



SubCom LLC  
PURCHASE ORDER CONDITIONS  
June 28, 2023

1. Acceptance

Acceptance, acknowledgment or shipment of any part of this order constitutes an agreement to all terms and conditions set forth or referenced herein and on the face hereof and on attachments hereto and such terms and conditions shall constitute the entire agreement between Seller and Purchaser except as otherwise provide below. This order constitutes an offer by Purchaser and expressly limits acceptance to the terms and conditions stated herein and no agent or employee of Purchaser is authorized to make any agreement or understanding in any way modifying the terms and conditions of this order, nor shall any additional provisions or provisions of variance herewith that may appear in Seller's quotation, acknowledgment, invoice or in any other communication from Seller to Purchaser be deemed accepted by or binding on Purchaser, such provisions being rejected by Purchaser and superseded by the terms and conditions stated herein, unless and until expressly assented to in writing with legal consideration by Purchaser's authorized representative, who must be specifically identified in writing as such by Purchaser. In the event of a conflict between these order conditions and the terms of any written contract duly executed between Purchaser and Seller, the terms of that contract shall supersede these order conditions. Stenographic and clerical errors and omissions by the Purchaser are subject to correction.

2. Price

If Seller's price or the regular market price of the items covered hereunder is lower than the price stated in this order on the date of shipment of the item, Seller agrees to give Purchaser the benefit of such lower price on any such item. No charges for transportation, boxing, crating, etc., are allowable unless Purchaser has previously approved.

3. Default and Delays in Shipment

Time and rate of delivery are of the essence. Purchaser may by written notice of default to Seller (a) terminate the whole or any part of this order in any one of the following circumstances: (i) if Seller fails to make shipment of items or fails to perform the work within the time specified herein or any extension thereof; or (ii) if Seller fails to comply with the other terms and conditions of this order; and (b) procure upon such terms as Purchaser shall deem appropriate, items or services similar to those so terminated, in which case Seller shall continue performance of this order to the extent not terminated and shall be liable to Purchaser for any excess costs for such similar supplies or services and any expenses incurred in connection therewith. Seller shall indemnify and hold harmless Purchaser for all claims, costs, expenses, losses and damages, whether direct, indirect, or consequential, arising from Seller's default described above in (i) and (ii).

4. Force Majeure

Neither party shall be held responsible for any delay or failure in performance of any part of this order to the extent such delay or failure is caused by an occurrence beyond the reasonable control of, and without the fault or negligence of, the delayed or nonperforming party or its subcontractors. Examples of such delay or failure include acts of God or the public enemy, an act of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, delays of common carriers, and other similar causes beyond the delayed or nonperforming party's control. The Seller shall notify the Purchaser's authorized representative in writing as soon as reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Purchaser's authorized representative of the cessation of such occurrence. Seller's liability for loss or damage to Purchaser's material in Seller's possession or control shall not be modified by this clause. When a Seller's delay or nonperformance continues for a period of at least fifteen (15) days, Purchaser may terminate, at no charge, this order.

5. Inspection

All items shall be received subject to Purchaser's inspection. Items that are defective in workmanship or material or otherwise not in conformity with the requirements of the order may be rejected and returned at Seller's expense or may be accepted at an appropriate reduction in price. Purchaser may require Seller to promptly replace rejected items and, if Seller fails to promptly replace, Purchaser may replace the items elsewhere and charge to Seller the additional cost. Seller shall indemnify and hold harmless Purchaser for all costs, expenses and damages, whether direct, indirect, or consequential, arising from Seller's failure to provide conforming items.

Purchaser shall have the right to evaluate and inspect the work furnished pursuant to this order for compliance with the applicable drawings, specifications, samples and other descriptions that are given Seller in connection with this order by Purchaser. Seller shall provide Purchaser and its customer(s) with free access to the work performed and the services provided under this order, for the purpose of evaluation and inspection thereof. At any time during the progress of the work, Purchaser may reject any or all of the work or services if the same are not in accordance with this order, and shall give written notice to Seller of such non-compliance. Seller agrees to correct, at its expense, each error or defect leading to such rejection and resubmit the corrected work to Purchaser within seven (7) business days, or other mutually agreed upon date, after receipt of notice from Purchaser of such error or defect.

6. Warranty

6a. The warranty period shall commence on the date the product/ service is accepted by Purchaser and continue for six (6) years following such date ("Warranty Period"). During the Warranty Period, Seller warrants that all products and services will conform strictly with applicable drawings, specifications, samples and other descriptions (including Purchaser's: Total Quality Management Requirements for Suppliers 102-47, Environmental Standard 230-702, Supplier Requirements for the Elimination of Hazardous Substances, and the International Standards for Phytosanitary Measures, Publication No. 15) that are made available to Seller in connection with this order by Purchaser via the issuer of the order or by any other means made available by Purchaser. Seller warrants that all products and services will be merchantable and free from defects in design, materials and workmanship and that no pattern of failure or pattern of degradation shall have developed that is likely to cause the products to fail to meet the requirements of the specification over their design life and, if not of Purchaser's design, be suitable for the purpose intended whether expressed or reasonably implied. The foregoing warranties shall survive acceptance and payment and shall run to the Purchaser, its customers and the users of the item or work. Remedies may include repair, replacement or reimbursement of the purchase price of nonconforming items at Purchaser's election. Seller shall be responsible for the cost of labor and engineering assistance or development required to make the repair and all associated costs such as but

not limited to shipping and customs and services that may be required to make the repair. For the avoidance of doubt, the Seller shall pay to the Purchaser all the reasonable out of pocket expenses (if any) incurred by the Purchaser in testing or examining any part of the products for the purpose of or in connection with this clause or in connection with the making good, replacing or repairing any part of the product if the cause of failure is attributable to the Seller. It is the responsibility of the Seller to show that the failure cannot be attributed to the Seller.

Any defective part repaired or replaced during the Warranty Period shall itself be subject to a further warranty period of the balance of the original Warranty Period, or an additional two (2) years, whichever is greater.

