

Terms and Conditions of Sale

of WORK Microwave GmbH

dated 01 December 2011

1. General

- (a) Our Terms and Conditions of Sale apply exclusively; we acknowledge no terms of the Customer that conflict with or deviate from our Terms and Conditions of Sale, unless we have expressly agreed in writing to their application. Our Terms and Conditions of Sale also apply if we undertake delivery to the Customer without attaching any conditions in the knowledge that the terms of the Customer conflict with or deviate from our Terms and Conditions of Sale.
- (b) All agreements made between us and the Customer for the purpose of performing this contract are recorded in writing in this contract and, therefore, must be made in writing. Agreements made by e-mail also meet the requirement for the written form. We are nevertheless entitled to enter into individual agreements with the Customer. These must be agreed in the written form as specified above.
- (c) Our Terms and Conditions of Sale apply only to businesspersons as defined in sec. 310 (1) German Civil Code (BGB).
- (d) Our Terms of Purchase also apply to all future transactions with the customer, if similar transactions are involved.

2. Quotations and Quotation Documents

- (a) If the purchase order qualifies as an offer for the purposes of sec. 145 Civil Code (BGB), we may accept this offer within a period of two weeks.
- (b) We reserve all title and copyright to illustrations, drawings, calculations and other documents. This also applies to written documents that are described as "confidential". The Customer must obtain our express written consent before passing the same on to third parties.

3. Delivery

- (a) We are entitled to undertake part/deliveries, provided that this does not result in any unreasonable additional expense for the Customer. If, after conclusion of the contract, we become aware of circumstances which give cause for doubt about the creditworthiness of the Customer and our receivables are thereby endangered, we may withdraw from the contract. This right of withdrawal is available in addition to the statutory rights. The delivery period we have quoted presupposes the prior clarification of all technical and commercial matters.
- (b) Adherence to delivery periods depends on the timely receipt of all documents to be furnished by the Customer, in particular, plans, approvals and releases and adherence to the agreed terms of payment and to any other acts of preparation and cooperation to be undertaken by the Customer. If these requirements are not met, or if we are prevented from delivering by force majeure or similar events like, for example, natural disasters or terrorist attacks, labour disputes in our company or at our subcontractors or other unforeseeable obstructions beyond our control, the period for delivery is extended by a reasonable period of time accordingly.
- (c) If the Customer is in default with acceptance, the Customer is obliged to pay us storage charges of 0.5% of the price of the goods purchased, however, a maximum of 5%, beginning one month after notification of readiness for shipment. The contractual parties shall have the right to verify and to claim that storage costs were higher or lower.
- (d) If the Customer culpably breaches other duties of cooperation, we are entitled to claim compensation for the damages we have suffered in this respect, including any extra expenses. We reserve all further claims and rights.
- (e) If the circumstances of Para. (c) and/or (d) occur, the risk of accidental destruction or accidental deterioration of the purchased item passes to the Customer at the time the latter is in default with acceptance or is in debtor's default (*Schuldnerverzug*).
- (f) We are liable in accordance with the statutory regulations insofar as the underlying contract of sale is a transaction for delivery on a fixed date as defined in sec. 286 (2) No. 4 Civil Code (BGB) or sec. 376 Commercial Code (HGB). We are also liable under the statutory provisions in the event that, as a consequence of a default in delivery for which we are responsible, the Customer is entitled to claim that it has ceased to have an interest in further performance of the contract.
- (g) We are also liable under the statutory provisions in the event that the default in delivery is due to an intentional or grossly negligent breach of contract for which we are responsible. Where delivery default is due to a grossly negligent breach of contract for which we are responsible, our liability to compensate for damages is limited to the foreseeable damage that would typically have occurred.
- (h) We are also liable under the statutory provisions in the event that the default in delivery for which we are responsible is due to the culpable breach of an essential contractual duty; in this event, however, our liability to compensate damages is limited to the foreseeable damage that would typically have occurred.
- (i) Further statutory claims and rights are available to the Customer.
- (j) Our performance of the contract is conditional on there being no obstacles to performance by reason of national or international foreign-trade regulations or embargos, restrictions on trade and/or other sanctions.
- (k) Those of our products covered by the Dual-Use Regulation or Export-Control Classification List, may be subject to a duty to obtain European or German export approval when being exported out of the European Union or for shipment within the European Union. Moreover, a duty to obtain approval may arise, in particular, from the end-use or the specific purpose of the goods. Even in the extent of purely domestic deliveries, there may be export-control law approval duties or prohibitions. The products which we have delivered may not be delivered, shipped or exported if any necessary approval has not been obtained or if an export-control prohibition prevents it. Any approval required must be obtained by the Customer under its own responsibility unless we ourselves are the exporter or shipper of the goods.

