



**Terms and Conditions of Purchase  
Commercial Item**

1. **Definitions** The following definitions will apply to all purchase orders:

Term	Definition
Contract	Means the instrument of contracting, such as "Purchase Order", "PO", "Subcontract", or other such type designation, including these General Provisions, all referenced documents, exhibits and attachments. If these terms and conditions are incorporated into a "master" agreement that provides for releases, (in the form of a Purchase Order or other such document) the term "Contract" shall also mean the Release document for the Work to be performed.
Buyer	The legal entity affiliate of REPKN USA Holdings, LLC on the face of this Purchase Order. (Referred to as "REPKN", or "Buyer")
Purchasing Agent or Authorized Procurement Representative	A person authorized by REPKN USA's cognizant procurement organization to administer and/or execute this Contract.
Subcontractor, Supplier, Seller or Vendor	The legal entity to whom this Purchase Order (P.O. / Order) is issued
Government	The Government of the United States of America
Prime Contract or Buyer's Contract	The contract or subcontract, at any tier, entered into by Buyer and Buyer's customer and under which Buyer has issued this Purchase Order.
Contracting Officer	The person having cognizance on behalf of the Government of the Prime Contract and any other officer or civilian employee who is properly designated Contracting Officer for the purposes of this Purchase Order; and the term includes, except as otherwise provided in this Purchase Order, the authorized representatives of such Contracting Officer acting within the limits of their authority.
FAR	Federal Acquisition Regulations, issued as Chapter 1 of Title 48, Code of Federal Regulations.
DFARS	Defense Federal Acquisition Regulations Supplement, issued as Chapter 2 of Title 48, Code of Federal Regulations.
Goods	All articles, goods, materials, equipment, and services to be delivered or provided under this Purchase Order.

2. **Acceptance of Purchase Order.** This Purchase Order supersedes all written or verbal representations and agreements between the parties with respect to the subject matter hereof and becomes a binding agreement, subject to the specific terms and conditions stated herein, upon Seller's acceptance by acknowledgment or commencement of work. Buyer's Acceptance of the Goods covered by this Purchase Order will not constitute acceptance by Buyer of Seller's terms and conditions.

3. **Certification of Independent Price Determination.** Seller certifies that the price(s) proposed have been arrived at independently, without consultation, communication, or agreement with any others for the purpose of restricting competition, and that Seller has not and will not knowingly disclose the price(s), directly or indirectly, to any other bidder.
4. **Payment Terms.** Unless otherwise specified in the Purchase Order, terms of payment are Net 30 days. The time allowable for payment shall begin after both: (a) Buyer's receipt of Seller's complete and correct invoice, and (b) delivery of acceptable supplies or performance of satisfactory services. Shipments sent C.O.D. without Buyer's written consent will not be accepted and will be at Seller's sole risk and expense.
5. **Quantity.** It is Seller's responsibility to furnish the quantity of supplies/services called for in this Order. No variation in the quantity specified herein will be accepted as compliance with this Order. Buyer reserves the right to return excess shipments at Seller's expense.
6. **Invoices.** All invoices shall be submitted to REPKON Accounts Payable in strict accordance with REPKON's Payment Instruction(s). Invoices shall not be issued nor payments made prior to delivery unless otherwise agreed in writing with the Authorized Procurement Representative. Individual invoices must be issued for each shipment under this Purchase Order. Discount invoices will be payable based on applicable discount period computed from the date of scheduled or actual delivery of the items ordered or the date of receipt of the correct invoice, whichever is later. Unless freight and other charges are itemized, any discount will be taken on full amount of invoice. All payments are subject to adjustment for shortage or rejection.
7. **Packing and Shipping:** No charge shall be made by Seller for packaging or storage unless specified on the face of this Purchase Order. All Goods shall be packaged, marked, and otherwise prepared as specified elsewhere in this Purchase Order and in accordance with good commercial practices to obtain lowest shipping rates. On containers, Seller shall mark handling and loading instructions, shipping information, Purchase Order number, item and account number, shipment date, and names and addresses of Seller and Buyer, in addition to any other information required by this Purchase Order. An itemized packing list shall accompany each shipment.
8. **Inspection.**
  - a. Seller is responsible for performing or having performed all inspections and tests necessary to substantiate that the Goods conform to Purchase Order requirements. Seller shall tender for acceptance only Goods that have been found by Seller to be in conformance with the Purchase Order requirements.
  - b. All Goods may also be inspected and tested by Buyer, its customers, higher tier contractors, and (in the case of Goods purchased for a U.S. Government contract or subcontract) the U.S. Government, at all reasonable times and places. If such inspection or testing is made on Seller's premises, Seller shall provide without additional charge all reasonable facilities and assistance for such inspections and test. In its internal inspection and testing of the Goods, Seller shall, if required by Buyer, use an inspection system accepted by Buyer in writing. All inspection records relating to the Goods shall be available to Buyer during the performance of this Purchase Order, and for such longer periods as may be specified by Buyer in its acceptance of the inspection system, if any.
  - c. Final inspection and acceptance by Buyer shall be at destination unless otherwise specified in this Purchase Order. Such inspection shall be in accordance with the stated requirements of this Purchase Order. If rejection of a shipment would result from Buyer's normal inspection level under such procedures, Buyer may, at its option, conduct an above-normal level of inspection, up to 100% inspection, and charge Seller the reasonable costs thereof. Acceptance of a lot through sampling criteria specified herein shall not preclude Buyer's right to reject, or to exercise any other right or remedy it may have under this Purchase Order or by law with respect to, individual items that fail to comply with any requirement of this Purchase Order.
  - d. No inspection (including source inspection), tests, approval (including design approval) or acceptance of the Goods shall relieve Seller from responsibility for any defects in the Goods or other failures to meet the requirements of this Purchase Order, for latent defects, fraud, such gross mistakes as amount to fraud, and Seller's warranty obligations. If the Goods are defective or otherwise not in conformity with the requirements of this Purchase Order, Buyer may, by written notice to Seller: (i) rescind this order as to such Goods; or (ii) reject such Goods and require the delivery of replacements. Deliveries of replacements shall be accompanied by a written notice specifying that such Goods are replacements. If Seller fails to deliver required replacements promptly, Buyer may: (i) replace or correct such Goods and charge the Seller the

cost occasioned Buyer thereby; or (ii) terminate this Purchase Order for cause as provided in Paragraph 15 hereof. Rights granted to Buyer under this Clause are in addition to any rights or remedies provided elsewhere in this Purchase Order or in law.