The repair or replacement of any faulty unit or product includes the delivery to the Purchaser of a descriptive report of the fault found and, when appropriate, of the repair carried out on such faulty unit or product.

The maximum period for repair of the units (including shipping and customs clearance) shall be one (1) year or as defined in the requirements provided by Purchaser in its request for quotation ("Requirements"), which ever is earlier.

6b. Seller further warrants that it has and will transfer to Purchaser clear and unencumbered title to the items.

6c. Seller shall indemnify and hold harmless Purchaser for all claims, costs, expenses, losses and damages, whether direct, indirect, incidental, or consequential, arising from a breach of this warranty or any other term or condition of this order.

6d. Each Party represents and warrants to the other that:

- i. it is duly organized, validly existing and in good standing under the laws of the country and/or place of its organization,
- ii. it has all requisite power and authority to enter into and perform its obligations under this order,
- iii. this order is a legal, valid and binding obligation enforceable against such Party in accordance with its terms,
- iv. it has taken all requisite corporate action to approve the execution, delivery and performance of this order; and
- v. its execution of and performance under this order shall not violate any applicable existing regulations, rules, statutes, or court orders of any local, state or federal governmental authority, court, or body.

6e. Seller represents and warrants to Purchaser that:

- i. as of the date of this purchase order, Seller is not aware of any quality issues with respect to the product that would cause the product to fail to meet the specifications, including but not limited to exceeding the expected rate of failures over the product design life time, and that if Seller becomes aware of any quality issue in the future it will immediately notify Purchaser;
- ii. Seller shall provide a 90% confidence estimate of the failure rate of the unit under the operating conditions given in the Requirements along with the predominant expected failure modes. If the unit is an assembly, this information shall be provided for each field-replaceable sub-unit, regardless of whether failure of the sub-unit affects the overall unit performance. If the list of predominant failure modes changes, Seller shall immediately notify Purchaser; and
- iii. Seller shall promptly notify Purchaser of any proposed changes in design, materials, or sourcing and shall not implement any such changes without Purchaser's prior written consent.
- iv. Seller shall promptly notify Purchaser of any change in running failure rate during manufacturing testing of components, subassemblies, or finished systems that are to be sold to the Purchaser, if the failure rate is more than one standard deviation away from the monthly mean for the relevant product. Any failure rates greater than 1000 ppm should be presented to the Purchaser.

7. Patent and other IPR Indemnity

Notwithstanding the specifications, drawings, samples and other descriptions furnished by Purchaser, Seller warrants that the items and the sale, use or transfer thereof by Purchaser or any transferee will not infringe any U.S. or foreign Letters of Patent, copyrights, trade secrets, trademarks or other intellectual property rights ("IPR"). Seller shall defend, indemnify, protect, and hold harmless Purchaser, its successors and assigns, customers and users of the items, from and against any and all claims, damages, losses, liabilities, and expenses, including reasonable attorney's fees and costs, resulting from any IPR infringement claim or allegation related to the items. If Purchaser has reason to believe that the use, sale, transfer, or other disposition of items or any part thereof is likely to be enjoined by a court, Seller at no expense to Purchaser shall promptly (i) obtain for Purchaser the right to use, sell, transfer or otherwise dispose said items, and (ii) if (i) is not possible, replace or modify such items with equivalent non-infringing items acceptable to Purchaser that have substantially the same form, fit and function. If Seller is unable to perform the above two options (i) and (ii) promptly, Purchaser, at its option and Seller's expense, may purchase replacement items from other sources and return any infringing items at its possession to Seller. Seller shall extend the benefit of this provision to Purchaser's successors, assigns, and customers. Seller shall not enter into or acquiesce to any settlement containing any admission of or stipulation to any guilt, fault, liability or wrongdoing on the part of Purchaser or which would otherwise adversely affect Purchaser without Purchaser's prior written consent.

8. Purchaser's Property

8a. Title to and the right to immediate possession of all tools, molds, dies, parts, supplies, jigs, fixtures, plans, drawings, specifications and all other equipment, materials and property that are furnished by Purchaser for Seller's use hereunder; or are procured, produced, manufactured or fabricated by Seller in connection with Seller's performance hereunder; or are in any manner paid for directly or indirectly by Purchaser (all of which is collectively referred to as "Purchaser's Property"); shall at all times be and remain in Purchaser. Seller will ensure that at all times Purchaser's Property shall be and remain free and clear of any interest or claim on the part of Seller's creditors or other third parties. Seller waives any and all liens that it has or

