

Standard Terms and Conditions of Sale

1. GENERAL

All sales by MICROWAVE TECHNOLOGY, INC. ("Seller") of any of its products ("Goods") to any purchaser thereof ("Buyer") are subject to all these Terms and Conditions which constitute an integral part of any contract for the sale of Goods. No contract shall exist except upon Buyer's acceptance of Seller's offer to sell the Goods upon these terms and conditions or upon dispatch of written acceptance of Buyer's purchase order signed by an authorized representative of Seller at its home office at 4268 Solar Way, Fremont, California 94538. These Standard Terms and Conditions constitute an integral part of any such written acceptance of Buyer. No term or condition contained in any purchase order form submitted by Buyer that varies from or conflicts with any of these Standard Terms and Conditions shall become part of the contract for the sale of Goods unless it is expressly accepted in writing by Seller's authorized representative at its home office. Delivery of these Standard Terms and Conditions to Buyer constitutes notification of Seller's objection to any term or condition that varies from or conflicts with those contained herein. Once Seller has agreed to sell Goods to Buyer no modification or addition to these Terms and Conditions or to any other provision of the contract for the sale of Goods shall be binding on either party unless it is in writing and signed by both parties.

2. TERMS OF PAYMENT

Seller will invoice all Goods sold to Buyer upon shipment. Unless otherwise specified in Seller's invoice, payment is due within 30 days from date of shipment, regardless of whether or not Buyer has inspected the Goods before payment is due.

3. TAXES

Unless Buyer first provides Seller with an appropriate and valid exemption certificate there shall be added to the price of all Goods the amount of any sales, use, excise or other such tax applicable to the sale of such Goods to Buyer. Buyer is solely liable and agrees to hold Seller harmless with respect to all tariffs, duties, and excise or any other taxes or charges levied on Goods exported hereunder by Seller or Buyer.

4. SHIPMENT AND DELIVERY

Delivery will be made F.O.B. Seller's facility to a carrier selected by Seller unless Buyer requests in writing use of a particular carrier, and Seller acknowledges his agreement. All Goods are identified and all risks of loss pass to Buyer upon delivery by Seller either to the carrier, to Buyer, Buyer's designated carrier or any other agent of Buyer. In no case will Buyer be entitled to recover from Seller consequential damages

caused by any delay in delivery or Seller's failure to meet Buyer's requested delivery date.

5. PRODUCT WARRANTY

MicroWave Technology, Inc. (MwT) warrants each of its products to be free from defects in material and workmanship under normal use and service, and to be in conformance with the specifications, drawings, and other descriptions explicitly contained in the contract between Buyer and MwT. MwT's obligation under this warranty is limited to repairing or replacing products returned to the factory, transportation prepaid, within the warranty period described in 5.1 below and which, upon examination, are disclosed to be thus defective. This is a limited warranty.

5.1 Period of Warranty

PRODUCT	WARRANTY PERIOD (FROM DATE OF SHIPMENT)
Semiconductor Chips and Non-Hermetic Packaged Products	90 days
Hermetic Packaged Products	1 Year

5.2 Modifications

This warranty does not extend to any item that has been replaced, reworked, or in any way altered by other than MwT or subjected to Buyer's or any third person's misuse, neglect, improper handling, installation, or test.

5.3 Electro-Static Discharge

MwT takes reasonable precautions to ship its products in static-protective containers, which restrain motion in shipping and handling. This warranty does not extend to semiconductor chips removed from the shipping containers and subsequently die attached and/or bonded. Customers should store chips, hybrid modules, and other non-hermetically sealed MwT products in temperature controlled, dry nitrogen atmosphere and take necessary precautions to insure protection from electrostatic discharge (ESD).

5.4 Return Material Authorization

Buyer shall request a Return Material Authorization (RMA) prior to return stating the model number, serial number (or wafer number), and nature of defect. Such requests shall be directed to MwT customer service at (510) 651-6700. Invalid returns will be returned to Buyer at the Buyer's cost. Goods must be returned in original shipping container or suitable equivalent.

