that deviates from what is prescribed in the specifications, data sheets and instructions for use, and any neglect, misuse, or error in handling, including inappropriate mounting or tests, by Buyer or any third party. Further, ROHM assumes no liability with respect to ROHM Products that are altered or modified by Buyer or any third party. In addition, ROHM assumes no liability whatsoever for any defect etc. of ROHM Products caused by or due to external factors

such as a surge, noise, distortion, and stress, or any defect of ROHM Products created as a result of Buyer's design, specifications, or instructions etc.

- 7.3 Subject to the conditions set forth in Articles 7.1 and 7.2, ROHM shall, at its election, repair or replace the non-conforming ROHM Products, or refund the amount paid by Buyer to ROHM for the non-conforming ROHM Products, and this shall be ROHM's sole obligation to Buyer for ROHM Products failing to meet ROHM's warranty. If ROHM elects to repair or replace the non-conforming ROHM Products, adequate time shall be provided to ROHM for such repair or replacement. Warranty for such repaired or replaced ROHM Products shall be provided for the remaining duration of the original warranty period.
- 7.4 ROHM SHALL NOT PROVIDE ANY WARRANTY WHATSOEVER, EXPLICITLY OR IMPLICITLY, AS TO THE MARKETABILITY OR THE FITNESS FOR A PARTICULAR PURPOSE OF ROHM PRODUCTS.
- 7.5 Buyer agrees that prior to using or distributing any products or systems that include ROHM Products, Buyer will thoroughly test such products or systems and the function of ROHM Products used in such products or systems. ROHM may provide technical assistance, data or other services, provided that ROHM's warranties, as set forth above, shall not be expanded or changed by providing such assistance or services, and no additional obligation or liability shall arise from such assistance or services.
- 7.6 ROHM Products are not designed for, and are not intended for use for the purposes of military affairs, astronautics, industrial equipment, automobiles, medical equipment, transport equipment, transportation equipment, nuclear power controllers, infrastructure, photovoltaic power generation, fuel control, car equipment including car accessories, various safety devices or the like (collectively, the "Special Purposes"). ROHM assumes no liability for Buyer's use of ROHM Products for the Special Purposes. Provided, however, that, if Buyer informs ROHM of its intention to use ROHM Products for any of the Special Purposes in advance, and Buyer and ROHM expressly agree in writing, on the particular Special Purpose, the details of incorporation of ROHM Products in Buyer's products, and condition of use (including environment), Buyer may use the ROHM Products subject to the agreed details and conditions.
- 7.7 Sample products, software, test products or articles under development (including design samples, engineering samples, and

evaluation boards) are provided on an “as-is” basis without warranty. ROHM HEREBY DISCLAIMS ANY WARRANTY, EXPLICIT OR IMPLICIT, INCLUDING WARRANTIES FOR MARKETABILITY OR THE FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO SAMPLE PRODUCTS, SOFTWARE, TEST PRODUCTS OR ARTICLES UNDER DEVELOPMENT.

7.8 ROHM assumes no warranties exceeding the warranties provided under Article 7 to Buyer or any third party including the Buyer’s customers. This provision does not require ROHM to extend its warranties under Article 7 to any downstream purchaser or user of ROHM Products.

## 8. Intellectual Property

8.1 Subject to the conditions under Articles 8 and 9, ROHM shall defend any claim, action or legal proceedings brought against Buyer and pay any damages, loss and expenses awarded by a final and non-appealable judgment against Buyer, or agreed to by ROHM as settlement or compromise, insofar as such claim, action or legal proceedings is based on the ground that any of ROHM Products provided by ROHM to Buyer directly infringes any US, EU or Japanese patent, copyright or misappropriates any trade secret (collectively, in this Article 8, the “Subject Claim”); provided that: (i) ROHM is promptly notified by Buyer regarding the filing of such Subject Claim and is provided with a copy of relevant documents; (ii) ROHM is provided with all evidence owned or stored by, or under the control of Buyer; (iii) ROHM receives reasonable assistance from Buyer to the extent necessary for submitting allegations and defenses in an action, or the negotiation for a settlement or a mediation, and may conduct these acts at ROHM’s own discretion; and (iv) in cases of settlement and mediation, ROHM confirms the conditions thereof in advance and approves the same in writing. Buyer agrees that it shall provide ROHM with all possible measures, defense and convenience with respect to such Subject Claim.

