

1. General

- 1.1. All business transacted by AFT microwave GmbH, hereinafter called "the Supplier" is governed by the following terms for deliveries unless otherwise stated in the confirmation of the order. Any amendments or supplements to the terms are binding only in so far as they have been indicated or confirmed expressly and in writing by the Supplier.
- 1.2. Offers expire 3 months after the date of the offer.
- 1.3. Offers are valid for the country in which the Inquirer or Purchaser is domiciled. The Inquirer or Purchaser is liable for all prejudice to and claims against the Supplier due to the use of the products supplied outside such country.
- 1.4. Unless otherwise agreed, interpretation of contract terms customary in the trade shall be governed by the Incoterms 2000 including the supplements valid at the time when the contract is concluded.
- 1.5. Any standard terms of business of the purchase shall not be binding, even if the supplier has not expressly rejected them.

2. Scope of delivery and prices

- 2.1. The supply obligation comprises the supplies and services confirmed in writing by the Supplier.
If the products to be supplied are to be suitable for specific purposes of the Purchaser, such specific purposes and the requirements with which the products to be supplied have to comply must be indicated fully and expressly by the Purchaser in the order and confirmed by the Supplier.
- 2.2. Unless otherwise agreed, prices are calculated net and ex works factory Backnang (EXW)
- 2.3. In the case of c.i.f. deliveries, any expenses charged in the port of destination for discharge, lighterage or landing, port dues and wharfage are not included in the price.
- 2.4. Customs duties, consular fees and other taxes, dues or fees charged in accordance with any laws and regulations outside the jurisdiction of the Federal Republic of Germany, as well as any costs connected therewith, shall be borne by the Purchaser.
In the case of delivery including customs or other duties, the price quoted is based on the rates in force at the time of tendering. The actual expenses will be charged. Any turnover tax possibly accruing will be charged separately.
- 2.5. The Supplier shall comply with any foreign packing, weighing and customs regulations if precise information have been given to him by the Purchaser in good time. Any additional expenses connected therewith shall be borne by the Purchaser.
- 2.6. In the case of fluctuations of rates of exchange, the Supplier is entitled to demand retention of the original exchange, the Supplier is entitled to demand retention of the original exchange rates on which the prices quoted by him were based.
- 2.7. If after the conclusion of the contract, the Supplier becomes aware of facts which cast doubt on the creditworthiness of the Purchaser, then the Supplier shall be entitled to demand payment in advance or appropriate security and in the event of refusal to rescind the contract.

3. Information, drawings and other documents

- 3.1. All information concerning weights and dimensions, drawings, explanations, descriptions and illustrations submitted by the Supplier is to be considered as approximate. All necessary drawings and other documents containing final data will be supplied in reasonable quantities upon request after conclusion of the contract. The Supplier shall reserve the right to alter the technical concept upon which the offer is based, in so far as the performance and concept upon which the offer is based, in so far as the performance and quality of the product offered for supply are not thereby affected.
- 3.2. The Supplier shall retain the exclusive ownership and all copyrights in respect of any drawings and other documents. Drawings and other documents shall not be made accessible to third parties without the Supplier's consent and shall be returned if so requested.

4. Terms of payment

- 4.1. All payments shall be made in accordance with the stipulations entered into, without any deduction and free of charge to the address of payment notified by the Supplier.
- 4.2. If a transfer of payments from the country from which payment has to be made should be impossible on the due date, the Purchaser shall nevertheless pay the equivalent of the amount owed into a bank in the said country within the stipulated time.
In case of depreciation in the rate of exchange for amounts paid in a currency not agreed upon, the Purchaser shall make good such deficiencies by additional payment.
- 4.3. In the event of delivery being delayed without fault of the Supplier, payments are to be made as if no delay had occurred.
- 4.4. The Purchaser shall be in default if he exceeds the due dates of payment agreed upon.
In the case of delayed payment, the Supplier may, without prejudice to any other claim, demand interest on the amount outstanding as from the due date of payment agreed upon and at the annual rate of 12 % per annum.
- 4.5. Compliance with all obligations of the Supplier towards the Purchaser shall be subject to compliance with the terms of payment agreed upon and with all other obligations of the Purchaser towards the Supplier.
- 4.6. The Purchaser may only set off such claims or assert retention rights in respect of such claims which are undisputed or have been finally decided. The right of retention may only be claimed to a reasonable extent.
- 4.7. In case the purchaser is responsible to pick up the supply at the suppliers site and fails to do so within 14 days the supplier reserves the right to charge storage costs of 60,00 € per week per storage slot (at least 1 storage slot).