5.5 Warranty for Repairs

Repaired hermetic amplifiers shall be warranted only for the remaining portion of the warranty applicable to the original item. Items repaired at Buyer's expense shall be warranted for the remainder of the remaining portion of the warranty applicable to the original item or a maximum of 90 days, whichever is greater.

6. LIMITATIONS & LIABILITY

6.1 Only Warranty

THE WARRANTIES OF MwT SET FORTH IN SECTION 5 HEREOF ARE IN LIEU OF ANY OTHER WARRANTY AND BUYER HEREBY WAIVES THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, ARISING OUT OF, OR IN CONNECTION WITH THE SALE, RESALE, AND PURCHASE OF MwT's GOODS OR PARTS, OR THE USE, REPAIR OR PERFORMANCE THEREOF, OR IN THE COURSE OF DEALING OR THE PERFORMANCE UNDER ANY AGREEMENT BETWEEN BUYER AND MwT TO WHICH THESE TERMS AND CONDITIONS MAY APPLY.

6.2 Consequential Damages

MwT's LIABILITY ON ANY CLAIM OF ANY KIND IN CONNECTION WITH THIS WARRANTY SHALL IN NO CASE EXCEED THE PURCHASE PRICE OF THE GOODS WHICH GIVE RISE TO THE CLAIM. MwT SHALL NOT BE LIABLE FOR ANY SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE WITH RESPECT TO ANY PRODUCTS OR SERVICES SOLD OR RENDERED HEREUNDER.

6.3 Payment Obligations

BUYER'S RIGHTS UNDER THIS WARRANTY ARE CONDITIONED UPON ITS HAVING FULLY PERFORMED ITS PAYMENT OBLIGATIONS.

7. PATENT INFRINGEMENT- INDEMNIFICATION

7.1 Limits of Indemnification

Seller agrees, at its own expense, to indemnify Buyer and to defend Buyer and any customer thereof ("indemnitee") from and against any claim, suit or proceeding, and to pay all judgments and costs finally awarded against Buyer or said customer by reason of such claim, suit or proceeding, insofar as it is based upon an allegation that the Goods or any part thereof furnished by Seller infringes any United States letter patent, if Seller is notified promptly of such claim, suit or proceeding in writing and is given authority and complete and necessary information and assistance (at Seller's expense) for defense of the same. In case such Goods, or any part thereof, are held in such suit to constitute an infringement and the use of the Goods or any part is enjoined, Seller shall, at its sole discretion and at its own expense,

- Procure for the indemnitee the right to continue using the Goods or part,
- Replace or modify the same so that it becomes non-infringing, or
- Remove such Goods or part thereof and grant indemnitee a credit for the depreciated value of the same; for this purpose all Goods are deemed to depreciate on a straight-line basis over a thirty-six month period from the date they are acquired by the indemnitee.

7.2 Separate Counsel

The indemnitee shall have the right to employ separate counsel to any claim, suit or proceeding set forth in paragraph (7.1) and to participate in the defense thereof, but the fees and expenses of the indemnitee's counsel shall not be borne by Seller unless.

- Seller specifically so agrees, or
- Seller, after notice and without cause, does not assume such defense.

Seller shall not be liable to indemnify any indemnitee for any settlement effected without Seller's consent, unless Seller failed after notice and without cause to defend such claim, suit or proceeding.

7.3 Hold Harmless

The indemnification set forth in paragraph (7.1) shall not apply and Buyer shall indemnify Seller and hold it harmless from all liability or expense (including costs of suit and attorneys' fees) if the infringement arises from or is based upon Seller's compliance with particular requirements of Buyer or any other indemnitee that differ from Seller's standard specifications for the Goods, or modifications or alterations of the Goods, or a combination of Goods with other items not furnished or manufactures by Seller.

7.4 Patents, Trademarks and Copyright

Seller makes no warranty, express or implied, that Goods sold hereunder will not infringe patents, trademarks, or copyrights issued by the United States or any foreign nation or similar right of any person or entity. Buyer agrees that Seller's entire liability for patent, copyright or trademark infringement is set forth herein and Seller shall not be liable for any collateral, incidental or consequential damages arising out of infringement of patents, copyrights, trademarks or any similar right of any person or entity.