- e. Seller shall be responsible for all of Buyer's costs, damages, losses, claims, causes of action, liabilities, and expenses, arising from any act or omission of Seller, its employees, subcontractors, agents, officers, or suppliers resulting from failure to meet any of the requirements and/or specifications of this Purchase Order. Seller shall be responsible for, without limitation, additional inspections to ensure compliance where necessary, investigations into inspection failures, any penalties or costs incurred by Buyer as a result in delay in delivery, and remediation costs for defective Goods.

**9. Assignment/Subcontracting.** Seller shall not assign this Purchase Order, or any rights, interest, or payments, or the performance of any of its duties under this Order without the prior written consent of Buyer. Except for standard commercial items, raw materials, or other supplies identified in Seller's proposal as procured from others, Seller shall not subcontract the complete or any substantial portion of the work without the prior written consent of Buyer. Any attempted or purported assignment/subcontracting by Seller without Buyer's prior written consent shall be void and not binding upon Buyer.

**10. Work on Buyer's or Buyer's Customer's Premises.** If this Order requires Seller to perform work on Buyer's or Buyer's customer's premises, Seller shall take all necessary precautions to prevent any injury to persons or damage to property during the progress of such work. Additionally, except to the extent that any injury to persons or damage to property is due solely and directly to Buyer's or its customer's fault or negligence, Seller agrees to indemnify Buyer and its customer against all loss or liability resulting from any act or omission of Seller, its employees, agents, or subcontractors.

**11. Gratuities.** Seller warrants that it has not offered or given, and will not offer or give to any employee, agent, or representative of Buyer, a payment, gratuity, or kickback for obtaining or rewarding favorable treatment by Buyer with respect to the terms, conditions, price, performance, or award of an Order. A breach of this warranty shall be considered a material breach of the Order and may result in Buyer's termination of the Order and/or notification to Buyer's customer of such breach.

**12. Design, Tools, Dies, etc.:**

- a) Unless otherwise agreed herein, Seller at its sole cost shall supply all material, equipment, designs, drawings, tools and facilities required to perform this Purchase Order.
- b) Any Goods, equipment, designs, drawings, tools or other property furnished by Buyer or specifically paid for by Buyer shall be Buyer's property, shall be used only in filling orders from Buyer and may on Buyer's demand be removed by Buyer without charge. Seller shall use such property at its own risk and shall be responsible for all loss of or damage to the same or to any person while property is in Seller's custody. Seller shall, at its sole cost, store and maintain all such property in good condition and repair. Buyer makes no warranties of any nature with respect to any such property, which is furnished "AS IS".
- c) Buyer shall have no liability to Seller for any delays or failures in the delivery of material, including information, furnished by Buyer to Seller under the Purchase Order ("Buyer-Furnished Items"). If Buyer-Furnished Items are not delivered to Seller in sufficient time to enable Seller to meet delivery dates, Seller may notify Buyer of the delay and shall be entitled to an extension of such equal to the period of delay.
- d) Graphics arts and packaging Goods: All film negatives, positives, engravings, electrodes and dies made by Seller for the production of Material of this Purchase Order will become the property of Buyer and be delivered to Buyer at the completion of work under this Purchase Order.
- e) Notwithstanding anything herein to the contrary, the provisions of this paragraph 11 do not apply to property owned by the United States Government. Disposition and use of United States Government property, including tooling that the Government either owns or has a right to use in Seller's direct subcontracts, shall be governed by applicable United States Government regulations.

**13. No Extra Charges.** The total price (or rate if for services) payable to Seller shall be stated in this Purchase Order. The price (or rate if for services) shall not be increased to cover any future seller price increases and shall be inclusive of packing, packaging, and cartage, premium transportation charges, reusable containers, service or

carrying charges, permits, overheads or markups, fees, and licenses, or any other charges whatsoever unless specifically agreed to in writing by Buyer.