- may acquire with respect to Purchaser's Property. Seller shall take all measures which Purchaser deems appropriate to perfect or evidence Purchaser's title to all Purchaser's Property, including without limitation executing and filing informational financing statements and other documents with respect thereto, and for such purpose, Seller hereby irrevocably appoints Purchaser as Seller's attorney-in-fact to execute all such documents in Seller's name and on Seller's behalf. Seller shall clearly mark or otherwise adequately identify all Purchaser's Property as belonging to Purchaser. Seller shall not transfer possession of any Purchaser's Property to any third party, or delegate or assign any of Purchaser's obligations with respect thereto, unless otherwise specifically agreed by Purchaser in writing.
- 8b. While any Purchaser's Property remains in Seller's possession, Seller shall at its expense maintain the same in good operating condition and repair and in compliance with all warranties contained herein. Seller shall be responsible for and shall bear all risk of loss or damage to all Purchaser's Property while in Seller's Care, custody, possession or control, and shall insure such risks with full replacement value fire and extended coverage insurance reasonably satisfactory to Purchaser. Unless otherwise agreed by Purchaser in writing, Seller will use all Purchaser's Property solely and exclusively to perform for Purchaser's benefit hereunder, and not for the benefit of any other party.
- 8c. Seller, as a material part of the consideration hereunder, hereby assumes all risk of damage to property or injury to persons arising from its use of all Purchaser's Property. Seller shall indemnify Purchaser from and hold Purchaser harmless against any and all claims arising from Seller's use of all Purchaser's Property, including all attorney's fees, expenses and liabilities incurred in the defense or settlement of any such claims, and, in the event of any claim against Purchaser by an employee or agent of Seller, Seller's liability and indemnification obligation hereunder shall not be limited by any amount recoverable by such persons under worker's compensation or similar applicable law. Seller shall maintain such liability insurance with respect to its obligations under this Paragraph as Purchaser may from time to time require.
- 8d. Purchaser shall have the right to recover immediate possession of all Purchaser's Property at any time, with or without cause, and without any additional charge or fee being assessed to Purchaser by reason of such recovery. Upon Purchaser's request, Seller shall deliver all Purchaser's Property to Purchaser, FOB Seller's dock, in good condition and repair, normal wear and tear only excepted. Seller grants to Purchaser the unconditional right to enter upon Seller's premises during normal business hours upon twenty-four (24) hours notice to recover Purchaser's Property.
9. Purchaser's Design  
If the items or parts thereof, contracted for hereunder, are of Purchaser's design, the Seller shall not reproduce for others any such item or parts thereof without the prior written consent of Purchaser, nor shall Seller supply or disclose to others any information regarding such items or parts thereof, nor incorporate in other items or articles any special feature of design or manufacture, considered by Purchaser to be peculiar or unique to the items or parts thereof, contracted for hereunder, without such prior written consent.
10. Invention  
Any invention resulting from or arising out of performance by Seller or Seller's employees under this purchase order, which performance has been funded by Purchaser, shall be the property of Purchaser.
11. Payment Terms and Discount  
The payments terms governing this order shall be shown on the face of this order. The time in connection with any payment or discount offered Purchaser will be computed from the date of delivery at the destination of items ordered or services rendered, or from the date the correct bill or voucher is received by Purchaser's Accounts Payable Department, if the latter date is later than the aforesaid date of delivery. Payment will be in United States dollars unless otherwise stated in the order.
12. Set Off  
Any monies due Seller by Purchaser for any items furnished hereunder may, at Purchaser's option, be applied to the payment of any sums owing by Seller to Purchaser.
13. Assignment and Delegation  
Seller may not assign, pledge, or in any manner encumber Seller's rights under this purchase order or delegate its performance hereunder without Purchaser's written permission. Seller shall be responsible to Purchaser for all work, as defined in this order, performed by Seller's subcontractors at any tier.
14. Changes/Stop Work Order  
Purchaser may, at any time, by written notice make changes within the general scope of this order in the specifications, designs, drawings, quantity ordered, methods of shipment, packaging, or place or time of delivery. If any such changes cause an increase or decrease in the cost of or the time required for the performance of any part of the work under this order, an equitable adjustment shall be made in the price or delivery schedule, or both, and this order shall be modified in writing accordingly. Any claim by Seller for an adjustment must be made in writing thirty (30) days of the receipt of any such notice. Nothing contained herein shall relieve the Seller from proceeding without delay to perform this order as changed.
15. Termination  
In addition to all of the other rights which Purchaser may have to cancel this purchase order, Purchaser shall have the further right, without assigning any reason therefore, to terminate any work hereunder, in whole or in part, at any time. Purchaser will not be liable to Seller for any costs for completed items, items in process or materials acquired or contracted for, if such costs were incurred more than the permitted number of days prior to the delivery dates as stated on the face of this purchase order or if none is stated, 30 days. If Purchaser cancels this purchase order within such time as specified on the face of this purchase order or if none is stated, 30 days, and if the parties cannot agree within a reasonable time upon the amount of fair compensation to the Seller for such termination: (a) Purchaser will pay the contract price for all items reasonably completed in accordance with this purchase order and not previously paid for unless said item(s) is part of Seller's standard commercial items, and (b) Purchaser will pay a fair and proper proportion of the contract price for items in process and for all materials acquired or contracted for within the time specified on the face of this purchase order for the purpose of fulfilling this purchase order which Seller is unable to cancel, return or otherwise use in Seller's operations. Should Purchaser so desire, cancellation charges shall be subject to Purchaser's audit.
16. Indemnification/Insurance  
In the event Seller, its employees, agents, subcontractors and/or lower-tier subcontractors enter premises occupied by or under the control of Purchaser in the performance of this order, Seller agrees that it will indemnify and hold harmless Purchaser, its officers and employees from any claims, loss, costs, damage, expense or liability by reason of property damage, including theft, or personal injury of whatsoever nature or kind arising out of, as a result of, or in connection with such entry. Seller, its subcontractors and lower-tier subcontractors shall produce and maintain workers' compensation, comprehensive general liability including Professional Liability, bodily injury and property damage insurance in reasonable amounts, and such other insurance as Purchaser may require and shall comply with all site requirements. Seller shall provide Purchaser thirty (30) days' advance written notice prior to the effective date of any cancellation or change in the term or coverage of any Seller required insurance. If requested, Seller shall send a "Certificate of Insurance" showing Seller's compliance with these requirements. Seller shall name Purchaser as an additional insured for the duration of this order. Insurance maintained pursuant to this clause shall be considered primary with respect to the interest of Purchaser and is not contributory with any insurance with Purchaser may carry. Seller agrees that Seller, Seller's insurer(s) and anyone claiming by, through, under or in Seller's behalf shall have no claim, right of action or right of subrogation against Purchaser and its customers based on any loss or liability insured against under the foregoing insurance.
17. Compliance with All Laws
- 17a. For the purposes of this Section 17, the term "government official" shall mean any director, officer or employee of any government or any department, agency or instrumentality thereof, and/or of any enterprise in which a government owns an interest, and/or of any public international organization. This term also includes any Person acting in any official, administrative or judicial capacity for or on behalf of any such government or department, agency, instrumentality, company, or public international organization.
- 17b. Seller warrants, and it is a condition of this order, that all performance hereunder shall be in accordance with all applicable Federal, State and local laws, regulations and orders, including, but not limited to: OSHA; environmental regulations, phytosanitary standards, licenses or permits; and the Fair Labor Standards Act of 1938, as amended, including sections 6, 7, and 12 thereof. Until received by Purchaser, all items are Seller's sole responsibility including, but not limited to, the responsibility for proper, lawful handling or shipment of such items, or of any by-item or waste stream resulting there from. Seller shall indemnify and hold harmless Purchaser, its officers, employees, and agents from any and all claims, demands, suits or actions environmentally related or of any other nature whatsoever, including reasonable attorney's fees, and expenses arising from Seller's activity in the negligent performance or omission of any specified, required or requested work for or on behalf of Purchaser.
- 17c. Seller warrants that Seller and its subcontractors are familiar with and knowledgeable about all relevant laws, rules regulations, decrees, federal, state and local, which are now applicable to the order and any work performed in connection herewith, including without limitation, those pertaining to health, safety, security, and environmental protection (hereinafter sometimes referred to as the "Laws") and Seller warrants that in conducting the work hereunder it will comply with all such Laws.
- 17d. Seller shall not pay any fee, commission, rebate, or other value to or for the benefit of any governmental official having jurisdiction over the work site, if such payment would be inconsistent with or penalized by the laws and regulations of the United States.
- 17e. Seller and Purchaser each agree and undertake to the other that in connection with this order and the transactions contemplated by this order, they will each respectively comply with all applicable law, rules, regulations, decrees and/or official governmental orders of the United States relating to anti-bribery and anti-money laundering.
- 17f. Seller agrees, undertakes and confirms that its employees, officers, directors, agents, representatives and subcontractors have not, in connection with the transactions contemplated by this order or in connection with any other business transactions involving the Purchaser made, offered or promised to make, and will not make, offer, or promise to make, any payment or other transfer of anything of value, including without limitation the provision of any service, gift or entertainment, directly or indirectly to: (i) any government official (including directors, officers and employees of government-owned and government-controlled companies and public international organizations); (ii) any director, officer, employee representative or agent of the Purchaser; (iii) any political party, official of a political party, or candidate for public office; (iv) an agent or intermediary for payment to any of the foregoing; or (v) any other Person for the purpose of obtaining or influencing the award of or carrying out this order, if, and to the extent that to do so is or would be in violation of or inconsistent with the anti-bribery or anti-money laundering laws of any relevant jurisdiction, including, without limitation, the U.S. Foreign Corrupt Practices Act, and, if applicable, the U.K. Anti-Terrorism, Crime and Security Act 2001 and successor legislation, the applicable country legislation implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.
- 17g. Seller agrees and undertakes that in connection with this order and in connection with any other business transactions involving Purchaser in the United States and United Kingdom, if applicable, Seller and its Affiliates have and will apply effective disclosure controls and procedures; have and will maintain books, records, and accounts which, in reasonable detail, accurately and fairly reflect the transactions undertaken and the disposition of assets; and have and will maintain an internal accounting controls system that is sufficient to ensure the proper authorization, recording and reporting of all transactions and to provide reasonable assurance that violations of the anticorruption laws of the applicable jurisdictions will be prevented, detected and deterred.
- 17h. In the event that Purchaser has any basis for a good faith belief that Seller may not be in compliance with the undertakings and/or requirements set forth in this Section 17, Purchaser shall advise Seller in writing of its good faith belief and Seller shall cooperate fully with any and all inquiries undertaken by or on behalf of Purchaser in connection therewith, including the provision by Seller of personnel and supporting documents and affidavits if reasonably deemed necessary by Purchaser.
- 17i. Subject to the requirements of Section 17, and without prejudice to any other rights or remedies the Purchaser may have hereunder or at law (including, as applicable, the right to damages for breach of contract), Purchaser shall have the right to terminate this order with immediate effect if Purchaser reasonably believes in good faith that any of the foregoing agreements, undertakings or requirements set forth in this Section 17 have not been complied with or fulfilled by Seller; PROVIDED, HOWEVER, that Purchaser shall have provided Seller with written notice of its intention to terminate the order under the provisions of this Section 17 together with a summary of the reasons therefore and that Seller has been unable within five (5) business Days of delivery of such notice to provide Purchaser with evidence that demonstrates, to the reasonable satisfaction of the Purchaser, that Seller has not failed to comply with or fulfill any of the foregoing agreements, undertakings or requirements.
- 17j. All payments by Seller to Purchaser shall be made in accordance with the terms of payment specified in this order. In the absence of any such specific payment instructions elsewhere in