5. Reservation of ownership

The products supplied shall, unless otherwise agreed, remain the property of the Supplier until all debts owing to the Supplier or those subsequently arising from the business connection with the Purchaser have been paid in full.
With respect to the case of resale of the goods - in any condition whatsoever - the Purchaser agrees to assign to the Supplier by way of security, at the conclusion of the supply contract and effective up to the time of payment of all debts owing by the Purchaser to the Supplier, any claims against the Purchaser's customers which may have arisen or will arise in future from resale, and undertakes to notify the Supplier at his request of the names of third-party debtors and of the amount of the debts owing by these to the Purchaser. As long as the Purchaser complies with his payment obligation and no detrimental change occurs in his financial standing, the Supplier shall not collect the debts assigned.
If the reservation of ownership in the foregoing form is not effective under the law of the country of destination, the Purchaser shall cooperate in establishing a similar security right complying with the provisions of his country in favor of the Supplier.

6. Time of delivery and default

- 6.1. Adherence to the delivery time shall be subject to the order being completely clarified, all permits being granted and all the documents, payments and securities to be furnished by the Purchaser being received by the Supplier in due time. The delivery time shall be reasonably extended if any of the foregoing requirements have not been complied with in due time.
The delivery time has been adhered to if the consignment is ready for dispatch ex works within the period agreed upon and if a notice to that effect has been sent to the Purchaser.
- 6.2. In the event of the Supplier being prevented from carrying out his supplies and services in due time by mobilization, war, insurrection, strike, lock-out, interruptions in production, fire, Acts of God, transport hindrances, alteration of the legal provisions, administrative measures or decrees or the occurrence of any other unforeseeable events which are beyond his control, the delivery time shall be reasonably extended.
- 6.3. The Purchaser shall bear any additional cost resulting from interruption or delay caused by him in the work to be performed by the Supplier.
- 6.4. In the event of dispatch being delayed for reasons beyond the Supplier's control, he shall be entitled to store the products to be supplied at the Purchaser's risk and to demand reimbursement of any expenses incurred. The Supplier shall be entitled to take out at the Purchaser's expense an insurance against storage risks.

7. Testing and acceptance

- 7.1. Tests in the presence of the Purchaser or his representative as well as any special tests must be agreed upon in advance. The Supplier shall be entitled to charge the cost of such tests to the Purchaser.
- 7.2. If any acceptance test of the products to be supplied is stipulated, this shall be carried out at the premises of the Supplier. Acceptance has taken place if the Purchaser has not raised any justified complaints by the time that the test has been completed.
- 7.3. If the Purchaser waives any acceptance test agreed upon, or if he fails to be present at such test despite having been invited in due time, the test carried out by the Supplier shall be regarded as acceptance.
- 7.4. In the event of tests being delayed for reasons beyond the Supplier's control, any additional expenses resulting there from shall be borne by the Purchaser.