- 14. Unauthorized Changes to Supplies/Services.** Upon Buyer's approval of Seller's drawings, designs, specifications, etc., Seller shall make no changes affecting form, fit, or function of the supplies without Buyer's prior written approval. Any approvals by Buyer shall not relieve Seller of responsibility for any errors or deficiencies that may exist, or for performing the work and furnishing the supplies/services in strict accordance with the Purchase Order requirements.
- 15. Permits, Fees, and Licenses.** Except as may be otherwise provided in this Order, Seller shall obtain and pay for all permits, fees, and licenses required for the work at no additional charge to Buyer.
- 16. Stop-Work Order.** Buyer may, at any time, by written notice to Seller, stop all or any part of the work hereunder for up to ninety (90) days. Upon receiving a stop-work order, Seller shall immediately comply with its terms and take all reasonable steps to avoid incurring any additional costs allocable to such work. If the stop work order results in an increase in price or schedule, the Seller must submit a claim for equitable adjustment within thirty (30) days after the resumption of work.
- 17. Termination for Convenience.** Buyer reserves the right, at any time, in its own best interest, and without liability, to terminate this Agreement in whole or in part, by written notice of termination for convenience to Seller. Buyer shall pay Seller only for Products/Services satisfactorily delivered and accepted up to the date of termination, at the price indicated in the applicable Purchase Order or Agreement.
- 18. Termination for Default.** Buyer may, without liability, and in addition to any other rights or remedies provided herein or by law, terminate this Order in whole or in part by written notice of default if Seller; (a) fails to deliver the supplies or perform the services within the time specified; (b) fails to make sufficient progress with the work, thereby endangering completion of performance within the time specified; or (c) fails to comply with any of the other instructions, terms, or conditions of the subcontract. Buyer's right to terminate for default may be exercised if Seller does not cure the failure within ten (10) days after receiving Buyer's notice of such failure. Default involving delivery schedule delays, bankruptcy or adverse change in financial condition shall not be subject to the cure provision. If Buyer terminates this Order in whole or in part, Buyer may purchase similar supplies or services from others and Seller shall be liable for any additional costs above the original price for the terminated supplies/services. In the event of a partial termination, Seller shall continue the work not terminated. Seller shall not be liable for any additional costs if failure to perform arises from causes beyond Seller's or Seller's subcontractor's control and without fault or negligence of either of them; provided, however, that the supplies/services to be furnished by Seller's subcontractor (at any tier) were not obtainable from others in time for the Seller to meet the Order delivery requirements. Buyer may withhold from any payments due Seller, any sum necessary in order to protect Buyer against any liability or expenses due to the termination for default. Seller shall provide any supporting information necessary to document the reasonableness of Seller's termination for default claim.
- 19. Applicable Law and Disputes.** Regardless of the place of execution or performance of this contract, all disputes between the parties (including without limitation, any controversy, dispute, or other matter arising out of, relating to, or connected with this contract or its performance) shall be governed according to the laws of the State of Florida, without regard to its rules on choice or conflict of laws. Even if a dispute arises, Seller shall proceed diligently with performance of this contract and in accordance with Buyer's instructions. Disputes shall be resolved in a court of competent jurisdiction in the State of Florida, United States.
- 20. Compliance with Laws.** Seller shall comply with all applicable federal, state, and local laws, rules, regulations and orders in effect on the date of this Order, including, but not limited to applicable health and safety laws, minimum wage laws, and laws prohibiting discrimination against persons or classes of persons.
- 21. Compliance with Export Laws.** The information provided by Buyer may be subject to the U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR). Seller may not export or re-export any information, technical data, or supplies except in strict compliance with all U.S. export control laws and regulations, including ITAR. Technical data that are controlled by the ITAR shall not be released to foreign

nationals, including employees, companies, or other entities, whether within or outside of the United States, unless the Seller shall first obtain the written consent of Buyer, and shall obtain the appropriate license or other advance approval from the U.S. Government. Seller's obligation to adhere to the ITAR shall survive the expiration or termination of this Purchase Order. Seller hereby agrees to defend and indemnify Buyer from and against any liability which Buyer may incur as a result of Seller's violation of any U.S. export or re-export control law or regulation.

- 22. Setoff.** Buyer shall have the right at all times to setoff any amount due or payable to Seller hereunder against any claim or charge Buyer may have against Seller.
- 23. Taxes.** The price of the supplies/services procured hereunder includes all applicable federal, state and local taxes and duties unless otherwise stated in the Purchase Order.
- 24. Title and Risk of Loss.** Title to all Goods, supplies, equipment, or data shall pass to the Buyer immediately upon payment for such items. Seller shall not permit liens of any kind to be placed against such items in which title has vested to Buyer. Unless otherwise provided in this Purchase Order, the F.O.B. point shall be the delivery destination indicated in this Order, and risk of loss or damage shall pass to Buyer upon Buyer's acceptance of the supplies regardless of where Buyer takes physical possession. If the F.O.B. point is designated as the Seller's location, then title and risk of loss or damage to the supplies shall pass to Buyer upon Seller's delivery of the supplies to the carrier.
- 25. Information Disclosed to Buyer.** Any information or knowledge Seller discloses to Buyer regarding this Order shall not be deemed confidential or proprietary unless expressly agreed upon by the parties in writing.
- 26. Public Release of Information.** No public release of information, news release, announcement, advertisement, denial or confirmation of this Order or the subject matter hereof, shall be made without Buyer's prior written approval.
- 27. Patent, Copyright, and Trademark Indemnity.** Seller agrees to indemnify, defend, and hold harmless Buyer, its officers, agents, and employees, its customer and its officers, agents, and employees, and those for whom Buyer may act as agent, from any costs, expenses, damages, or liability that Buyer may incur as a result of any proceedings charging infringement of any patent, copyright, or trademark out of the manufacture or delivery of supplies, the performance of services, the construction, alteration, modification, or repair of real or personal property, or the sale or use of any supplies/services/data furnished by Seller. Seller shall have no liability, regarding alleged patent infringement for supplies furnished to Buyer in accordance with Buyer's design specifications.
- 28. Warranty of Supplies/Services.** Seller warrants that all supplies/services furnished under this Purchase Order shall conform to the Buyer's drawings, specifications, or other description and will be of good material and workmanship and free of defects. Seller warrants that it will perform all services under this Purchase Order with an appropriate level of degree of care and skill as would be expected of a person or entity that purports experience specialized in the field covered under this Order. Work shall be performed by individuals with requisite experience and skill level of the tasks assigned. Seller further warrants that the supplies/services will meet Seller's published specifications and standards, will be new (not used or reconditioned), merchantable and suitable for the purpose intended. These warranties shall survive inspection, acceptance, and payment. Supplies/services that do not conform to the above warranties may, at any time within twelve (12) months after delivery to Buyer, may be rejected and returned to Seller, at Seller's expense, for correction or replacement. If Seller does not promptly correct or replace same, Buyer may correct or replace the nonconforming supplies/services at Seller's expense. The forgoing warranties are in addition to all other warranties expressed or implied by law. All warranties for Goods are transferrable to Buyer's customer and the U.S. Government.
- 29. Counterfeit Goods.** In addition to all other warranties provided under this Purchase Order, Seller warrants that any and all Goods delivered hereunder are new and not refurbished or used, are being supplied by the Original Manufacturer (OM) (Original Equipment Manufacturer (OEM), Original Component Manufacturer (OCM), Contract Manufacturer) or their expressly authorized dealers (Authorized Aftermarket Manufacturer, Authorized Dealer, Authorized Supplier, as defined in DFARS 252.246-7007 and 252.246-7008), agent or distributor, and that Seller has documented traceability of the Goods or components to the aforementioned sources.