this order, payments by Purchaser to Seller shall only be made by check or wire transfer to a bank account, details of which shall be given by Seller to Purchaser in writing.

18. Right of Access

18a. Seller, without additional charge, shall permit reasonable access by representatives of Purchaser, Purchaser's customers and applicable regulatory agencies to Seller's premises (and the premises of Seller's subcontractors and supplier(s)) for the purpose of examining Seller's facilities, processes, goods, and records relating to this order. Such examination may include inspection and testing of equipment, materials, parts, items (including software and licensed materials) to be furnished and services to be rendered, manufacturing and assembly processes, testing and quality procedures, and all applicable records relating to the manufacture, inspection, testing, and sale of such items and the furnishing of such services.

18b. If requested by Purchaser, Seller shall provide at its facility, without additional charge, suitable and convenient office space for representatives of Purchaser and/or representatives of Purchaser's customers, as reasonably required. The office shall be properly lighted and heated and maintained in a clean condition and have telephones and facsimile machines.

19. Passage of Title and Risk

Title and risk of loss or damage to the items shall remain with Seller until the Items are received at the FCA/FOB point specified on the face of this order. If this order calls for additional services to be performed after delivery, Seller shall retain title and risk of loss and damage to the items until the additional services have been performed. If Seller is authorized to invoice Purchaser for items upon shipment or prior to the performance of additional services, title to the items shall vest in Purchaser upon payment of the invoice, but risk of loss and damage shall pass to Purchaser when the additional services have been performed.

