



Marki Microwave Purchase Order Terms and Conditions

Document 674-05816 (Jan 2017)

1) Definitions

- (a) "Order" means the Purchase Order, Contract, or Subcontract Agreement, and any revisions thereto, incorporating by reference these conditions, instructions, and all applicable data incorporated by reference.
- (b) "Products" means the goods, technical drawings, services, or other items constituting the deliverables which are the subject matter of this Order which are to be furnished by the Seller.
- (c) "Buyer" means Marki Microwave Inc. (also designated herein as "Marki" or "MMI") or its duly authorized representatives as designated on the face of this Order.
- (d) "Seller" means the party identified on the face of this Order with whom MMI is contracting for goods and/or services.

2) Acceptance

This Order constitutes the entire agreement between Buyer and Seller. Seller's acknowledgment, commencement of performance or acceptance of payment shall constitute Seller's unqualified acceptance of this Contract and all terms and conditions set forth therein. Any additional or differing terms or conditions proposed by Seller or included in Seller's acknowledgment are hereby objected to by MMI and have no effect unless expressly accepted in writing by an authorized Marki Microwave Inc. procurement representative.

3) Delivery

- (a) Time is of the essence of this Order, and failure to deliver in accordance with the delivery scheduled under this Purchase Order, if unexcused, shall be a material breach of the Order. No acts of Buyer, including without limitation, modifications of this Order or acceptance of late deliveries, shall constitute waiver of this provision. Buyer also reserves the right to refuse or return at Seller's risk and expense shipments made in excess of this Order or in advance of required schedules.
- (b) Seller shall notify Buyer in writing immediately of any actual or potential delay to the performance of this Order. Such notice shall include a proposed revised schedule, but such notice and proposal or Buyer's receipt or acceptance thereof shall not constitute a waiver to Buyer's rights and remedies hereunder.

4) Changes

Buyer shall have the right by written notice to suspend or stop work or to make changes in the delivery schedule or to the nature of the services to be rendered or the type/quantity of the goods to be furnished by Seller. If such actions by Buyer cause an increase or decrease in the cost of performance of this Order or in the time required for its performance, an equitable adjustment shall be negotiated promptly and the Order shall be modified in writing accordingly. Any claim by Seller for adjustment under Paragraph 4) must be asserted within fifteen (15) days from the date of receipt by Seller of Buyer's change/suspension/stop work order and should be followed as soon as practicable with a specification of the amount claimed and supporting cost figures. However, nothing herein shall excuse Seller from proceeding with this Purchase Order as changed pending resolution of the claim.

5) Termination

(a) Termination for Convenience

- (i) Buyer may, by written notice, terminate this Order for convenience and without cause in whole or in part, at any time and such termination shall not constitute default. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of work under the Order.
- (ii) In the event of termination for convenience by Buyer, Seller shall be reimbursed for actual, reasonable, substantiated, and allocable costs, plus a reasonable profit for work performed to date of termination. Any termination settlement proposal shall be submitted to Buyer promptly, but no later than sixty (60) days from the effective date of the termination. In no event shall the amount of any settlement be in excess of the Order value. Buyer may take immediate possession of all goods, complete or incomplete, and all products resulting from services upon written notice of termination to Seller.

(b) Termination for Default

Buyer may, by notice in writing, terminate this Order in whole or in part at any time for (i) breach of any one or more of its terms, (ii) failure to deliver goods or services within the time specified by this Order or any written extension, (iii) failure to make progress so as to endanger performance of this Order, or (iv) failure to provide adequate assurance of future performance. Buyer may also terminate this Order in whole or in part in the event of Seller's suspension of business, insolvency, appointment of a receiver for Seller's property or business, or any assignment, reorganization or arrangement by Seller for the benefit of its creditors. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of work under the Order. In the event of Seller's default hereunder, Buyer may exercise any/all rights and remedies accruing to it both at law (including without limitation, those set forth in Article 2 of the UCC) or in equity. If this Order is terminated for default, Buyer may require Seller to transfer title to, and deliver to Buyer at Buyer's direction any (1) completed materials and (2) partially completed

materials and related components, drawings, and other materials that Seller has specifically acquired for the terminated portion of this Order. At the direction of Buyer, Seller shall act to protect and preserve property in its possession in which Buyer has an interest.