4. Prices, Terms of Payment

- (a) Our prices apply EXW Incoterms 2010®, plus packaging and the relevant applicable statutory rate of value-added tax, excluding insurance. Applicable is the statutory rate of VAT on the date of issue of the invoice. Unless a different period for payment is agreed, the invoice amounts are payable without deduction at the latest 30 days after the date of issue of the invoice. However, we can also make delivery conditional upon immediate payment. Delivery to customers whose financial standing is unknown to us is made only in return for advance payment or an irrevocable, confirmed letter of credit. We do not accept cash on delivery, bills of exchange or cheques.
- (b) The deduction of discount requires a special written agreement.
- (c) Rights of set-off and rights of retention are available to the Customer only if the Customer's counter-claims are confirmed as final and non-appealable or are undisputed or recognised by us. Moreover, the Customer is entitled to exercise a right of retention only if, and to the extent to which, its counter-claim arises from the same contractual relationship.
- (d) In the event of default in payment, the Customer is obliged to furnish securities to us. The property and rights of the Customer in our possession or at our disposal serve as security from this time onwards to safeguard our due receivables. We are entitled to disclose the pledge to the third-party debtor and to sell the items furnished as security to the public at the stock-exchange price or market price, unless sale by public auction is mandatory. Without prejudice to our claims based on default in payment, interest is payable on our receivables from the date on which payment was due at a rate of 5% p.a. above the base interest rate, unless the actual loss suffered is proven to be higher or lower. We draw attention to the fact that we will charge default interest at the above rate after default in payment has occurred even after payment and that this interest is immediately due for payment.
- (e) In the event of invoices in foreign currency, we apply the rate of exchange to the euro on the date of issue of the invoice.
- (f) We are entitled to require advance payments against the agreed selling price. In the event that we have received advance payments, but are unable to fulfil the delivery obligation, we shall repay to the Customer any advance payments made.

5. Passing of the Risk, Packaging Costs

- (a) The risk passes as follows to the Customer:
 - for deliveries without assembly: when the goods leave the delivering works, are notified as ready for collection or shipment;
 - for deliveries with assembly: on the date of take-over on the Customer's own premises.If the Customer is in default with acceptance, the risk passes at the time at which the Buyer is in default with acceptance.
- (b) Unless otherwise stipulated in the order confirmation, delivery is made EXW WORK Microwave GmbH, Holzkirchen, Incoterms 2010®, plus packaging costs, plus the statutory rate of VAT.

6. Safeguarding Reservation of Title

- (a) We reserve title to the purchased item until receipt of all payments under the delivery contract. In the event of the Customer acting in breach of contract, in particular, default in payment, we are entitled to recover the purchased item. Our recovery of the purchased item constitutes withdrawal from the contract. We are entitled, after recovering the purchased item, to sell the same; the proceeds of sale must be taken into account against the accounts payable by the Customer, less any reasonable costs of sale.
- (b) The Customer is obliged to treat the purchased item with care; in particular, the Customer is obliged to insure the same adequately for the new value at its own expense against damage by fire, water and theft. Where maintenance or inspection work is required, the Customer must perform the same in good time at its own expense.
- (c) In the event of attachment or other intervention by third parties, the Customer must notify us in writing without delay so that we may bring a complaint action under sec. 771 Code of Civil Procedure (ZPO). If the third party is not in a position to refund the judicial and extra judicial costs of an action under sec. 771 ZPO, the Customer is liable for the loss we have sustained.
- (d) The Customer is entitled to resell the purchased item in the ordinary course of business; however, the Customer already now assigns all receivables up to the final amount invoiced (including VAT) of our receivable that accrue to it out of the resale against its purchaser or third party and this regardless of whether the purchased item was resold without or after processing. The Customer remains authorised to collect these receivables even after assignment. This does not affect our authority to collect the receivable ourselves. However, we undertake not to collect the receivable for as long as the Customer continues to meet its payment obligations out of the proceeds received, does not default on payment and, in particular, no petition is made for the institution of composition or insolvency proceedings or the Customer has not ceased to make payments. However, if this is the case, we may require that the Customer notify us of the receivables assigned and their debtors, provide all details required for their collection, hand over the associated documents and notify the debtors (third parties) of the assignment.
- (e) The processing or transformation of the purchased item by the Customer is always undertaken on our behalf. If the purchased item is mixed with other goods that do not belong to us, we acquire a co-ownership share in the new item in the proportion of the value of the purchased item (final invoice amount including VAT) to the other items processed at the time of processing. The same applies to the thing produced by processing as for the purchased item supplied under reservation of title.
- (f) If the purchased item is inseparably mixed with other goods that do not belong to us, we acquire co-ownership of the new item in the proportion of the value of the purchased item (final invoice amount including VAT) to the other mixed items at the time of mixing. If mixing occurs in a way that the thing of the Customer is to be regarded as the principal thing, it is deemed to have been agreed that the Customer transfers a pro-rata share of title to us. The Customer safeguards the sole title or shared title thereby created on our behalf.
- (g) In order to secure our receivables from the Customer, the Customer also assigns to us the receivables that accrue to it from a third party as a result of the linking of the purchased item with real estate.