8. FORCE MAJEURE

Neither party to this contract shall be responsible to other party, nor shall either party be liable to the other party or to any third party for any damages, including without limitation, incidental and consequential damages, arising out of nonperformance or delay in performance of the terms and conditions herein due to acts of God, wars, riots, strikes, unavailability of suitable and sufficient labor, materials or capacity and except where Buyer selects the carrier, any unforeseen event beyond its control.

9. PROPRIETARY RIGHTS

Buyer agrees that Seller retains all of Seller's existing proprietary rights in and to all product specifications, designs, engineering details, discoveries, inventions, patents, trade secrets and other proprietary rights relating to the Goods. The Goods are offered for sale and are sold by Seller

subject in every case to the condition that such sale does not convey any license, expressly or by implication, or otherwise, to manufacture, duplicate or otherwise copy or reproduce any of the Goods. Buyer warrants that it will not disclose in any manner to any third party information to which Seller retains proprietary rights.

10. CANCELLATION

Buyer may cancel any order for Goods only upon written notice thirty (30) days prior to shipment and payment to Seller of the cancellation charges specified below. No orders may be canceled after shipment to Buyer. Buyer agrees that the cancellation charges are reasonable under the circumstances existing at the time it agreed to purchase Goods from Seller.

10.1 Restocking Charge

Orders for standard items are subject to a 20% restocking charge upon cancellation, if such Goods are already in production or in finished goods inventory awaiting shipment to Buyer.

10.2 Non-Cancellation of Custom Parts

Orders for "special" or "custom" items designed or modified to Buyer's specifications cannot be cancelled for that portion of such Goods in production or in finished goods inventory awaiting shipment to Buyer. Any costs associated with the Buyers cancellation are subject full recovery of Seller's costs including but not limited to the cost of production, materials, overhead cost vendor cancellation charges and lost profit for all components and assemblies thus cancelled.

11. PRODUCT CHANGES

Seller reserves the right to discontinue products it has not promised to deliver. Seller also reserves the right to change, improve or add any product or specifications at any time. If any such change causes an increase or decrease in the price of Goods, Seller shall promptly notify Buyer of the same, and upon demand, invoices and payments shall be adjusted equitably.

12. MISCELLANEOUS

12.1 Entire Agreement

This contract constitutes the entire agreement between the parties relating to the sale of the Goods described on the face hereof or elsewhere (as the case may be) and no modification of any of the provisions hereunder shall be binding on either party unless it is in writing and signed by both parties.

12.2 No Waiver

No waiver of any provision of this contract shall be effective unless made in writing. No waiver of any breach of any provision of this contract shall constitute a waiver of any subsequent breach of the same or of any other provision of this contract.

12.3 Installment Contract

This is an installment contract within the meaning of Section 2612 of the Commercial Code of the State of California. Each shipment made hereunder shall be considered a separate transaction. In the event of any default by Buyer, Seller may decline to make further shipments. If Seller elects to continue to make shipments, such action shall not constitute a waiver of any default by Buyer or any provision of these terms and conditions.

12.4 Applicable Law

This contract shall be governed by, and construed in accordance with, the laws of the State of California.

12.5 US Export Administration

At any time during the term of this Agreement Seller shall disclose information to be disclosed to Buyer and deliver materials to be delivered to Buyer hereunder only in compliance with any Export Administration Regulations of the United States Department of Commerce on effect from time to time. Buyer agrees to abide by any limitation of disclosure placed on information revealed to it under this Agreement, and by any limitation of material deliveries, which may be placed thereon as a result of such regulations. Buyer shall provide Seller with all documentation and data necessary or desirable for compliance with all of those regulations. In particular, whenever Buyer purchases materials from Seller that Buyer intends to export Buyer will so notify Seller in Buyer's purchase order for the materials and will list the country (ies) of intended destination. Buyer agrees to hold Seller harmless from any liability arising from the failure of Buyer to comply with such Regulations, or the provisions of this paragraph.

12.6 Section Headings

Section headings are for convenience only and shall not be considered in the interpretation of this agreement.