



MARKI MICROWAVE LLC

END USER LICENSE AGREEMENT

Embedded Firmware Products

Version 2026-05-05 | Effective Upon Activation or First Use of Product

IMPORTANT -- READ CAREFULLY BEFORE INSTALLING, ACTIVATING, OR USING THIS PRODUCT.

This End User License Agreement ("Agreement") is a legally binding contract between Marki Microwave LLC ("Marki") and the entity or individual that purchased, received, or is authorized to use the Product ("Licensee"). By installing, activating, powering on, integrating, or otherwise using the Product in any manner, Licensee agrees to be bound by all terms of this Agreement. If Licensee does not agree to these terms, Licensee must immediately cease all use and return the Product to the point of purchase for a refund, subject to applicable return policies.

1. DEFINITIONS

As used in this Agreement, the following terms have the meanings set forth below:

- (a) **"Product"** means the Marki Microwave hardware assembly, module, or component identified on the applicable purchase order, invoice, or product datasheet, including all Firmware embedded therein.
- (b) **"Firmware"** means the executable software, microcode, logic configurations, calibration data, and related materials permanently or semi-permanently stored or embedded within the Product that controls or enables the Product's functionality. Firmware has no user-accessible interface, is not distributed in source form, and is delivered solely in embedded executable form as an integral part of the Product.
- (c) **"Licensor"** or **"Marki"** means Marki Microwave LLC, a California limited liability company with its principal place of business in Morgan Hill, California.
- (d) **"Licensee"** means the person or entity that has purchased or received the Product from Marki or an authorized distributor, and any prime contractor or subcontractor holding the Product for supply or integration into a U.S. Government program.
- (e) **"U.S. Government"** means any agency, department, branch, instrumentality, or authorized prime contractor of the United States federal government.
- (f) **"Prime Contractor"** means any defense or commercial contractor that has received or acquired the Product for incorporation into a deliverable under a U.S. Government contract or subcontract.
- (g) **"Private Expense"** means that the Firmware was developed exclusively at Marki's private expense, without any U.S. Government funding, contract,

grant, cooperative agreement, or other form of federal financial assistance.

- (h) **"Authorized Purpose"** means integration, installation, testing, operation, maintenance, and repair of the Product solely as part of Licensee's own end-use system or deliverable under an applicable U.S. Government program, in each case consistent with all applicable laws, regulations, and export controls.

2. LICENSE GRANT

Subject to full payment of applicable purchase price and strict compliance with all terms of this Agreement, Marki grants Licensee a limited, non-exclusive, non-transferable (except as provided in Section 11), non-sublicensable, worldwide, royalty-free license solely to:

- (a) Use the Firmware as embedded in the Product for the Authorized Purpose only;
- (b) Operate the Product in Licensee's own systems, test equipment, and deliverables under applicable contracts; and
- (c) Allow Licensee's authorized employees, contractors, and subcontractors operating under obligations of confidentiality at least as protective as this Agreement to use the Product solely for the Authorized Purpose on Licensee's behalf.

No other license, right, or interest is granted, expressly, impliedly, by estoppel, or otherwise. All rights not expressly granted are reserved by Marki.

3. RESTRICTIONS

Licensee shall not, directly or indirectly, and shall not authorize, permit, or facilitate any third party to:

- (a) Copy, reproduce, archive, or back up the Firmware other than as a component of the Product as shipped;
- (b) Decompile, disassemble, reverse engineer, decrypt, reconstruct, or otherwise attempt to derive

the source code, algorithms, trade secrets, or design of the Firmware, except to the limited extent expressly permitted by applicable non-waivable law and only after providing Marki thirty (30) days' advance written notice;

- (c) Modify, adapt, alter, translate, or create derivative works based upon the Firmware;
- (d) Extract, separate, or remove the Firmware from the Product hardware;
- (e) Sublicense, sell, resell, distribute, transfer, assign, pledge, encumber, or otherwise dispose of the Firmware as a standalone item separate from the Product hardware;
- (f) Use the Product or Firmware for any purpose other than the Authorized Purpose;
- (g) Use the Product or Firmware in any safety-critical application -- including without limitation life support systems, nuclear facilities, aircraft navigation or control, or autonomous weapons systems -- without a separate written agreement with Marki expressly authorizing such use;
- (h) Remove, alter, cover, or obscure any proprietary rights notice, marking, legend, or label on the Product or in the Firmware;
- (i) Export, re-export, transfer, or disclose the Product or Firmware in violation of the Export Administration Regulations ("EAR"), the International Traffic in Arms Regulations ("ITAR"), or any other applicable export control law or regulation of the United States or any other jurisdiction; or
- (j) Use the Product or Firmware in violation of any applicable federal, state, or local law or regulation.