20. Government Contracts or Subcontracts

20a. Inspection and Audit

The Seller agrees that its plant, books and records shall be subject to inspection and audit at all reasonable times by any authorized representative of the Government Agency with which the prime contract or subcontract of the Purchaser is made.

20b. Federal Acquisition Regulations (FAR/DFARS)

Seller will comply with the provisions of the Federal Acquisition Regulation (FAR), the Defense FAR Supplement (DFARS), and other terms identified in Appendix A to this order, as well as the acquisition regulations listed elsewhere in this order. Appendix A incorporates one or more clauses by reference, with the same force and effect as if they were provided in full text.

20c. Priority Ratings

If a DO or DX priority rating is indicated on the face hereof, Seller is required to follow the provisions of The Defense Priorities and Allocation System (DPAS).

20d. There are also incorporated herein by reference and made an express part hereof all other then current clauses which Purchaser is required by law, regulations, or applicable Government contracts or subcontracts to insert in its subcontracts or orders, and other clauses of standard Government contract forms to the extent the same are applicable to Purchaser's operations requiring the purchased items.

21. Non-Discrimination in Employment

In connection with performance of work hereunder the Contractor agrees to comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and rules, regulations and orders pertaining thereto.

22. Remedies

All rights and remedies of Purchaser set forth in this Order or available at law shall be cumulative and not alternative and shall not be exhausted by any one or more uses thereof. The waiver by Purchaser of any term or condition of this order shall not be deemed a waiver of any subsequent breach of the same or any other term or condition. SELLER HEREBY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS ORDER.

23. Limitation of Liability

In no event shall Purchaser be responsible or held liable to Seller for punitive, indirect, incidental or consequential damages, including, without limitation, liability for loss of use, loss of profits, capital investment, product development costs, unabsorbed overhead, or interest expenses, however the same may be caused, including fault or negligence of Purchaser.

24. Survival of Obligations

The obligations of the parties under this order, which, by their nature would continue beyond the termination, cancellation or expiration of this order, shall survive the termination, cancellation or expiration of this order.

25. Seller's Liability

Seller assumes the entire responsibility and liability for losses, expenses, damages, demands and claims in connection with or arising out of any personal injury or alleged personal injury (including death), and/or damage or destruction or alleged damage or destruction to property sustained or alleged to have been sustained in connection with or to have arisen out of the negligent performance of the work by or willful misconduct of Seller, its agents, employees, subcontractors, and consultants, save and except liability as may result from, or be in connection with, the willful or negligent act or omission of Purchaser, its officers, agents employees or independent contractors acting for Purchaser. Seller shall indemnify and hold harmless Purchaser, its officers, agents and employees from any and all liability for such losses, expenses, damages, demands and claims and shall defend any suit or action brought against any or all of them based on any alleged personal injury or damage and shall pay any damage costs and expenses, including attorney's fees, in connection with or resulting from such suit or action.

26. Taxes

Except where prohibited by law, Purchaser and Seller agree that all customs duties, VAT, turnover taxes, sales tax, and other applicable taxes, social insurance contributions, or fees (those imposed on or measured by the services provided or goods delivered) are included in the prices provided by Seller, and shall not be billed to Purchaser as separate items. Seller shall also be responsible for any and all payroll taxes for services performed in country by Seller's personnel. If VAT, sales tax, or other similar taxes are imposed by the country in which the services are performed, unless Purchaser has provided an exemption certificate or a direct pay permit, Seller agrees to bill such taxes as separate line items on an invoice, in accordance to the applicable taxing jurisdiction's laws. Where VAT is applicable, Seller agrees to use its reasonable commercial efforts to ensure that its invoices to Purchaser are issued in such a way that they meet the requirements for deduction of input VAT by Purchaser.

27. Export Control – Import Control

27a. Seller shall be responsible for the control, disclosure of and access to technical data, information and other items received under this order in accordance with U.S. export control laws and regulations, including but not limited to the International Traffic in Arms Regulations (ITAR) and the export laws of the country of the Purchaser if the Purchaser is not U.S. based. Seller shall comply with all such laws and regulations and shall indemnify Purchaser for all liabilities, penalties, losses, damages, costs or expenses that may be imposed on or incurred by Purchaser in connection with any violations of such laws and regulations by Seller.

27b. Seller shall provide, to the best of their knowledge, the Harmonized Tariff schedule number associated with the specific item being purchased fall under within the manufactures country.

28. Governing Law

The laws of New York, without regard to its conflicts of laws principles, shall govern in all respects the performance of this order, except that any provision in this order that is (i) incorporated in full text or by reference from the FAR or DFARS or (ii) substantially based on any such FAR or DFARS provision shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contracts appeals, and quasi-judicial agencies of the federal Government. The United Nations Convention on Contracts for the International Sale of Goods shall not apply. During pendency of any dispute arising under this order, both parties shall proceed diligently with performance hereunder.

29. Order of Precedence

In the event of any inconsistency among this order, the documents referenced herein and any attachments hereto, the inconsistency shall be resolved by giving precedence in the following descending order: (i) provisions set forth on the face of this order, (ii) the specifications, (iii) the drawings, (iv) these terms and conditions, and (v) the other documents incorporated by reference.

30. Confidential Information

30a. Seller agrees that it will at all times hold in confidence for Purchaser all designs, know-how, techniques, devices, drawings, specifications, patterns, technical information, documents, business plans, item requirements, forecasts and similar data, oral, written or otherwise, conveyed by Purchaser to Seller in connection herewith or procured, developed, produced, manufactured or fabricated by Seller in connection with Seller's performance hereunder (collectively, "Information"). Seller shall exercise the same degree of care to prevent disclosure of any Information to others as it takes to preserve and safeguard its own proprietary information, but in any event, no less than a reasonable degree of care. Seller shall not, without the prior written consent of Purchaser, reproduce any Information; nor disclose Information to any party; nor use Information for any purpose other than performance for the benefit of Seller hereunder.

