



Standard Terms and Conditions

TechPlus Microwave, Inc. (Seller) submits quotations and receives and accepts orders subject to the following standard terms and conditions only.

1. GENERAL CONDITIONS

- a) No understanding, promise, or representation, and no waiver, alteration or modification of any of the provisions stated, shall be binding upon Seller unless, accepted in writing by Seller.
- b) All orders are subject to credit approval and final acceptance by Seller's management at its California manufacturing sites.
- c) Award acknowledgment subject to these terms will be provided by a copy of the TechPlus Microwave Customer Sales Order.

2. PRICING

- a) Seller reserves the right to revise and announce new prices for the goods covered in quotations. Seller will honor the old prices if an order is received prior to revision of those prices, or prior to the expiration of the valid quotation outstanding at the time of the price change. Subsequent orders for the same goods are subject to the revised or newly-announced prices. Unit prices are applicable only to the specified quantity and are subject to revision if the quantity is changed.
- b) Quoted prices exclude technical data rights or computer software rights and existing or prospective proprietary data unless such data is separately defined, priced, and listed.

3. DELIVERY

Unless otherwise specifically provided, delivery of the equipment shall be made F.O.B. shipping point at which time the title and risk of loss shall pass to the Buyer. Seller shall not be liable for delays in delivery or in performance or failure to manufacture due to or in case beyond its reasonable control (force majeure).

4. PACKING, MARKING AND SHIPPING

Goods shall be packed, marked and shipped using good commercial practices for protection and shipment. Enhanced service may be separately specified and an additional charge will be made to meet the Buyer's prescribed requirements.

5. SUBSTITUTIONS

Minor performance variations, as mutually agreed by the Buyer and Seller, will not be deemed to constitute failures to comply with specification requirements or constitute defects in materials or workmanship. Seller reserves the right to discontinue manufacture of goods and change specifications without prior notice, provided the performance of goods manufactured by Seller are neither affected adversely nor reduced below any contract specifications. Seller also reserves the right to make product improvements without any obligation of responsibility to incorporate such changes in goods previously manufactured or delivered.

6. PAYMENT TERMS

- a) Terms of payment are Net 30 days of invoice, unless otherwise specified on the invoice.
- b) If shipments are delayed by the Buyer, payments shall become due and payable on the date when Seller is prepared to make shipment.

c) Goods held for the Buyer beyond a reasonable period, shall be at the risk of the Buyer and subject to warehouse charges.

d) Seller reserves the right to require payment in advance and otherwise modify credit terms.

7. SALES OR SIMILAR TAXES

Unless otherwise stated, quoted prices do not include sales, use, excise or similar taxes nor export or import fees. Such taxes and fees will be borne by the Buyer.

8. WARRANTY

Seller warrants to the Buyer that all Seller goods (equipment and component parts) when sold are free from defects in materials and workmanship under normal use and service for a period of eighteen (18) months from the date of shipment, as evidenced by seller's or its agent's packing list or transportation receipt. Seller's obligation under the warranty shall be limited to the repair or replacement of goods, at Seller's option, which Seller's examination shall disclose to its satisfaction to be defective. In no event shall Seller's liability for any breach of warranty exceed the net selling price of the defective goods. No person, including any dealer, agent or representative of seller, is authorized to assume for Seller any other liability on its behalf.

Seller has no obligation or responsibility for goods which have been repaired or altered by other than Seller's employees.

THIS WARRANTY IS THE ONLY WARRANTY MADE BY SELLER AND IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, AND WARRANTIES OF MERCHANT ABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE ARE SPECIFICALLY EXCLUDED.

9. WARRANTY CLAIM PROCEDURES

Defective goods must be returned, transportation charges prepaid, to Seller for correction. Seller will pay return transportation charges for warranty repair. Upon redelivery of goods corrected under this warranty, the repaired or replaced portions shall be subject to the warranty for a period of 90 days or until expiration of the original warranty, whichever is later. All claims of failed or defective goods must be in writing and received by seller within the specified warranty period. Seller will provide Buyer a return authorization number as authority to return the goods for use in monitoring repair status.