4. OWNERSHIP; INTELLECTUAL PROPERTY

The Firmware and all copies thereof, and all intellectual property rights therein, including without limitation all patents, copyrights, trade secrets, mask works, and proprietary know-how, are and shall remain the sole and exclusive property of Marki. This Agreement does not convey to Licensee any ownership interest in or to the Firmware. Licensee acknowledges that no title to the intellectual property in the Firmware is transferred to Licensee. Licensee shall promptly notify Marki of any actual or threatened infringement, misappropriation, or other violation of Marki's intellectual property rights of which Licensee becomes aware.

5. GOVERNMENT RIGHTS -- PRIVATELY DEVELOPED FIRMWARE

NOTICE TO U.S. GOVERNMENT END USERS AND PRIME CONTRACTORS:

The Firmware is a "commercial item" as defined in 48 C.F.R. § 2.101 and constitutes "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. § 12.212, 48 C.F.R. § 227.7202-1 through 227.7202-4, and 48 C.F.R. § 252.227-7014, as applicable.

The Firmware was developed exclusively at private expense. The U.S. Government's rights with respect to the Firmware are limited to only those rights customarily provided to the public as set forth in this commercial end user license agreement, consistent with:

- (a) FAR 52.227-19, "Commercial Computer Software -- Restricted Rights" (as applicable to civilian agencies);
- (b) DFARS 252.227-7015, "Technical Data -- Commercial Items";
- (c) DFARS 252.227-7014, "Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation" (to the extent applicable);
- (d) DFARS 252.227-7016, "Rights in Bid or Proposal Information"; and
- (e) DFARS 252.227-7028, "Technical Data or Computer Software Previously Delivered to the Government".

The U.S. Government is granted no greater rights in the Firmware than those granted to commercial customers under this Agreement. Consistent with 48 C.F.R. § 227.7202 and applicable DFARS clauses, the U.S. Government shall use the Firmware solely in accordance with the terms of this Agreement. Nothing in any government contract or subcontract incorporating the Product shall be construed to grant the U.S. Government any rights in the Firmware beyond those set forth in this Agreement.

Contractor/Manufacturer: Marki Microwave LLC, 345 Digital Drive, Morgan Hill, CA 95037, United States.

Prime Contractors acquiring the Product for supply to the U.S. Government are responsible for ensuring that the appropriate government rights notices and legends required by applicable FAR and DFARS clauses are affixed to any deliverable documentation and that this Agreement is passed through to the U.S. Government end user as the governing license.

6. CONFIDENTIALITY

The Firmware, including all information embedded therein, constitutes proprietary information and trade secrets of Marki. Licensee shall: (a) maintain the confidentiality of the Firmware using at least the same degree of care it uses to protect its own most sensitive confidential information, but in no event less than reasonable care; (b) use the Firmware solely as authorized under this Agreement; (c) not disclose the Firmware or any information derived therefrom to any third party without Marki's prior written consent, except to Licensee's employees and contractors who have a need to know for the Authorized Purpose and who are bound by confidentiality obligations at least as protective as this Section; and (d) notify Marki promptly in writing upon discovery of any unauthorized use or disclosure. Licensee's confidentiality obligations shall survive termination or expiration of this Agreement.

7. UPDATES, MODIFICATIONS, AND SUPPORT

Marki is under no obligation to provide updates, upgrades, patches, bug fixes, or new versions of the Firmware unless separately agreed in writing. Any update or modification to the Firmware provided by Marki shall be deemed Firmware subject to all terms of this Agreement. Marki is under no obligation to provide technical support, maintenance, training, or professional services under this Agreement.