30b. Any technical knowledge or information of Seller which the Seller shall have disclosed or may hereafter disclose to the Purchaser in connection with the items or services or other performance covered by this order shall not, unless otherwise specifically agreed upon in writing by the Purchaser, be deemed to be confidential or proprietary information and shall be acquired by Purchaser free from any restrictions as part of the consideration of this purchase order.

30c. Seller shall not, without prior written consent of Purchaser, issue any news release, publicity or promotion material regarding this order or make public use of any Identification in any circumstances related to this order. "Identification" means any semblance of any trade name, trademark, service mark, insignia, symbol, logo, or any other designation or drawing of SubCom LLC or its affiliates. Seller shall remove or obliterate any Identification prior to use or disposition of any material rejected or not purchased by Purchaser.

SubCom LLC  
PURCHASE ORDER CONDITIONS  
**APPENDIX A: FAR AND DFARS COMMERCIAL ITEM CLAUSES PURSUANT TO CLAUSE 20b OF THIS PURCHASE ORDER**

**Additional Terms for Items For Use In Connection With a U.S. Government Prime or Subcontract**

The Federal Acquisition Regulation ("FAR") and Defense FAR Supplement ("DFARS") clauses set forth in this Appendix in Tables 1 and 2, respectively, are incorporated by reference into the Purchase Order Conditions to which this Appendix relates, with the force and effect as though set forth in full text herein. The full text of FAR clauses may be accessed electronically at <http://www.aquisition.gov>; the full text of DFARS clauses may be accessed electronically at <https://www.acq.osd.mil/DPAP/dars/dfarspgi/current/index.html>; FAR and DFARS clauses may also be accessed at <http://www.ecfr.gov>.

Unless otherwise noted with respect to a particular clause, the following changes in terminology will apply to each clause, regardless of capitalization, when consistent with a reasonable interpretation of the clause that properly expresses the relationship between the Purchaser and the Seller.

- The term "government" or "USG" means "Purchaser."
- The term "contractor" or "offeror" means "Seller."
- The term "contract" or "grant" means the "Purchase Order Conditions" to which this Appendix relates.
- The term "contracting officer" or "contracting officer's representative" means "authorized representative of Purchaser."
- The term "subcontract" means "lower-tier agreement."

**Table 1: FAR Clauses**

FAR CLAUSE	TITLE
52.203-6	Restrictions on Subcontractor Sales to the Government (Sep 2006) (Alt I) [applicable if the value of this order exceeds the simplified acquisition threshold in part 2 of the FAR; references to "Government" remain unchanged]
52.203-12	Limitation on Payments to Influence Certain Federal Transactions (Oct 2010) [applicable if the value of this order exceeds \$150,000]
52.203-13	Contractor Code of Business Ethics and Conduct (Oct 2015) [applicable if the value of this order exceeds \$5.5 million and this order has a performance period of more than 120 days; references to "Government" and "Contracting Officer" remain unchanged]
52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) [references to "Government" remain unchanged]
52.204-21	Basic Safeguarding of Covered Contractor Information Systems (Jun 2016) [applicable if this order is not for commercially available off-the-shelf items and the Seller may have access to non-public information provided by or generated for the U.S. Government, excluding basic transactional information relating to interactions with the U.S. Government; references to the "Government" remain unchanged]
52.204-23	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018) [references to the "Government" remain unchanged]
52.209-6	Protecting the Government Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Oct 2015) [applicable if the value of this order exceeds \$35,000 and this order is not for commercially available off-the-shelf items]
52.219-8	Utilization of Small Business Concerns (Nov 2016) [applicable if this order offers further subcontracting opportunities; the Seller is required to flow down the clause to lower-tier subcontractors if the value of this order exceeds \$700,000]
52.222-21	Prohibition on Segregated Facilities (Apr 2015) [applicable to the same extent as FAR 52.222-26]
52.222-26	Equal Opportunity (Sept 2016) [applicable unless exempted by the rules, regulations, or orders of the Secretary of Labor; an exemption applies if this order is (i) valued at \$10,000 or less, unless the Seller receives or can be expected to receive in a twelve-month period covered orders valued at more than \$10,000 in the aggregate or (ii) for work performed entirely outside the United States with employees recruited outside the United States]
52.222-35	Equal Opportunity for Veterans (Oct 2015) [applicable if the value of this order is \$150,000 or more, unless exempted by the rules, regulations, or orders of the Secretary of Labor; an exemption applies if this order is for work performed entirely outside the United States with employees recruited or transferred outside the United States]
52.222-36	Equal Opportunity for Workers with Disabilities (Jul 2014) [applicable if the value of this order exceeds \$15,000, unless exempted by the rules, regulations, or orders of the Secretary of Labor; an exemption applies if this order is for work performed entirely outside the United States with employees recruited or transferred outside the United States]
52.222-37	Employment Reports on Veterans (Feb 2016) [applicable if the value of this order is \$150,000 or more, unless exempted by the rules, regulations, or orders of the Secretary of Labor; an exemption applies if this order is for work performed entirely outside the United States with employees recruited or transferred outside the United States; if applicable, the Seller and Purchaser will abide by the requirements of 41 C.F.R. § 61-300.10 as amended from time to time]
52.222-40	Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) [applicable if the value of this order exceeds \$10,000 and this order will at least partially be performed in the United States]
52.222-50	Combating Trafficking in Persons (Mar 2015) [Purchaser may take appropriate action against Seller, including termination of this order, for violation of paragraph (b); if a certification is required under paragraph (h)(5), the Seller will submit the certification at FAR 52.222-56 before shipment of any item(s)]
52.222-55	Minimum Wages under Executive Order 13658 (Dec 2015) [applicable to the same extent as FAR 52.222-62]
52.222-62	Paid Sick Leave Under Executive Order 13706 (Jan 2017) [applicable if this order is subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute]
52.222-54	Employment Eligibility Verification (Oct 2015) [applicable if the value of this order exceeds \$3,500 and this order involves services that will be performed in the United States, unless the services are commercial services that are part of the purchase of a commercially available off-the-shelf item, or an item that would be a commercially available off-the-shelf item but for minor modifications, and the services are normally provided with that item]
52.224-3	Privacy Training (Jan 2017) [applicable if this order involves a system of records or personally identifiable information]
52.225-26	Contractors Performing Private Security Functions Outside the United States (Oct 2016) [applicable if this order involves performance outside of the United States in areas of combat operations or other significant military operations]
52.232-40	Providing Accelerated Payments to Small Business Subcontractors (Dec 2013) [applicable if Seller is a small business concern; references to "Government" and "Contractor" remain unchanged]
52.244-6	Subcontracts for Commercial Items (Jan 2017)
52.245-1	Government Property (Jan 2017) [applicable if Government property will be acquired or furnished under this order; references to "Government" remain unchanged]
52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) [applicable if Purchaser will provide the supplies being transported under this order to the Government without "adding value" pursuant to paragraphs (d), (e)(4)]