- (h) We undertake to release the securities available to us to the extent to which they exceed the realisable value of our receivables to be secured by more than 10%; the selection of the securities to be released is at our discretion.

7. Rights to Equipment and Tools

The Customer does not acquire any rights to equipment or tools by paying a share of the rent for equipment and tools.

8. Industrial Property Rights and Copyright/Defects of Title

- (a) Unless otherwise agreed, we are obliged to make delivery free of industrial property rights and copyrights (hereinafter referred to as "Property Rights") only in the country of delivery. In the event of a third party bringing legitimate claims against the Customer based on the infringement of Property Rights resulting from the contractual use of deliveries made by us, we are liable to the Customer within the periods stipulated in Article 13 as follows:
- At our discretion and at our expense, we shall either procure a right of use for the deliveries concerned, modify them in such a way that the Property Right is no longer infringed or replace the same. If we are unable to do so under reasonable terms and conditions, the Customer shall have the statutory rights.
 - The above obligations exist only on condition that the Customer informs us without delay of any claims brought by third parties, that the Customer does not acknowledge any infringement, and that we reserve the right to conduct all defence measures or settlement negotiations. If the Customer ceases to use the delivery items in order to mitigate the damage or on other important grounds, the Customer is obliged to draw the third party's attention to the fact that the cessation of use does not represent any acknowledgement of an infringement of Property Rights.
- (b) Claims of the Customer are excluded, if the Customer is responsible for the infringement of Property Rights.
- (c) Claims of the Customer are also excluded if the infringement of Property Rights is caused by special specifications of the Customer, by a use that we could not have foreseen or because the Customer modified the delivery or used it together with products not delivered by us.
- (d) Claims of the Customer against us or our employees or agents, based on an infringement of industrial Property Rights or other rights of third parties, that go beyond those or which differ from those covered by this Article, are excluded.

9. Goods-Testing and Acceptance

- (a) The Customer or its agent must perform any agreed goods acceptance under special test conditions on our premises. The Customer pays the costs of acceptance. If the Customer refrains from performing this test, the goods are deemed to be delivered in conformity with the contract when they leave our works.
- (b) If we have asked the Customer to undertake acceptance after completion, this must take place within two weeks of the request. If the Customer refuses to cooperate, acceptance is nevertheless deemed to have taken place.

10. Deviations in Dimensions, Weight or Quantity

Unless contrary to DIN standards, deviations from specifications of weight or dimensions or quantity of up to 10% are permitted.

11. Rights to Documents and Software

- (a) We reserve our rights of title and copyright to cost estimates, drawings and other documents that we have provided (hereinafter referred to as "Documents"). The Documents may be made accessible to third parties only with our prior written consent and may only be used for contractual purposes and must be returned to us on request.
- (b) The Customer has a non-exclusive right to use the software delivered by us in unmodified form and with the agreed service characteristics on the agreed devices. The Customer may make two back-up copies without express agreement.