6) Substitutions

Seller shall not substitute materials without express written consent by Buyer.

7) Quantity

Seller must ship the exact quantity shown on the face of the Order. Unless Buyer agrees in writing to accept overages, overshipments will be returned to Seller at Seller's expense, including all costs for return, handling, and shipping.

8) Shipping

(a) All Products shall be packed for shipment in accordance with best commercial practice. No charges will be allowed for packing, handling, and/or any other services except actual shipping charges via a shipping method specified on the Order. Unless otherwise specified, packages should be shipped *freight collect* using *ground transportation*, using billing account numbers listed on the Order. If Seller's production delay results in its inability to meet Buyer's required delivery date with the specified transportation method, Seller will, at its expense, upgrade the shipping service to an expedited delivery method to ensure timely delivery.

(b) Buyer's Order number must appear on all correspondence, shipping labels, packing lists, bills of lading, airbills, and invoices. A Certificate of Compliance is required for each shipment.

9) Inspection

(a) Seller shall perform all examinations, inspections, and tests to insure the Products furnished are in complete conformity with the requirements of the Order.

(b) All Products and services shall be subject to inspection and test at all reasonable times and places by Buyer or Buyer's customer before, during, and after performance and delivery. If inspection and test are made on the premises of Seller or Seller's lower-tier subcontractors, Seller shall furnish without additional charge all reasonable facilities, information, and assistance necessary for the safe and convenient inspection and tests required by the inspectors in the performance of their duty.

(c) Buyer may require Seller to repair, replace, or reimburse the purchase price of rejected goods or Buyer may accept any goods and, upon discover of nonconformance, may reject or keep and rework any such goods not conforming. Cost of repair, rework replacement, inspection, transportation, repackaging, and/or reinspection by Buyer shall be at Seller's expense.

(d) Neither Buyer's inspection nor any Buyer failure to inspect shall relieve Seller of any responsibility to perform according to the terms of this Order.

10) Warranty

(a) Seller warrants the goods delivered pursuant to this Order, unless specifically described otherwise in the Order, shall be (i) new; (ii) free from defects in workmanship, materials, and design; and (iii) in accordance with all the requirements of this Order. Seller further warrants that the performance of work and services shall conform to the requirements of this Order and be to high professional standards, and that all material and services provided under this Order conforms strictly to all specifications, drawings, samples, descriptions, and other requirements of this Order. All warranties in this Order shall survive inspection, test, final acceptance, and payment for good and services and shall extend from final acceptance for a minimum period of one (1) year.

(b) Seller warrants that the goods delivered pursuant to this Order shall (i) be obtained from the Original Component Manufacturer/Original Equipment Manufacturer (collectively "OM) or an authorized OM reseller or distributor; (ii) not be or contain counterfeit items, as defined below; and (iii) contain only authentic, unaltered OM labels and other markings. Seller shall obtain and retain all documentation required to fully trace the distribution and sale of the goods delivered hereunder back to the relevant OM and, on request of Buyer, shall provide such authenticating documentation. Counterfeit items include, but are not limited to, goods or separately-identifiable items or components of goods that: (i) are an illegal or unauthorized copy or substitute of an OM item; (ii) are not traceable to an OM sufficient to ensure authenticity in OM design and manufacture; (iii) do not contain proper external or internal materials or components required by the OM or are not constructed in accordance with OM design; (iv) have been re-worked, re-marked, re-labeled, repaired, refurbished, or otherwise modified from OM design but not disclosed as such, or are represented as OM authentic or new; (v) have not passed successfully all OM required testing, verification, screening, and quality control processes; or (vi) an item with altered or disguised documentation, package labeling, or item marking intended to mislead a person into believing a non-OM item is genuine, or that an item is of better or different performance than it is. Seller further warrants that it has and shall have an internal Counterfeit item control process for goods delivered hereunder. Buyer shall have the right to require changes to the processes to conform with Buyer's defined standards, if any. Failure of the Seller to conform its processes with Buyer's defined standards may result in the termination of this Order in accordance with the termination provisions herein. Seller shall include the substance of this section 10) (b) in any agreement between Seller and its lower tier suppliers.