Seller must have a counterfeit avoidance program and process (including inspection, testing, and authentication) in conformance with AS5553. Seller shall maintain a documented system (Standard Practice, procedure, or other documented approach) that provides for prior notification and Buyer approval before parts/components are procured from sources other than OMs or the OMs authorized dealers. Seller must provide the following with shipment of the items upon request of Buyer:

- 1) Certificate of Conformance (C of C), certifying the items are genuine and meet all Purchase Order and original manufacturer requirements.
- 2) Traceability information to original manufacturer.
- 3) Results from any additional inspections, tests, and examinations as required by this Purchase Order.

Any Goods for which the above requirements are not met shall be considered defective under this Purchase Order and may be rejected by Buyer. Seller must replace any Goods that are not genuine, new and unused items and any counterfeit items will not be returned to the Seller which is a requirement of counterfeit parts DFARS provisions. Buyer reserves the right to quarantine any and all suspect counterfeit parts it receives and to notify the Government Industry Data Exchange Program (GIDEP) and other relevant government agencies. Seller shall not return any counterfeit Goods to the supply chain and shall ensure these Goods are stored for inspection. All counterfeit parts received by Seller must be reported to Buyer immediately.

Seller shall be liable to Buyer for any damages, costs, penalties, judgments, or fines against Buyer to the extent caused by Seller's failure to meet all requirements of this Clause and, at Buyer's election, Seller may also be required to deliver suitable replacement Goods traceable to the OM, meeting all OM specifications. The remedies in this section shall apply regardless of whether the warranty period or guarantee period has ended, and are in addition to any remedies available at law or in equity. Seller shall include the substance of this clause in all of its sub-tier contracts with its suppliers providing electronic parts, assemblies containing critical items, electronic parts, or performing authentication testing, in support of this Purchase Order.

If the procurement of Goods under this contract is pursuant to, or in support of, a contract, subcontract, or task order for delivery of goods or services to the Government, the making of a materially false, fictitious, or fraudulent statement, representation or claim or the falsification or concealment of a material fact in connection with this contract may be punishable, as a Federal felony, by up to five years' imprisonment and/or substantial monetary fines. In addition, trafficking in counterfeit goods or services, to include military goods or services, constitutes a Federal felony offense, punishable by up to life imprisonment and a fine of fifteen million dollars.

This Counterfeit Goods section shall survive termination, expiration or cancellation of this contract.

- 30. Conflict Minerals.** In addition to all other warranties provided under this Purchase Order, Seller warrants that the Goods delivered hereunder are free from Gold, Tungsten (Wolframite), Tantalum (Columbit-Tantalite) or Tin (Cassiterite), hereafter referred to as "Conflict Minerals", that have originated in the Democratic Republic of Congo, Central African Republic, Angola, Burundi, Rwanda, South Sudan, Tanzania, Uganda or Zambia, hereafter referred to as "DRC". For purposes of this Clause, Conflict Minerals purchased from scrap or recycled sources are not considered to have originated from the DRC. Seller is required to review all Goods and components which are necessary for the functionality or production of the Goods being sold under this Purchase Order and disclose annually whether any of the Conflict Minerals are present, and if so, those that originated in the DRC, and to provide a chain of custody if the Conflict Minerals do originate from the DRC. The Seller shall determine the country of origin (where the Goods were originally mined and processed) or whether the minerals originated from scrap or recycled sources. Seller must provide the following prior to shipment of the items upon request of Buyer:

- 1) Country of Origin Inquiry (17 CFR 250 and 249B) documentation certifying that items are free from Conflict Minerals that have originated in the DRC.
- 2) Traceability information on raw material sub-tier suppliers.
- 3) To the extent an audit has been performed, results from any independent private sector audit; certifying that such an audit was obtained, including the audit report as part of the Country of Origin Inquiry and identifying the auditor.

Any Goods for which the above requirements are not met shall be considered defective under this Purchase Order and may be rejected by Buyer or returned. Seller shall be liable to Buyer for any damages, costs, penalties, judgments, or fines against Buyer to the extent caused by Seller's failure to meet all requirements of this Clause

and, at Buyer's election, Seller may also be required to deliver suitable replacement Goods at Seller's cost.

Seller shall include the substance of this clause in all of its sub-tier contracts with its suppliers providing components in support of this Purchase Order.