8.2 If any ROHM Product is subject to Subject Claim, ROHM shall have the right, without obligation and at its sole option to take one of the following measures:

- (i) ROHM obtains a license so that Buyer may continue to use the ROHM Products;
- (ii) ROHM modifies the design of, or provides substitute(s) for the ROHM Products at issue so that they will not infringe such intellectual property right to the extent not to materially affect

functions thereof;

- (iii) In case it is difficult for ROHM to implement either of (i) or (ii) described above, even if ROHM bears commercially reasonable costs therefor, ROHM may cancel the warranty onward provided to Buyer with respect to the ROHM Products at issue and suspend the supply thereof without being held liable for breach of contract or any other matter, by refunding to Buyer the selling price of such ROHM Products.

If ROHM elects to provide any of (i) through (iii) described above, ROHM’s obligations to compensate damages under Article 8.1 shall be deemed to have been completely performed with respect to the Subject Claim, except for the damages, loss or expenses incurred by Buyer prior to ROHM’s election of the said options, to which ROHM shall assume the obligations to compensate damages under Article 8.1. If ROHM elects either (ii) or (iii) described above, Buyer shall return to ROHM all of the ROHM Products at issue.

8.3 ROHM shall not be liable for any expense, loss or damage arising from Buyer’s willful act or gross negligence, nor for any settlement or mediation agreed by Buyer without prior written approval of ROHM.

8.4 If the Subject Claim made against Buyer is based upon any of the following items (i) through (vi), ROHM shall have no liabilities for or obligations to any and all expenses, losses or damages:

- (i) Buyer has used the ROHM Products in combination with other products, software or equipment;
- (ii) Buyer has used the ROHM Products in any manner or for any purpose of use other than those intended therefor in their design (in such case, ROHM assumes no liability whether or not ROHM had a knowledge of, or has been informed of, such manner of use by Buyer);
- (iii) Buyer has used the ROHM Products in its manufacturing or other production process;
- (iv) Buyer has altered or modified the ROHM Products;
- (v) ROHM has followed the standard, design, instruction or specification designated by Buyer; or
- (vi) ROHM has conformed to industrial standards or specifications, or Buyer has used the ROHM Products so that they conform to such standards or specifications.

8.5 Buyer will defend ROHM against any claim, suit, or proceeding brought against ROHM insofar as such claim, suit, or proceeding is based upon any of the items (i) through (vi) of Article 8.4 and Buyer

will pay any damages, losses, or costs finally awarded against ROHM for such claim, suit, or proceeding or agreed to by Buyer as settlement or compromise of such claim, suit, or proceeding.

8.6 ARTICLES 8 AND 9 SET FORTH THE SOLE LIABILITY REGARDING INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS BETWEEN THE PARTIES HERETO, AND REPLACES ANY AND ALL EXPLICIT, IMPLICIT OR STATUTORY WARRANTY IN RELATION THERETO. BUYER HEREBY AGREES TO THE PROVISIONS OF ARTICLES 8 AND 9, UNDERSTANDING THAT THE TERMS AND CONDITIONS REGARDING INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS DESCRIBED ABOVE ARE ESSENTIAL TO THESE TERMS AND CONDITIONS, AND THAT THESE TERMS AND CONDITIONS AND SUBSTANTIAL AND ECONOMIC TERMS OF TRANSACTIONS WITH BUYER WOULD GREATLY DIFFER WITHOUT SUCH TERMS AND CONDITIONS.