(c) Seller warrants that any hardware, software, and/or firmware goods delivered under this Order : (i) shall not contain viruses malicious code, or other software code or routine designed to damage, destroy, or alter any software or hardware; reveal, damage, destroy, or alter any data; disable

any computer program automatically; or permit unauthorized access to any software or hardware; (ii) shall not contain any third party software that (a) may require any software to be published, accessed, or otherwise made available without the consent of the Buyer, or (b) may require distribution, copying, or modification of any software free of charge; and (iii) shall not infringe any patent, copyright, trademark, or other proprietary right of any third party or misappropriated any trade secret of any third party.

(d) These warranty entitlements shall inure to the benefit of both Buyer and Buyer's customers. As used in this Order, Buyer's customs shall include its direct and indirect customers such as direct sale end-users, higher-tier subcontractors, prime contractors, and the ultimate user under relevant prime contracts.

(e) Seller shall be liable for and save Buyer harmless from any loss, damage, or expense that buyer may suffer from breach of any of these warranties. Remedies shall be at Buyer's election including, but not limited to the prompt repair, replacement, or reimbursement of the purchase price of nonconforming goods and, in the cases of services, either the prompt correction of the defective services at no cost or the reimbursement of the amounts paid for such services. Return to Seller of defective or nonconforming goods and redelivery to Buyer of repaired or replaced goods shall be at Seller's expense. Goods or services required to be corrected, repaired, or replaced shall be subject to Paragraph (9) Inspection of this Order in the same manner and to the same extent as goods or services originally delivered under this Order, but only as to the repaired or replaced goods or parts thereof or the corrected service thereof. Seller shall promptly comply with Buyer's direction to (i) repair, rework, or replace the goods; (ii) furnish any material or parts and installation required to successfully correct the defect or nonconformance, or (iii) successfully correct the defective or nonconforming service.

11) Force Majeure

Except for a default of Seller's subcontractor at any tier, neither Buyer nor Seller shall be liable for any failure to perform due to any cause beyond their reasonable control and without their fault or negligence. Such causes include but are not limited to acts of God or of the public enemy, acts of the government in its sovereign or contractual capacity, fires, floods, earthquakes, epidemics, terrorism, strikes, freight embargoes, and severe weather. In the event that performance of this Order is adversely affected by these types of disruptions, then the party whose performance is affected shall so notify the other Party's authorized representative in writing and, at Buyer's option, this Order shall be completed with such adjustments to delivery schedule as are reasonably required, or the Order may be terminated for convenience per Paragraph 5) (a).

12) Remedies

Except as otherwise provided herein, the rights and remedies of both parties hereunder shall be in addition to their rights and remedies at law or in equity. Failure of either party to enforce any of its rights shall not constitute a waiver of such rights or of any other rights and shall not be construed as a waiver of any such provisions, rights, or remedies; rather, the same shall remain in full force and effect. Buyer shall be entitled at all times to right of offset for any amount owed by Seller against any amount payable at any time by Buyer.

13) Disputes and Governing Law

Pending resolution or settlement of any dispute arising under this Order, Seller will proceed diligently as directed by Buyer with the performance of this Order. Disputes arising under this order will be construed in accordance and by the courts of the State of California, except that any provision in this Order that is (i) incorporated in full text or by reference from the Federal Acquisition Regulation (FAR) or (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the FAR or (iii) that is substantially based on any such agency regulation or FAR 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 contract appeals, and quasi-judicial agencies of the United States Government.

14) Proprietary Rights

(a) Unless otherwise expressly agreed in a contemporaneous writing to the contrary, all specifications, information, data, drawings, software, and other items supplied to Buyer by Seller shall be disclosed to Buyer on a non-proprietary basis and may be used and/or disclosed by Buyer without restriction.

(b) Unless otherwise expressly agreed in a contemporaneous writing to the contrary, all specifications, information, data, drawings, software, and other items which are (i) supplied to Seller by Buyer or (ii) obtained or developed by Seller in performance of this Order or paid for by Buyer shall be proprietary to Buyer, shall be used only for purposes of providing goods or services to Buyer pursuant to this Order, and shall not be disclosed to any third party without Buyer's express written consent. All such items supplied by Buyer or obtained by Seller in performance of this Order or paid for by Buyer shall be promptly provided to Buyer on request or on completion of this Order.