- 31. Changes.** Buyer's Purchasing Agent may, at any time, in writing, make changes to this Order. If any such change causes an increase or decrease in the cost or time required for performance of the work, the price (or cost and fee) and/or delivery schedule shall be equitably adjusted and the Purchase Order so modified. Seller must notify the Buyer's Purchasing Agent of Seller's intent to request equitable adjustment within ten (10) days of Seller's knowledge of the change. Seller shall submit any request for adjustment to Buyer within twenty (20) days following receipt of Buyer's written Change Order. Failure of the parties to agree to an adjustment shall be considered a dispute under the Disputes clause hereof; however, pending resolution of any dispute, Seller shall immediately proceed with the work as changed.
- 32. Waiver of Rights.** Failure of either party to insist on performance of any provision of this Order shall not be construed as a waiver of that provision or a waiver of Buyer's or Seller's right to require compliance with such provision in any later instance. If any provision of this Order is found to be illegal or unenforceable under law, that provision shall be deleted; however, all other provisions of this Order shall not be affected thereby, and shall remain in full force and effect.
- 33. Insurance.** Supplier/ Subcontractor/ Vendor, from the time of start of the Services hereunder until completion of the Services, shall provide at its own expense and maintain in effect the following types and amounts of insurance with terms and with insurance companies satisfactory to REPKON: Workers' Compensation Liability: As required by applicable law.
- Commercial General Liability: The Seller, and their Sellers, as applicable, shall provide commercial general liability insurance covering bodily injury, property damage, advertising, and personal injury liability, including contractual liability coverage, written on a comprehensive form of policy with a limit of at least \$1,000,000 per occurrence, \$1,000,000 general liability aggregate and \$1,000,000 products/completed operations aggregate. Coverage may not be limited to the territory or regions provided in the SoW.
- Certificate(s) of Insurance: If requested, the Seller shall furnish the Buyer with a current certificate of insurance as evidence of the insurance required, within five (5) calendar days after execution of this subcontract. Seller shall maintain insurance coverage during the performance of this Order.
- 34. Indemnification.** The Seller shall indemnify, defend, and hold harmless Buyer, Buyer's customers, and each of Buyer's owner(s), affiliates, directors, officers, employees and agents from all damages, claims, liabilities, losses, demands, causes of action, law suits and expenses (including reasonable attorney's fees) arising out of or relating to any claims, causes of action, lawsuits or other proceedings, regardless of legal theory, to the extent resulting from Seller's (or any of Seller's subcontractors, suppliers, employees, agents or representatives): (i) its negligence, fraud or willful misconduct in entering into or performing under this Agreement; (ii) products or services including, without limitation any claims that such products or services infringe any United States patent, copyright, trademark, trade secret, or any other proprietary right of any third party or; (iii) any breach of any representation, warranty, or covenant made herein.
- 35. Proprietary Information.** All written information obtained by Seller from Buyer in accordance with this Purchase Order and which is identified as proprietary by Buyer shall be received in confidence and shall remain the property of Buyer, and shall be used and disclosed by Seller only to the extent necessary for the performance of this Purchase Order except that upon prior written notice to Buyer, Seller may use such information in the manufacture of end items for direct sale to the Government to the extent that the Government has the right to authorize such use by Seller, and, provided that Seller, to the extent practicable, prominently identifies such end items as being manufactured by Seller for direct sale to the Government. If Buyer and Seller have separately executed a written agreement regarding the protection and disclosure of information obtained by Seller from Buyer under this Purchase Order and such written agreement conflicts with this provision, then the terms of the written agreement shall control.

Seller shall not provide any proprietary information to Buyer, nor shall Buyer be required to take any steps to protect any information provided by Seller, unless Buyer and Seller have separately executed a written agreement regarding the protection and disclosure of such Seller information.

**36. Force Majeure**

Neither party shall be responsible for its delays or failure to perform due to causes beyond its reasonable control such as acts of God, fire, theft, flood, war, strike, earthquake, riot, disease, epidemic, quarantine, embargoes or acts of civil or military authorities. If performance of Services and or delivery of Goods is to be delayed by such contingencies, Seller shall immediately notify Buyer in writing. Buyer has the right to terminate all open orders impacted by the force majeure and procure from alternate Sellers. If Buyer terminates under this section, its sole liability will be to pay any balance due for conforming Goods or Services delivered by Seller before Seller's receipt of Buyer's termination notice.

**37. Limitation of Liability.**

SELLER AGREES THAT BUYER AND ITS AFFILIATES AND THEIR RESPECTIVE OWNERS, OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS AND AGENTS SHALL NOT BE LIABLE FOR ANY DAMAGES, INCLUDING WITHOUT LIMITATION INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, AND EXEMPLARY DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOST REVENUES, LOST BUSINESS OPPORTUNITIES, AND LOSS OF OR CORRUPTION OF DATA) ARISING OUT OF OR RELATING TO SELLER'S PERFORMANCE OF THIS SUBCONTRACT OR SELLER'S BREACH OF ANY TERM OR CONDITION OF THIS SUBCONTRACT, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH DAMAGES ARE SOUGHT. BUYER'S CUMULATIVE LIABILITY TO SELLER SHALL BE THE CONTRACT VALUE OF THE GOODS GIVING RISE TO THE CLAIM UNDER THIS ORDER.

**38. Order of Precedence.** The following descending order of precedence shall apply in the event of an ambiguity, discrepancy, or conflict in the documents comprising this Purchase Order: (a) the face of the Purchase Order, (b) these terms and conditions, (c) the Statement of Work, (d) the technical specification, (e) the drawing(s), and (f) any other documents referenced or appended to the Purchase Order. However, in the event of an ambiguity, discrepancy, or conflict in any of the technical requirements of drawings, Seller shall immediately consult Buyer for a resolution.