#### **9. Limitation on Compensation for Damages**

9.1 ROHM ASSUMES NO LIABILITY FOR ANY SPECIAL, COLLATERAL, INDIRECT, PUNITIVE, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE USE OF THE ROHM PRODUCTS, REGARDLESS OF WHETHER ROHM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCLUDED DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, COST OF SORTING DEFECTIVE PRODUCTS, REMOVAL, REWORK, REINSTALLATION, DISMANTLEMENT, CARRIER, OR TRACTION, ANCILLARY COSTS TO THE PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LABOR COSTS FOR RETESTING OR AGING, LOSS OF GOODWILL, LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR LOSS OF OPPORTUNITIES. NO CLAIM, SUIT, OR ACTION WILL BE BROUGHT AGAINST ROHM MORE THAN SIX (6) MONTHS AFTER THE DAMAGES HAVE OCCURRED.

9.2 ROHM'S AGGREGATE LIABILITY FROM ANY USE OF OR IN RELATION TO ROHM PRODUCTS PROVIDED HEREUNDER, INCLUDING FROM ANY WARRANTY, INDEMNITY, OR OTHER OBLIGATION ARISING OUT OF OR IN CONNECTION WITH THE ROHM PRODUCTS IS LIMITED TO THE TOTAL AMOUNT PAID BY BUYER TO ROHM FOR THE PARTICULAR ROHM PRODUCTS, WHICH HAVE BEEN SOLD BASED ON

THESE TERMS AND CONDITIONS, AND WHICH ARE THE OBJECTION OF LOSSES OR DAMAGES CLAIMS. THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE OR EXTEND THIS LIMIT.

9.3 BUYER AGREES THAT THE FOREGOING LIABILITY LIMITATIONS ARE ESSENTIAL ELEMENTS OF THESE TERMS AND CONDITIONS AND THAT IN THE ABSENCE OF SUCH LIMITATIONS THE MATERIAL AND ECONOMIC TERMS OF TRANSACTIONS WITH BUYER WOULD BE SUBSTANTIALLY DIFFERENT.

#### **10. Termination**

In the event of the following items (i) to (vii), ROHM may terminate any agreements regarding ROHM Products executed between ROHM and Buyer and/or cancel unfulfilled orders for ROHM Products, in whole or in part, without any notice. In addition, Buyer's debts to ROHM shall all become due and payable, and ROHM may demand that Buyer immediately pay the balance of such debts in full and in a lump sum, including debts in bills.

- (i) Buyer fails to make payment for ROHM Products, in whole or in part, by the applicable payment date;
- (ii) Any bills or checks drawn, accepted, or endorsed by Buyer is dishonored;
- (iii) A petition for attachment, provisional attachment, provisional disposition, auction, disposition for delinquency of taxes or other public dues, commencement of proceedings for bankruptcy, special liquidation, civil rehabilitation or corporate reorganization, or any other similar proceeding is filed by or against Buyer;
- (iv) The credit status or financial condition of Buyer has deteriorated or it is found that such status or condition is likely to deteriorate;
- (v) Buyer adopts a resolution for dissolution, merger, capital decrease, assignment of all or material part of its business, or the like, which gives a significant impact on its business;
- (vi) Buyer discontinues its business; or
- (vii) Buyer otherwise breaches any provision of these Terms and Conditions, and fails to perform the relevant obligation or correct such breach within a reasonable period that is set forth in a demand against Buyer for cure of such breach.

#### **11. Pursuit of Liability for Default**

In the event of a default by Buyer, ROHM may suspend any subsequent shipment. No continuation of shipment by ROHM shall be construed as a

waiver of any right to pursue liability for default by Buyer, nor shall prevent ROHM from exercising any of its rights available under laws for such default.