**Table 2: DFARS Clauses**

DFARS CLAUSE	TITLE
252.203-7002	Requirement to Inform Employees of Whistleblower Rights (Sep 2013)
252.204-7012	Safeguarding Covered Defense Information and Cyber Incident Reporting (Oct 2016) [applicable if this order is for operationally critical support or if performance of this order will involve covered defense information; if Seller provides notice(s) to the Contracting Officer, Seller shall furnish Purchaser with a copy of such notice(s) at the time the notice(s) are sent; references to "Government" remain unchanged]
252.204-7015	Notice of Authorized Disclosure of Information for Litigation Support (May 2016) [references remain unchanged]
252.211-7003	Item Unique Identification and Valuation (Mar 2016) [applicable if this order requires any item(s) to contain unique item identification]
252.223-7008	Prohibition of Hexavalent Chromium (Jun 2013)
252.225-7009	Restriction on Acquisition of Certain Articles Containing Specialty Metals (Oct 2014) [applicable if the item(s) under this order contain specialty metals; references to "Government" remain unchanged except as specified herein; paragraphs (d) and (e)(1) are deleted; "Government" shall mean "Seller" in paragraph (e)(2)]
252.225-7048	Export-Controlled Items (Jun 2013)
252.226-7001	Utilization of Indian Organizations, Indian-Owned Economic Enterprises and Native Hawaiian Small Business Concerns (Sep 2004) [applicable if this order exceeds \$500,000; references remain unchanged, except that in paragraph (f)(1) only, "Contractor" shall mean "Purchaser," and in all other places "Contractor" shall mean "Seller"; Purchaser shall have no liability to Seller for any incentive payment under this clause unless and until the Government provides said incentive payment to Purchaser]
252.227-7013	Rights in Technical Data—Noncommercial Items (Feb 2014) [references to "Government" remain unchanged]
252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (Feb 2014) [references remain unchanged, except that "Contractor" shall mean "Seller"]
252.227-7015	Rights in Technical Data—Commercial Items (Feb 2014) [references remain unchanged, except that "Contractor" shall mean "Seller"]
252.227-7019	Validation of Asserted Restrictions—Computer Software (Sep 2016) [references remain unchanged, except that "Contractor" shall mean "Seller"]

DFARS CLAUSE	TITLE
252.227-7037	Validation of Restrictive Markings On Technical Data (Sep 2016) [applicable to the extent that this order requires the delivery of technical data; references remain unchanged, except that "Contractor" shall mean "Seller"]
252.244-7000	Subcontracts for Commercial Items (Jun 2013)
252.246-7003	Notification of Potential Safety Issues (Jun 2013) [applicable if this order is for (i) parts identified as critical safety items, (ii) systems and subsystems, assemblies, and subassemblies integral to a system, or (iii) repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system; the Seller shall provide the notification required by paragraph (c) to (i) the Purchaser, and (ii) the Administrative Contracting Officer and the Procuring Contracting Officer for the prime contract, as identified by the Purchaser]
252.246-7007	Contractor Counterfeit Electronic Part Detection and Avoidance System (Aug 2016) [applicable if this order is for electronic parts or assemblies containing electronic parts; introductory text is deleted]
252.246-7008	Sources of Electronic Parts (Dec 2017) [applicable if this order is for electronic parts or assemblies containing electronic parts, unless Seller is the original manufacturer; references to "Government" in paragraph (d) remain unchanged]
252.247-7023	Transportation of Supplies by Sea—Basic (Apr 2014) [applicable to the extent identified in paragraph (b); paragraphs (f) and (g) are deleted if this order does not exceed the simplified acquisition threshold in part 2 of the FAR; in the first sentence of paragraph (g), the remainder of the sentence after the word "Contractor" is deleted; in paragraph (g) only, "Government" shall mean "Purchaser" and "Contracting Officer" shall mean "authorized representative of Purchaser"]
252.247-7024	Notification of Transportation of Supplies by Sea [applicable to the extent identified in paragraph (b)]
252.249-7002	Notification of Anticipated Contract Termination or Reduction (Oct 2015) [applicable if this order exceeds \$700,000; paragraph (d)(1) and the first five words of paragraph (d)(2) are deleted]

**Additional Clauses Included in Full Text**

The following additional clauses are included in the Purchase Order Conditions to which this Appendix relates in full text, unless otherwise indicated below. The interpretive guidelines set forth above do not apply to each of the clauses included below.

1. **U.S. EXPORT CONTROL.** Seller is responsible for ensuring compliance with all export control laws and regulations that may be applicable to the export of and foreign access to its technologies. Seller agrees not to export or re-export any products, materials, items, and/or technical data, or the product(s) thereof, received from Purchaser or to Purchaser unless Seller has obtained in advance all required licenses, agreements, or other authorizations from the U.S. Government. Exports include, without limitation, the sending or taking of products, materials, items, or technical data out of the United States in any manner; disclosing or transferring technical data to a Foreign Person (*i.e.*, any person who is not a lawful permanent resident of the United States or is not a protected individual as defined by 8 U.S.C. sections 1101 and 1324b) whether in the United States or abroad; or performing services for a foreign client, whether in the United States or abroad.
  