8. LIMITED WARRANTY

8.1 Hardware Warranty

Except to the extent Marki has agreed in a signed writing otherwise relating to the sale of the Product hardware within which the Firmware is embedded, Marki warrants that the Product hardware will be free from defects in materials and workmanship for a period of one (1) year from the date of shipment to Licensee ("Warranty Period"), provided that the Product has been used in accordance with Marki's applicable datasheet and technical specifications and has not been subject to misuse, abuse, accident, unauthorized modification, or attempted repair by parties other than Marki.

8.2 Firmware Warranty Disclaimer

THE FIRMWARE IS PROVIDED "AS IS" AND "AS EMBEDDED." MARKI MAKES NO WARRANTY, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, REGARDING THE FIRMWARE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, OR ACCURACY. MARKI DOES NOT WARRANT THAT THE FIRMWARE WILL MEET LICENSEE'S REQUIREMENTS, THAT OPERATION WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ANY ERRORS WILL BE CORRECTED. LICENSEE ASSUMES THE ENTIRE RISK ARISING OUT OF USE OR PERFORMANCE OF THE FIRMWARE.

8.3 Warranty Remedies

Marki's sole obligation for a breach of the hardware warranty in Section 8.1 shall be, at Marki's option: (i) repair or replacement of the defective Product, or (ii) refund of the purchase price paid for the defective Product. Licensee must obtain a Return Material Authorization ("RMA") number from Marki prior to returning any Product.

9. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW:

(A) IN NO EVENT SHALL MARKI BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, DATA, BUSINESS, GOODWILL, ANTICIPATED SAVINGS, OR COST OF SUBSTITUTE GOODS OR SERVICES, ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE USE OR PERFORMANCE OF THE PRODUCT OR FIRMWARE, EVEN IF MARKI HAS BEEN ADVISED OF THE

POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE THEORY OF LIABILITY.

(B) MARKI'S TOTAL CUMULATIVE LIABILITY TO LICENSEE ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE PRODUCT SHALL NOT EXCEED THE LESSER OF: (I) THE AMOUNT ACTUALLY PAID BY LICENSEE TO MARKI FOR THE SPECIFIC PRODUCT GIVING RISE TO THE CLAIM IN THE TWELVE (12) MONTHS PRECEDING THE EVENT GIVING RISE TO THE CLAIM, OR (II) ONE THOUSAND U.S. DOLLARS (USD \$1,000).

The parties acknowledge that the limitations of liability in this Section reflect a reasonable allocation of risk and form an essential basis of the bargain between the parties. These limitations apply notwithstanding any failure of essential purpose of any limited remedy.

10. INDEMNIFICATION

Licensee shall defend, indemnify, and hold harmless Marki and its affiliates, officers, directors, employees, agents, licensors, and suppliers from and against any claim, suit, demand, loss, liability, damage, cost, or expense (including reasonable attorneys' fees) arising out of or related to: (a) Licensee's use of the Product or Firmware other than as authorized under this Agreement; (b) Licensee's violation of any applicable law or regulation; or (c) any product or service incorporating the Product or Firmware developed, distributed, or sold by Licensee, except to the extent any such claim is caused solely by Marki's gross negligence or willful misconduct.

11. ASSIGNMENT AND TRANSFER

Licensee may not assign, delegate, transfer, sublicense, or otherwise dispose of this Agreement or any rights or obligations hereunder -- whether by operation of law, merger, change of control, or otherwise -- without Marki's prior written consent, which shall not be unreasonably withheld with respect to transfers within the same U.S. Government program or supply chain. Any purported assignment without such consent is void. Notwithstanding the foregoing, Licensee may transfer the license granted herein together with a transfer of the Product hardware to a successor end user operating under the same U.S. Government program, provided that such successor receives a copy of this Agreement and agrees to be bound by all terms of this Agreement prior to receiving the Product. Marki may assign this Agreement in connection with a merger, acquisition, or sale of all or substantially all of its assets upon written notice to Licensee.

12. TERM AND TERMINATION

12.1 Term

This Agreement is effective upon Licensee's first use of the Product and shall continue until terminated as provided herein.

12.2 Termination by Licensee

Licensee may terminate this Agreement at any time by permanently ceasing all use of the Product and destroying or returning all units of the Product to Marki.