8. Transfer of risk - liability

- 8.1. As a rule the risk will pass over to the Purchaser as soon as the products to be supplied leave the works or are placed at the Purchaser's disposal at the works. If, however, a pricing has been agreed upon for which a different regulation of transfer of risk is stipulated under Incoterms 2000 including the supplements valid at the time of conclusion of the contract, such different regulation shall apply. Should dispatch be delayed for reasons beyond the Supplier's control, the risk is transferred to the Purchaser upon notification of readiness for dispatch.
- 8.2. The liability of the Supplier is excluded, unless it relates to intentional conduct or gross negligence of the Supplier, its statutory representatives or agents. The Supplier shall also be liable for breaches of obligations fundamental to the contract. In such event, the liability for negligence shall be limited to the reimbursement of the typically foreseeable loss. The liability for damages resulting from death, personal injury, damage to health as well as the liability of the Supplier by reason of mandatory statutory provisions, in particular the Product Liability Act, shall remain unaffected.

9. Warranty and repairs

- 9.1. For any defects in the products supplied, including the absence of promised characteristics, the Supplier shall be liable in such a way that he shall repair or replace at his option all parts in which defects are proved to have arisen from any circumstance occurring prior to the transfer of risk, in particular parts which are unusable due to faulty construction, inferior material or defective execution, or the usefulness of which is considerably impaired, within twelve months from the date of transfer of risk, without regard to the duration of operation. The ascertainment of such defects must be made known to the Supplier in writing without delay.
- 9.2. To remedy the defects, the Purchaser shall allow the supplier the time and opportunity required according to the reasonable estimation of the Supplier. Should the Purchaser refuse to allow such time and opportunity, the Supplier shall be released from the obligation to remedy the defect.
If the contract is part of the trade or business of the Purchaser, the following stipulations shall apply:
The Purchaser shall return the defective parts at his expense to the Supplier immediately upon request of the latter. However the purchaser is only allowed to return goods after written authorisation. He shall do so at his own expenses. The Supplier shall bear the costs for repairs or delivery of replacements ex works only. If the repair work is carried out at the place of destination, the Supplier shall only bear such expenses as would have arisen if the repair had been carried out at his own works. In this case the Purchaser shall make available the necessary assistant personnel and any appliances required at his own expense.
If a cost estimate is desired before repairs are carried out, this must be expressly requested. The supplier reserves the right to charge a fee for the inspection of the product whether or not the repair is ordered by the purchaser or not. Whether repairs are carried out in its own workshop or by a third party lies in the discretion of the Supplier. The costs of freight and packaging shall be borne by the Purchaser. The delivery of repaired equipment shall be made only against immediate payment.
- 9.3. Should the repairs or replacements fail to remedy the defects, the Purchaser is entitled to claim the right of abatement (reduction of purchase price). Should the Purchaser and the Supplier fail to reach an agreement upon the abatement, the Purchaser may also demand redhibition (rescission of the contract).
- 9.4. The right of the Purchaser to bring actions arising out of defects shall in all cases be barred by the Statute of Limitations for a period of six months after the date of the duly raised notification of defect. Should no agreement be reached within this period, the Supplier and the Purchaser can arrange for a prolongation of this period of limitation.
- 9.5. The warranty obligation does not refer to natural wear and tear nor to damage occurring after the transfer of risk due to improper or unsuitable handling, excessive stressing, unsuitable operation material, faulty construction work, unsuitable foundations and chemical, electrochemical or electrical influences of a nature not provided for according to the contract. On improper alterations or repairs carried out by the Purchaser or third parties or in case of breaking of seals the warranty obligations of the Supplier and his liability for consequences caused thereby are rendered void.
- 9.6. Further claims of the Purchaser against the Supplier are excluded, in particular claims for the liability for damages not arising to the object of supply itself and the liability for consequential damages in particular for loss of profit or loss of production. This does not apply if compulsory liability is prescribed for legal reasons in cases of malice aforethought or gross negligence or in case of absence of promised characteristics.

10. Rescission

- 10.1. The Supplier shall be entitled to rescind the contract if the fulfilment of the same becomes impossible for reasons for which he is not liable. The Supplier is further entitled to rescind the contract if the conditions of the contract are so basically altered at a later date by circumstances which could not be foreseen at the conclusion of the contract that he can no longer be reasonably expected to fulfil the contract.
- 10.2. The Supplier can in the aforementioned cases demand from the Purchaser reimbursement for all the necessary, expenditure incurred in connection with the contract, unless any parts manufactured under the contract can be used elsewhere within a reasonable time or unless the impossibility of fulfilling the contract is due to any intervention by German governmental authorities.