2. **EXCLUDED STATUS.** Pursuant to FAR 52.209-6, Seller represents that, as of the date of shipment of any item(s) to which this order relates, neither the Seller nor its subcontractor(s), nor any of the Seller's or its subcontractor's respective principals, are debarred, suspended, or proposed for debarment by the U.S. Government. This provision does not apply if this order is valued at \$35,000 or less or is for commercially available off-the-shelf items.
  
3. **PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS.** Pursuant to FAR 52.203-11 and FAR 52.203-12, Seller hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been or will be paid to any person influencing or attempting to influence an officer or employee of any U.S. agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with this order. Seller will provide Purchaser with a completed copy of OMB Standard Form LLL, Disclosure of Lobbying Activities, if any registrants under the Lobbying Disclosure Act of 1995 have made lobbying contact on behalf of Seller with respect to this order. This provision only applies if the value of this order exceeds \$150,000.
  
4. **REPORTING EXECUTIVE COMPENSATION AND AWARD.** Seller will provide Purchaser with any information necessary to satisfy Purchaser's obligations under FAR 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards (Jul 2013), including the information specified in FAR 52.204-10(d)(2) and, if applicable, the information set forth in FAR 52.204-10(d)(3). Any information provided pursuant to this provision will be publicly disclosed. This provision only applies if the value of this order is \$30,000 or more and Seller's gross income was \$300,000 or more in the tax year preceding the tax year in which any item(s) to which this order relates were shipped.
  
5. **NON-DISCRIMINATION AND OTHER LABOR REQUIREMENTS.** Seller and Purchaser will, if applicable, abide by the requirements of 41 C.F.R. §§ 60-1.4, 60-1.7, 60-1.35(c), 60-300.5(a), 60-741.5(a), and 29 C.F.R. part 471, Appendix A to Subpart A, as updated from time to time. Among other requirements, these regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or veteran status.
  
6. **U.S. GOVERNMENT REPORTING.** No confidentiality provision included in this order or this Appendix may be construed to prohibit or otherwise restrict Seller, as a subcontractor of Purchaser under a U.S. Government contract, from lawfully reporting waste, fraud, or abuse to a designated investigative or law enforcement representative of the federal department or agency authorized to receive such information under the procurement.
  
7. **NO SUPPORT OF TERRORISM.** Seller acknowledges that U.S. executive orders and laws, including but not limited to Executive Order 13224 and Public Law 107-56, prohibit transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of Seller to ensure compliance with these executive orders and laws. This clause must be included in all subcontracts under this order.
  
8. **SECURITY INCIDENTS.** Seller will provide Purchaser with notice within 18 hours of any security incident, including violation of Seller's established security standards, compromise, intrusion, loss of or interference with security processes and procedures, and the loss or theft of Purchaser or U.S. Government property, relating to the work performed under this order. In the event of a security incident, Seller shall provide Purchaser with all necessary information about the incident, shall provide service updates and/or workarounds to mitigate all vulnerabilities associated with the data associated with the incident, and shall maintain an adequate level of system security. Seller will investigate security incidents to determine their cause and the extent, loss, or compromise of sensitive program information, and take corrective actions to prevent future incidents. The U.S. Government may direct that this order be terminated in response to a severe security incident. The requirements of this section are in addition to the requirements imposed by DFARS 252.204-7012 to report cyber incidents. To the extent that Seller suffers a cyber incident as defined by DFARS 252.204-7012 with regard to any covered defense information related to the performance of this order, Seller shall provide Purchaser with notice of the cyber incident with 48 hours of its occurrence and provide a copy of the information submitted to DoD pursuant to DFARS 252.204-7012(c)(1)(ii) to Purchaser within 24 hours of submitting to DoD.
  
9. **CERTIFICATIONS AND REPRESENTATIONS.** Seller warrants that it has completed, and will maintain throughout the term of this order, all applicable annual representations and certifications through the System for Award Management ("SAM"). Throughout the term of this order, Seller shall update the representations and certifications submitted to SAM as necessary, but at least annually, to ensure they are current, accurate, and complete. Seller's representations and certifications are herein incorporated by reference, whether completed through the SAM or otherwise made in connection with the award or performance of this order, and made applicable to this order with the same force and effect as if they were given in full text. Seller warrants that each certification and representation made by Seller and incorporated by reference into this order is current, accurate, and complete as of the date it was made. Seller shall notify Purchaser in writing of any change in status regarding any certification or representation made by Seller and incorporated by reference into this order.
  
10. **52.204-27 PROHIBITION ON A BYTEDANCE COVERED APPLICATION.** As prescribed in 4.2203(c), insert the following clause: (a) *Definitions.* As used in this clause: *Covered application* means the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited. *Information technology*, as defined in 40 U.S.C. 11101(6) - (1) Means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use, (i) Of that equipment; or (ii) Of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(2) Includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources; but

(3) Does not include any equipment acquired by a Federal contractor incidental to a Federal contract. (b) *Prohibition.* Section 102 of Division R of the Consolidated Appropriations Act, 2023 (Pub. L. 117-328), the No TikTok on Government Devices Act, and its implementing guidance under Office of Management and Budget (OMB) Memorandum M-23-13, dated February 27, 2023, "No TikTok on Government Devices" Implementation Guidance, collectively prohibit the presence or use of a covered application on executive agency information technology, including certain equipment used by Federal contractors. The Contractor is prohibited from having or using a covered

application on any information technology owned or managed by the Government, or on any information technology used or provided by the Contractor under this contract, including equipment provided by the Contractor's employees; however, this prohibition does not apply if the Contracting Officer provides written notification to the Contractor that an exception has been granted in accordance with OMB Memorandum M-23-13.

(c) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for the acquisition of commercial products or commercial services.