**39. Code of Business Principles.** Seller shall comply with the REPKON Code of Business Principles, as attached to the Purchase order or Agreement, or Seller's equivalent. Seller shall ensure that its employees are aware of the compliance requirements, as outlined in the REPKON Code or Seller's equivalent, and the importance of ethical behavior. Seller represents and warrants that it has not participated, and will not participate, in any conduct that violates the REPKON Code or Seller's equivalent. If Buyer determines that Seller is in violation of the REPKON Code or Seller's equivalent, Buyer may terminate this Order upon written notice to Seller and Buyer shall have no further obligation to Seller. If Seller's equivalent ever ceases to be equivalent to the REPKON Code, Seller shall immediately comply with the REPKON Code.

**40. Anti-Trafficking Violations.** Seller represents and warrants that it and its officers, employees, agents and representatives will comply with all laws and regulations prohibiting trafficking in persons and/or the use of forced labor, and further that, Seller will, if this Purchase Order is in support of a U.S. Government program, comply with the following FAR and DFARS clauses associated with Combating Trafficking in Persons including, but not limited to: FAR 52.222-50, FAR 52.244-6, DFARS 252.203-7004, DFARS 252.222-7007, and DFARS 252.225-7040. Seller hereby agrees to defend and indemnify Buyer from and against any liability that Buyer may incur as a result of violation of any relevant law or regulation.

If applicable, Seller acknowledges it is aware of and in full compliance with California's Transparency in Supply Chains Act (Cal. Civ. Code §1714.43), and will continue to be in compliance throughout the duration of this Purchase Order. If Seller does any business in the State of California, whether under this Purchase Order or otherwise, Seller shall assume this Act applies.

**41. Publicity.** Seller shall not make or authorize any news release, advertisement, or other disclosure (except as required by law) that denies or confirms the existence of this Purchase Order without prior written consent of Buyer.

- 42. Entire Agreement.** This Purchase Order constitutes the entire agreement between Buyer and Seller regarding this procurement and supersedes all previous written or oral agreements and commitments. No terms or conditions of sale set forth in Seller's quotation or acknowledgment shall be included as a part hereof, nor shall any prior course of dealing, custom, or usage in the trade supersede or modify any Purchase Order provisions. Any subsequent additions, deletions or modifications to this agreement shall not be binding upon the parties unless same are mutually agreed upon and incorporated herein in writing.
- 43. Special U.S. Government Provisions.** The provisions set forth in this Clause shall apply only if this Purchase Order is issued under a Government prime contract or under a subcontract, at any tier, issued to Buyer under a Government prime contract.
- a. Government Rights. Nothing in this Purchase Order or any of its attachments or supplements abrogates, limits, restricts, or waives any U.S. Government rights or interests.
  - b. Audit. Seller agrees that its books and records and its plants or any such part thereof as may be engaged in the performance of this Purchase Order, shall at all reasonable times be subject to inspection and audit by any person designated by the head of any executive department of the Government.
  - c. Quality Control. Except as otherwise provided in this Purchase Order, Seller's system of Quality Control during the performance of this Purchase Order shall be in accordance with the specifications required by Buyer's Contract.
  - d. Seller agrees it will negotiate Purchase Order modification(s) in good faith to incorporate additions, deletions, and changes to the clauses set forth below if Buyer deems them necessary to comply with Buyer's Contract or modifications to Buyer's Contract. If any such modification to this Purchase Order causes an increase or decrease in the cost, or the time required for the performance, of any part of the work under this Purchase Order, an equitable adjustment shall be made pursuant to the "Changes" clause of this Purchase Order.
  - e. The following clauses of the FAR and DFARS are incorporated herein by reference, and made part hereof with the same force and effect as if they were given in full text, to the extent and with the changes to the clause text specified herein. The date of each clause is specified; however, the clause in effect in the Buyer's Contract on the date of this Purchase Order shall be incorporated by reference and changes, if necessary, to each such clause shall be made to be consistent with the intent of the changes set forth below. The FAR and Supplements thereto are obtainable from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The electronic version of the of the FAR, DFARS, and other Government agency regulations are also accessible at <https://www.acquisition.gov>.
  - f. Wherever used, the terms "Contract" and "Contractor" shall mean this Order (or subcontract, Purchase Order, or agreement) and Seller (including Seller as Bidder or Offeror), respectively. The terms "Government," "Contracting Officer," and equivalent phrases shall mean Buyer except where further clarified or modified and except that the clauses identified by \* shall have their original meaning as written in the FAR, and when identified by \*\* shall not only have their original meaning as written in the FAR, but also shall mean Buyer. "Subcontractor," however, shall mean "Seller's Subcontractor."

#### **I. FAR Clauses**

##### **52.203-13 Contractor Code of Business Ethics and Conduct (11/2021)**

(Applicable if the subcontract exceeds \$6 million and the performance period is 120 days or more. When applicable, the language of this clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

##### **52.203-17 Contractor Employee Whistleblower Rights (11/2023)**

##### **52.203-19 Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (1/2017)**

(Not applicable in personal services contracts with individuals)

##### **52.204-21 Basic Safeguarding of Covered Contractor Information Systems (11/2021)**

(Applicable in all subcontracts, including subcontracts for the acquisition of commercial products or commercial services, other than commercially available off-the-shelf items, in which the subcontractor may have Federal contract information residing in or transiting through its information system. When applicable, the language of this clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

**52.204-23 Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities (12/2023)**

(The language of this clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

**52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (11/2021)**

(Seller shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for “covered telecommunication equipment or services”. By accepting this Purchase Order, Seller represents that it DOES NOT use covered telecommunications equipment or services, or use any equipment system, or service that uses covered telecommunications equipment or services, AND, WILL NOT provide covered telecommunications equipment or services to Buyer and/or the U.S. Government in the performance of this contract, subcontract, or other contractual instrument. If Seller does use covered telecommunications equipment or services OR will provide covered telecommunication equipment or services, then disclosure must be made through Buyer per 52.204-24(e).)