12. Illustrations and Descriptions

- (a) Illustrations and descriptions and specifications reflect the circumstances or intentions at the time that order documents went to print. We reserve the right to make changes of all kinds, insofar as they arise because of technical progress, modified design or similar, insofar as the changes are reasonable for the Customer - after giving consideration to our own interests.
- (b) We provide technical advice on application according to the best of our knowledge and belief. Details and information about the suitability and application of our products do not release the ordering party from the obligation to undertake its own examinations. The Customer is responsible for adherence to statutory and official regulations in the use of our goods.

13. Liability for Defects

- (a) Claims of the Customer based on defects are conditional on the latter having duly performed the duties of examination and notification of defects incumbent upon the Customer under sec. 377 Commercial Code (HGB).
- (b) If there is a defect in the purchased item, the Customer is entitled, at its own discretion, to require that subsequent performance take place in the form of elimination of the defects or delivery of a new item free of defects. In the event of elimination of the defect or replacement delivery, we are obliged to pay all expenses incurred for subsequent performance, in particular the transport and travelling expenses, labour and material costs, provided that these are not higher as a result of the purchased item having been taken to a place other than the place of performance.
- (c) If subsequent performance fails, the Customer is entitled at its own discretion to withdraw from the contract or require a reduction in the selling price.
- (d) We are liable under the statutory regulations insofar as the Customer brings claims for compensation for damages that are based on malicious intent or gross negligence, including malicious intent or gross negligence on the part of our representatives or employees. Unless we are guilty of a deliberate breach of contract, liability for compensation for damages is limited to the foreseeable damage that would typically have occurred.
- (e) We are liable under the statutory provisions insofar as we have deliberately breached an essential contractual duty; however, in this event, our liability to

compensate for damages is also limited to the foreseeable damage that would typically have occurred.

- (f) If the Customer has a right to compensation for damages in lieu of performance, our liability under Para. (d) is also limited to compensation for the foreseeable damage that would typically have occurred.
- (g) This does not affect liability for culpable harm to life, physical injury or harm to health; the same applies to the mandatory liability under the Product Liability Act (*Produkthaftungsgesetz*).
- (h) Except as otherwise stipulated above, liability is excluded.
- (i) The limitation period for claims based on defects is 12 months counted from the date of passing of the risk.
- (j) The limitation period in the event of a right of recovery under secs. 478, 479 Civil Code (BGB) remains unaffected; this period is five years counted from the date of delivery of the defective item.

14. Total Liability

- (a) Any liability for compensation for damages going beyond that provided for in Article 13 is excluded – regardless of the legal nature of the claim. This applies in particular to claims to compensation for damages arising from fault at the time of concluding the contract (*culpa in contrahendo*), other breaches of duty or claims in tort for compensation of property damage under sec. 823 Civil Code (BGB).
- (b) The limitation under Para. (a) also applies if the Customer claims compensation for wasted expenses instead of a claim for damages in lieu of performance.
- (c) Where our liability to compensate for damages is excluded or limited, such exclusion or limitation also applies in respect of the personal liability to compensate for damages of our employees, representatives and agents.

15. Prohibited Transactions;

- (a) The Customer undertakes to refrain from entering into the following transactions under any circumstances:
- Transactions with persons, organisations or entities which appear on a sanctions list under EC or EU regulations or U.S. export regulations;
 - Prohibited transactions with embargo states;
 - Transactions for which the necessary approval has not been obtained, and
 - Transactions which could take place in connection with ABC weapons and/or military end-use.
- (b) In the event that the Customer breaches the obligations specified in Para. (a), we are entitled at our discretion, to terminate the contract immediately and/or claim damages.

16. Place of Performance, Governing Law and Place of Jurisdiction, Miscellaneous

- (a) Unless otherwise stated in the confirmation of order, our registered office (seat) is place of performance.
- (b) The law of the Federal Republic of Germany applies exclusively. The application of the UN Convention (Vienna Sales Convention) on contracts for the international sale of goods is excluded.
- (c) Place of jurisdiction is the registered office (seat) of WORK Microwave GmbH.
- (d) We notify the Customer of the storage of the Customer's personal data in accordance with Section 26 Federal Data Protection Act (*Bundesdatenschutzgesetz (BDSG)*).
- (e) Any invalidity of individual provisions of these Terms and Conditions of Sale will not affect the validity of the remaining provisions. The parties undertake in this event to replace the invalid provision by a valid provision that comes as close as possible to the economic purpose of the invalid provision.