Repair or replacement of defective goods will be at Seller's discretion and for the Buyer's account when in the cause of failure is determined by Seller's examination to be misuse, mishandling or abnormal conditions of operation. In such event a firm price quotation for correction of the goods may be submitted to the Buyer. No repair or replacement work will be initiated prior to receipt of the Buyer's written authorization to proceed and approval of price, except as correction at its expense of goods not covered by this warranty, the Seller may charge a reasonable amount for such evaluation. Any amounts due Seller under these conditions will be subject to the same payment terms as the original sale. The Buyer will not recover from Seller by offset, deduction or otherwise, the price of any goods returned to Seller under the warranty.

10. CANCELLATION

a) The Buyer may cancel an order only upon written notice sixty (60) days prior to shipment, and upon payment to Seller of any reasonable cancellation charges.

b) Orders, which are canceled prior to shipment, if standard items, are subject to a 25% minimum restocking charge for those items already in production or in finished goods inventory awaiting shipment to Buyer.

c) Orders which are canceled prior to shipment, if those items are "special" or "custom" items designed or modified to the Buyer's specifications, are essentially non-cancelable for that portion in production or in finished goods inventory awaiting shipment to the Buyer, and are subject to full recovery costs.

d) Orders, which are canceled after shipment to the Buyer, whether standard or special, remain the property of the Buyer.

11. LIMITATION OF LIABILITY

Seller's liability on any claim of any kind, whether in contract or in tort including negligence, for any loss or damage arising from, connected with, or resulting from this contract (or quotation), or from the performance or breach thereof, or from the design, manufacture, sale, delivery, installation, inspection, operation or use of any equipment covered by or furnished under this contract, shall in no case exceed the purchase price of the goods which give rise to the claim.

In no event, whether as a result of breach of contract or warranty or alleged negligence, shall Seller or its employees, agents, suppliers, or contractors be liable for special, incidental, exemplary, or consequential damages including, but not limited to, loss of profit or revenue, loss of the use of goods or any associated equipment, cost of capital, cost of substitute equipment, facilities or services, downtime costs, or claims of customers of the Buyer for such damages.

12. PATENT AND COPYRIGHT INDEMNITY

a) Seller agrees to defend at its expense any suits against the Buyer based upon a claim that any goods furnished hereunder directly infringe a U.S. patent or copyright and to any costs and damages finally awarded in any such suit provided that Seller is notified promptly in writing of the suit and at Seller's request and its expense is given control of said suit and all requested assistance for defense of same if the use or sale of goods furnished hereunder is enjoined as a result of such suit. Seller at its option and at no expense to the Buyer may obtain for the Buyer the right to use and sell said goods or shall substitute equivalent goods acceptable to Buyer and extend this indemnity thereof, or for goods other than semiconductor devices, may accept the goods returned and reimburse the Buyer the purchase price thereof less reasonable charge for wear and tear. This indemnity does not extend to any suit based upon any infringement or alleged infringement of any patent or copyright by the combination of any goods furnished by Seller with any elements nor does it extend to any goods of the Buyer's design or formula. The foregoing states the liability of seller for patent or copyright infringement.

b) The Sale of the goods furnished hereunder does not convey any license by implication, estoppels or otherwise under any proprietary or patent rights of Seller covering combinations of these goods with other elements. In no event shall Seller be liable for incidental or consequential damages arising from infringement or alleged infringement of patents or copyrights.

13. INTELLECTUAL PROPERTY AND PROPRIETARY DATA

Seller and Buyer shall at all times recognize and protect each other's trademark, trade name, copyright, patent, trade secrets, and industrial property rights and intellectual property. A purchase order agreement does not constitute a license from Seller to Buyer with respect to any TechPlus Microwave Property and Seller shall use Buyer's Intellectual Property solely for the limited purpose of producing Products for seller. TechPlus Microwave retains the rights to its products and their components. All data supplied to Buyer in performance of a resulting contract shall be considered TechPlus Microwave Proprietary data.

14. GOVERNMENT CONTRACT CONDITIONS

If the Buyer's purchase order contains a U.S. Government contract number and orders product to be used in the performance of said contract those clause of applicable U.S. Government procurement regulations directed by federal statue to be included in U.S. Government subcontracts shall be incorporated herein by this reference.

15. APPLICABLE LAW

The terms of quotations and any resultant orders shall be governed by and interpreted in accordance with the laws of the state of California.