12.3 Termination by Marki

Marki may terminate this Agreement immediately upon written notice if: (a) Licensee breaches any provision of this Agreement and fails to cure such breach within thirty (30) days of written notice thereof; (b) Licensee becomes insolvent, makes an assignment for the benefit of creditors, or becomes subject to bankruptcy, receivership, or similar proceedings; or (c) Licensee challenges the validity or enforceability of any Marki intellectual property right in or to the Firmware.

12.4 Effect of Termination

Upon termination or expiration: (a) all licenses granted hereunder shall immediately cease; (b) Licensee shall immediately cease all use of the Firmware; (c) Licensee shall, at Marki's election, promptly return or destroy all units of the Product; and (d) sections that by their nature should survive shall survive, including without limitation Sections 4, 5, 6, 9, 10, 12.4, 13, and 14.

13. EXPORT COMPLIANCE

The Product and Firmware may be subject to U.S. export control laws and regulations, including the EAR administered by the U.S. Department of Commerce and the ITAR administered by the U.S. Department of State. Licensee agrees to strictly comply with all applicable export control laws and regulations. Licensee represents and warrants that it is not located in, under the control of, or a national or resident of any country to which the United States has embargoed goods or services, and is not a person or entity on any U.S. Government restricted party list. Licensee shall not export, re-export, release, disclose, transfer, or otherwise make available the Product or Firmware (or any direct product thereof) to any prohibited person, entity, or destination without obtaining all required authorizations from applicable U.S. Government agencies.

14. GENERAL PROVISIONS

14.1 Governing Law; Disputes

This Agreement is governed by the laws of the State of Delaware, without regard to its conflict of law principles. Any dispute arising out of or related to this Agreement shall be subject to the exclusive jurisdiction of the state and federal courts located in New Castle County, Delaware. The parties irrevocably consent to the personal jurisdiction and venue of such courts.

14.2 Entire Agreement

This Agreement, together with any applicable purchase order, sales order, or written agreement signed by authorized representatives of both parties and expressly incorporating this Agreement, constitutes the entire agreement between the parties with respect to the Firmware license and supersedes all prior and contemporaneous agreements, representations, and understandings, whether written or oral, relating thereto. In the event of a conflict between this Agreement and any purchase order or other

document, this Agreement shall control unless the conflicting provision is expressly identified and waived by Marki in a signed writing.

14.3 Amendment; Waiver

No amendment or modification to this Agreement shall be effective unless made in writing and signed by authorized representatives of both parties. No waiver of any provision shall be effective unless in writing, and no waiver shall constitute a continuing waiver or a waiver of any other provision.

14.4 Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be modified to the minimum extent necessary to make it enforceable, and the remaining provisions shall continue in full force and effect.

14.5 Injunctive Relief

Licensee acknowledges that any actual or threatened breach of Sections 3, 4, 5, or 6 would cause irreparable harm to Marki for which monetary damages would be an inadequate remedy, and that Marki is entitled to seek injunctive relief and other equitable remedies in any court of competent jurisdiction without the requirement to post bond or other security.

14.6 Notices

All notices under this Agreement shall be in writing and delivered by: (a) hand delivery; (b) nationally recognized overnight courier; or (c) certified mail, return receipt requested, postage prepaid, to Marki Microwave LLC, Attn: Legal Department, 345 Digital Drive, Morgan Hill, CA 95037, or such other address as Marki may designate in writing. Notices shall be deemed given upon receipt.

14.7 No Third-Party Beneficiaries

Except as expressly set forth herein with respect to the U.S. Government's rights under Section 5, this Agreement is for the sole benefit of the parties and their permitted successors and assigns, and nothing herein shall create any right in any third party.

14.8 Relationship of the Parties

The parties are independent contractors. Nothing in this Agreement creates any partnership, joint venture, agency, franchise, or employment relationship between the parties.

14.9 Headings

Section headings are for convenience only and shall not affect the interpretation of this Agreement.

14.10 Counterparts and Electronic Acceptance

This Agreement may be accepted electronically (e.g., by use of the Product). Any such electronic acceptance shall have the same legal effect as a written signature.

MARKI MICROWAVE LLC

345 Digital Drive, Morgan Hill, CA 95037 | www.markimicrowave.com