**52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (11/2021)**

(The language of this clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

**52.204-27 Prohibition on a ByteDance Covered Application (6/2023)**

**52.204-29 Federal Acquisition Supply Chain Security Act Orders – Representation and Disclosures (12/2023)**

(Seller represents by submission of an offer that it has conducted a reasonable inquiry, and that the Seller does not propose to provide or use in response to the solicitation any covered article, or any products or services produced or provided by a source, if the covered article or the source is prohibited by an applicable FASCSA order in effect on the date the solicitation was issued).

**52.204-30 Federal Acquisition Supply Chain Security Act Orders – Prohibition (12/2023)**

(Seller, and its subcontractors at any tier, shall not provide or use as part of the performance of the subcontract any covered article or any products or services provided by a source that is prohibited by an applicable FASCSA order. Seller shall notify Buyer within 3 business days of becoming aware of any covered articles, or any products or services produced or provided by a source, that are provided in support of this subcontract, if the covered articles or source is subject to an applicable FASCSA order).

**52.209-7 Information Regarding Responsibility Matters (10/2018)**

(Applicable in subcontracts greater than \$600,000. When applicable, and if Seller has current active Federal contracts and grants with a total value greater than \$10,000,000, Seller, by acceptance of a Purchase Order, agrees to comply with the requirements of this FAR clause.)

**52.209-12 Certification Regarding Tax Matters (10/2025)**

(Applicable in subcontracts exceeding \$5,500,000. When applicable, by acceptance of a Purchase Order, Seller certifies that it has filed all Federal tax returns required during the three years preceding award, that it has not been convicted of a criminal offense under the Internal Revenue Code of 1986, and that it has not, no more than 90 days prior to award, been notified of any unpaid Federal tax assessments for which the liability remains unsatisfied.)

**52.219-8 Utilization of Small Business Concerns. (1/2025),**

(Applicable only if this Order offers further subcontracting opportunities)

**52.222-21 Prohibition on Segregated Facilities (4/2015)**

(Applicable in subcontracts that include 52.222-26, Equal Opportunity)

**52.222-26 Equal Opportunity (9/2016)**

Subparagraphs (b)(1) through (11) of FAR 52.222-26 are applicable to the solicitation and any resulting Order.

**52.222-35 Equal Opportunity for Veterans (6/2020)**

(Applicable in subcontracts for personal property and nonpersonal services (including construction) of \$150,000 (or the current value in FAR 22.1303(a)) or more.)

**52.222-36 Equal Opportunities for Workers with Disabilities (6/2020)**

(Applicable in subcontracts that exceed \$15,000 (or the current value in FAR 22.1408(a), except when both the work and the recruitment will occur outside of the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island, or the requirement is waived by the Director of the Office of Federal Contract Compliance Programs.)

**52.222-37 Employment Reports on Veterans (6//2020)**

(Applicable in subcontracts for personal property and nonpersonal services (including construction) of \$150,000 (or the current value in FAR 22.1303(a)) or more, unless exempted by rules, regulations, or orders of the Secretary of Labor.)

**52.222-40 Notification of Employee Rights Under the National Labor Relations Act (12/2010)**

(Applicable in all subcontracts that exceed \$10,000 and that will be performed wholly or partially in the United States, unless exempted by rules, regulations, or orders of the Secretary of Labor.)

**52.222-50 Combating Trafficking In Persons (10/2025)**

Paragraph (h) of this clause is applicable to portions of the subcontract that are for supplier, other than Commercially available off-the-shelf (COTS) items (defined in 52.222-50(a)), acquired outside of the United States, or services to be performed outside the United States; and has an estimated value that exceeds \$550,000. If paragraph (h) is applicable, Seller shall submit a certification to Buyer prior to award of the subcontract and annually thereafter. Certification shall cover the items listed in paragraph (h)(5) of this clause.

**52.222-56 Certification Regarding Trafficking in Persons Compliance Plan (10/2025)****52.224-3 Privacy Training (1/2017)**

(Applicable when Seller's employees will (1) have access to a system of records, (2) Create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information, or (3) design, develop, maintain, or operate a system of records.)

**52.229-11 Tax on Certain Foreign Procurements – Notice and Representation (6/2020)**

(Applicability is defined in FAR 29.402-3(a). When applicable, by Seller acceptance of a Purchase Order, Seller certifies that it is not a foreign person. If Seller is a foreign person and exemptions under this clause do not apply, FAR 52.229-12 will then apply, Seller shall submit the IRS form W-14, and Seller will be subject to withholding in accordance with clause 52.229-12.)

**52.232-40 Providing Accelerated Payments to Small Business Subcontractors (3/2023)**

(Applicable if Buyer receives accelerated payments from the U.S. Government. When applicable, the clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

**52.244-6 Subcontracts for Commercial Products and Commercial Services (10/2025)**

(This clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

**52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels (11/2021)**

(Applicable in all subcontracts except if the subcontract is (1) a contract or agreement for ocean transportation services or a construction contract, or (2) for the transportation of supplies that are (a) items Buyer is reselling or distributing to the U.S. Government without adding value, or (b) shipped in direct support of U.S. military: (1) contingency operations; (2) exercises; or (3) forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations.)

## II. DFARS Clauses

### **252.203-7002 Requirement to Inform Employees of Whistleblower Rights (12/2022)**

(This clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

### **252.204-7003 Control of Government Personnel Work Product (4/1992)**

### **252.204-7008 Compliance with Safeguarding Covered Defense Information Controls (10/2016)**

(Applicable in solicitations, except for solicitations solely for the acquisition of Commercially available off-the-shelf (COTS) items as defined in FAR 2.101.) Replace "Contracting Officer" with "Buyer".