## **12. Governing Law**

These Terms and Conditions shall be governed by, and construed in accordance with, the laws of the country or region where the selling entity of ROHM is located. Buyer and ROHM agree to exclude the application of the United Nations Convention on Contracts for the International Sale of Goods. Even if a court of competent jurisdiction denies the legally binding effect of any provisions of these Terms and Conditions for any reason, such provisions shall be read in a reasonable manner to legally achieve the intent of the parties hereto, to the extent possible. The remaining provisions of these Terms and Conditions shall remain in effect.

## **13. Jurisdiction**

If any dispute occurs in connection with any transaction under these Terms and Conditions, ROHM and Buyer agree to submit to the exclusive jurisdiction of the district court that has jurisdiction over the head office or the location of the selling entity of ROHM, in the first instance. Notwithstanding the provisions of Article 13, ROHM and Buyer agree that ROHM may file an action or seek for an injunctive relief in any court having appropriate jurisdiction in connection with such dispute.

## **14. Compliance with Laws and Regulations**

14.1 Buyer shall, at its own cost, obtain approvals and licenses from and make notifications to government authorities, and take any other measures, as required for the transactions under these Terms and Conditions. Buyer agrees to comply with all applicable laws, including export control laws and regulations. Buyer shall indemnify ROHM for, and hold ROHM harmless from, compensation of any damage incurred by ROHM as a result of Buyer's breach of Article 14.

14.2 Export/import classification of ROHM Products by ROHM is for the purpose of its internal use only, and shall not be interpreted as ROHM's representation or warranty as to whether the export/import classification of ROHM Product is appropriate, or what kind of export/import license or export/import document is required to export/import the ROHM Product.

## **15. Assignment**

Buyer may not assign the status, rights and obligations under these Terms and Conditions to any third party without prior written approval of ROHM. The assignment made without required authorization shall be invalid.

## **16. Prevention of Bribery and Elimination of Anti-Social Forces**

Buyer shall not engage in any misconduct such as bribery, or any unfair transaction such as abuse of dominant bargaining position and provision/receipt of inappropriate profit, in the course of its business activities. Buyer warrants to ROHM that it is not or was not an Anti-Social Force (meaning the organization, which may promote the collective or habitual offense of the violent and illegal acts etc. by its members, including its affiliated bodies' members); it does not, by claiming itself to be an Anti-Social Force or any other similar means, damage the reputation of or the confidence in the other party, interfere with the operations of the other party, nor make unjust demands; it does not provide any fund to any Anti-Social Force; it does not have any close interaction with any Anti-Social Force; none of its major investors, officers or employees is a member of an Anti-Social Force; and it does not use any Anti-Social Force. If Buyer breaches Article 16, ROHM may immediately terminate these Terms and Conditions, in whole or in part, without assuming any liability to Buyer. In such a case, Buyer may not demand any compensation for damage or loss incurred by it due to such termination from ROHM.

## **17. Amendment**

No amendment or addition to the provisions of these Terms and Conditions shall be effective unless made in writing, and a person duly authorized to represent ROHM affixes his/her signature or his/her name and seal to the same.

## **18. Miscellaneous**

In case of any contradiction between these Terms and Conditions and any terms set forth in Buyer's purchase order or other Buyer's purchase-related documents, to the extent of such contradiction, these Terms and Conditions shall prevail. Unless ROHM gives express consent in writing, ROHM does not accept any additional or amended terms by Buyer, including terms set forth in Buyer's purchase order. The failure of ROHM to raise any objection to the terms included in any communication from Buyer shall not be construed as ROHM's consent to the amendment of any provisions of these Terms and Conditions. Headings of the articles of these Terms and Conditions are for the reference purpose only, and in no way affect the contents and interpretation of these Terms and Conditions. These Terms and

Conditions prepared in the English and Japanese language shall be the original, and in case of any contradiction between the English and Japanese version and these Terms and Conditions prepared in any other language, the English and Japanese version shall prevail.

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