11. Patent rights and other industrial rights

The Supplier is liable to the Purchaser for the infringement of patent rights and other industrial rights (hereinafter collectively referred to as "patent and other industrial rights") of third parties only within the limits of the following provisions. Compliance with this obligation is subject to the Purchaser immediately informing the Supplier of any infringement claims raised by third parties and to the Purchaser proceeding in agreement with the supplier in dealing with such claims and in the pursuance of his rights. Should any one of these conditions not be fulfilled, the Supplier shall be relieved of his obligations. Should an infringement of third-party patent rights be ascertained and should for this reason the Purchaser be enjoined by final decision from using any product supplied, either in whole or in part, the Supplier shall at his own expense and at his option either

- obtain for the Purchaser the right to use the product supplied, or
- modify the product supplied in such a way that it becomes non-infringing, or
- replace the product supplied by another product of comparable efficiency which does not infringe any patent rights, or
- take back the product supplied against refund of the purchase price.

The Supplier shall not be liable in so far as third-party claims for infringement of patent rights are based on modifications made to the product supplied or the incorporation of additional devices or the combination of the product supplied with other equipment or devices not delivered by the Supplier on the part of the Purchaser or on the fact that the product supplied has been used for a purpose for which it was not intended. Likewise the Supplier cannot be held liable for infringement of third-party patent rights for products supplied which were manufactured according to drawings, models or other data supplied by the Purchaser; in this case the Purchaser shall indemnify the supplier in respect to third-party claims. The Purchaser shall not be entitled to further or additional claims on the ground of infringement of third-party patent rights. In particular, the Supplier will not compensate the Purchaser for any indirect or consequential damage such as loss of profit and loss of production.
The Purchaser shall not acquire any right to the use of patent rights applying to the combined use of the products supplied with other products.

12. Liability

- 12.1. Unless expressly stipulated otherwise in these General Terms and Conditions, the Supplier, his employees and all other persons appointed by the Supplier in connection with the execution of the contract are liable within the limits of the statutory provisions for damage or injury to persons and property up to an amount of Euro 50'000.-- for each case of damage, the total liability not exceeding Euro 1'000'000.--. The Purchaser shall release the Supplier from obligations to meet third-party claims for damages in so far as these exceed the above mentioned amounts.
Any further or additional liability for damages on the part of the Supplier, his employees and all other persons appointed by the Supplier in connection with the execution of the contract is excluded, in particular for pecuniary loss, such as loss of production and loss of profit, as well as liability for culpable breach of contract, negligence in the conclusion of the contract and the liability for tort caused by negligence. This does not apply in so far as compulsory liability is prescribed for legal reasons in cases of malice aforethought, gross negligence or the absence of promised characteristics.

13. Validity, law applicable, place of performance and place of jurisdiction

- 13.1. Even in the event of individual clauses of the contract being invalid, its remaining parts shall continue to be binding. Should any clause be invalid wholly or in part, the contracting parties shall endeavour without delay to attain the effective purpose of the invalid clause in another legally admissible manner.
- 13.2. All contractual relations shall be governed by German Law with the exception of the application of the Hague Conventions of 1.7.1964 relating to Uniform Laws concerning the International Sale of Goods.
- 13.3. The place of performance for all contractual and legal claims shall be the registered business place of the Supplier.
- 13.4. The sole place of jurisdiction for any disputes directly or indirectly arising from the contract shall be Stuttgart if the Purchaser is a registered trader or company. The supplier shall, however, also be entitled to bring an action at the place of the registered office of the Purchaser.
- 13.5. Any agreements, irrespective of whether they are entered into at the conclusion of the contract or after, must be in writing.