### **252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting (5/2024)**

(Applicable in subcontracts for operationally critical support or for which subcontract performance will involve covered defense information, including subcontracts for commercial items, without alteration, except to identify the parties. When applicable, this clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

SELLER AND SELLER'S SUBCONTRACTORS NOT COMPLIANT WITH DFARS 252.204-7012 SHALL NOT STORE, SEND, RECEIVE OR CREATE ANY COVERED DEFENSE INFORMATION (CDI) OR CONTROLLED UNCLASSIFIED INFORMATION (CUI) ON SELLER AND SELLER'S SUBCONTRACTOR'S COVERED INFORMATION SYSTEMS INCLUDING DIGITAL PHOTOGRAPHS OR COPIES. SELLER AND SELLER'S SUBCONTRACTORS SHALL REPORT ANY BREACH OF DFARS REQUIREMENT TO BUYER WITHIN TWENTY-FOUR (24) HOURS OF ANY BREACH OR POTENTIAL BREACH OF THIS PROTOCOL.

Seller and/or Seller's Subcontractors must notify Buyer when submitting a request to vary from a NIST SP 800-171 security requirement, in accordance with paragraph (b)(2)(ii)(B) of this clause.

Seller and/or Seller's Subcontractors must provide the incident report number, automatically assigned by DoD, to Buyer as soon as practicable, when reporting a cyber incident to DoD as required in paragraph (c) of this clause.

CLASS DEVIATION 2024-O0013 – All new solicitations and contracts as of May 2, 2024, shall adhere to this Class Deviation until otherwise rescinded or a revision to 252.204-7012 occurs. Seller and Seller's Subcontractors shall adhere to Rev 2 of NIST SP 800-171 rather than the revision of NIST SP 800-171 in effect at the time the solicitation is issued.

### **252.204-7018 Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services (1/2023)**

(Applicable in all subcontracts, including subcontracts for the acquisition of commercial items. This clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

### **252.204-7019 Notice of NIST SP 800-171 DoD Assessment Requirements (11/2023)**

(Applicable for any subcontractor that has access to, processes, stores, or transmits Controlled Unclassified Information, CUI, except for solicitations and awards exclusively for COTS items. This clause must be flowed down to all subcontractors at all tiers unless the order(s) are exclusively for COTS items.)

### **252.204-7020 NIST SP 800-171 DoD Assessment Requirements (11/2023)**

(Applicable for any subcontractor that has access to, processes, stores, or transmits Controlled Unclassified Information, CUI, except for awards exclusively for COTS items. This clause must be flowed down to all subcontractors at all tiers, except for when the purchase is solely for COTS items.)

### **252.209-7004 Subcontracting with Firms that are Owned or Controlled by the Government of a Country that is a State Sponsor of Terrorism. (5/2019)**

(Applicable in solicitations and subcontracts that are valued at \$150,000 or more).

### **252.215-7010 Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data. (5/2024)**

**252.225-7007 Prohibition on Acquisition of Certain Items from Communist Chinese Military Companies**  
(12/2018)

**252.225-7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals.** (1/2023)

(Applicable in all subcontracts, including subcontracts for Commercially available off-the-shelf (COTS) items, as defined in this clause, that are for items containing specialty metals. When applicable, paragraphs (a) through (c) and paragraph (e)(2) are flowed down as if the language of each paragraph are contained within this document.)

**252.225-7048 Export-Controlled Items** (6/2013)

**252.225-7052 Restriction on the Acquisition of Certain Magnets, Tantalum, and Tungsten** (5/2024)

(Applicable at all tiers unless an exception of paragraph (c) of this clause applies. This clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

**252.225-7055 Representation Regarding Business Operations with the Maduro Regime** (5/2022)

(By submission of an offer, Seller represents that it DOES NOT have any business operations with an authority of the Maduro regime or the government of Venezuela that is not recognized as the legitimate government of Venezuela by the U.S. Government)

**252.225-7056 Prohibition Regarding Business Operations with the Maduro Regime** (1/2023)

(This clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document).

**252.225-7059 Prohibition on Certain Procurements From the Xinjiang Uyghur Autonomous Region – Certification** (6/2023)

(By submission of an offer, Seller certifies that it HAS made a good faith effort to determine that forced labor from XUAR was not or will not be used in the performance under the associated subcontract.)

**252.225-7060 Prohibition on Certain Procurements From the Xinjiang Uyghur Autonomous Region** (6/2023)

(This clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document).

**252.227-7015 Technical Data- Commercial Products and Commercial Services** (1/2025)

**252.227-7037 Validation of Restrictive Markings on Technical Data** (1/2025)

(In paragraph (b), “Contractor’s” remains in the clause with a lower case “c.” In paragraphs (c) and (d)(1), “hereunder” is inserted after “subcontract.” In paragraphs (f) and (g)(2)(i), change “this contract” to “the prime contract,” and in paragraph (i), change “a contract” to “the prime contract.” No substitutions for “Government” or “Contracting Officer” are made.)

This clause is required to be flowed down to subcontractors at all levels that are delivering technical data.

**252.244-7000 Subcontracts for Commercial Products or Commercial Services** (11/2023)

(This clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

**252.246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System** (1/2023)

(Applicable in purchases for electronic parts or assemblies containing electronic items. When applicable, this clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)

**252.246-7008 Sources of Electronic Parts** (1/2023)

(Applicable when electronic parts or assemblies containing electronic parts are provided, including subcontracts for commercial items, unless the subcontractor is the original manufacturer). (When applicable, this clause, in its entirety, is hereby flowed down as if the language of the clause is contained within this document.)