15) Buyer's Property

(a) All drawings, tools, jigs, dies, fixtures, materials, and other property supplied or paid for by Buyer shall be and remain the property of Buyer. All such items shall be used only in the performance of work under this Order unless Buyer consents otherwise in writing.

(b) Good made in accordance with Buyer's specifications and drawings shall not be furnished or quoted by Seller to any other person or concern without Buyer's prior written consent.

(c) Seller shall be obliged to maintain any and all property furnished by Buyer to Seller and all property to which Buyer acquires an interest by this Purchase Order; Seller shall be responsible for all loss or damage to said property except for normal wear and tear. Seller shall clearly mark, maintain in inventory, and keep segregated or identifiable all of Buyer's property.

16) Infringement

Seller warrants that all goods and services, not of Buyer's design, that are provided by Seller pursuant to this Order shall be free from claims of infringement, including misappropriation, of third party intellectual property rights and that any use or sale of such items by Buyer or any of Buyer's customers shall be free from any claims of infringement. Seller shall indemnify and save Buyer and its customers harmless from any and all expenses, liability, and loss of any kind, including all costs and expenses including attorneys' fees, arising out of claims, suits, or actions alleging such infringement, which claims, suits, or actions Seller, hereby agrees to defend, at Seller's expense, if requested to do so by Buyer.

17) Compliance with Law

(a) Seller warrants that the goods to be furnished and the services to be rendered under this Order shall be manufactured, sold, used, and rendered in compliance with all relevant federal, state, and local laws, orders, rules, ordinances, and regulations, including but not limited to the Foreign Corrupt Practices Act, 15 U.S.C. §78 et seq. (the FCPA) and all laws and regulations of Seller's place of performance, and noncompliance with applicable international prohibitions on child labor. Seller certifies that with respect to the production of the goods and/or the performance of the services covered by this Order, it has fully complied with Sections 6, 7, 12, and 15 of the Fair Labor Standards Act of 1938, as amended, and of regulations and orders of the US Department of Labor under Section 14 thereof, if applicable.

(b) Seller warrants that all goods delivered under this Order are in conformance with the latest OSHA requirements.

(c) Seller warrants that in the performance of this Order it will comply with all applicable US Department of Transportation regulations on hazardous materials and any other pertinent federal, state, or local statutes, law, rules, or regulations.

(d) Seller warrants that it has complied with the Anti-Kickback Act of 1986 and has not offered or give and will not offer or give to any employee, agent, or representative of Buyer any gratuity or any kickback within the meaning of the Anti-Kickback Act of 1986. Any breach of this warranty shall be a material breach of each and every contract between Buyer and Seller.

(e) For Orders placed in support of and charged to a US Government (Government) Prime Contract or subcontract thereunder procuring and item meeting the Federal Acquisition Regulation (FAR) definition of a commercial item, the following clauses set forth in the FAR or the Defense Federal Acquisition Regulation Supplement (DFARS) in effect as of the date of the prime contract or higher-tier subcontract are incorporated herein by reference as if set forth in full text unless made inapplicable by its corresponding note, if any. In all clauses listed herein terms shall be revised to suitably identify the party to establish Seller's obligations to Buyer and to the Government; and to enable Buyer to meet its obligations under its prime contract. Without limiting the generality of the foregoing, and except where further clarified or modified below, the term "Government" and equivalent phrases shall mean "Buyer", the term "Contracting Officer" shall mean "Buyer's Purchase Representative", the term "Contractor" or "Offeror" shall mean "Seller", "Subcontractor" shall mean "Seller's Subcontractor" under this Order, and the term "Contract" shall mean this Order. For avoidance of doubt, the words "Government" and "Contracting Officer" do not change (1) when a right, act, authorization or obligation can be granted or performed only by the Government or the prime contract Contracting Officer or duly authorized representative, such as in FAR 52.227-1 and FAR 52.227-2, and (2) when title to property is to be transferred directly to the Government. If any of the following FAR or DFARS clauses do not apply to this Order, such clauses are considered to be self-deleting.

A. THE FOLLOWING FAR CLAUSES ARE APPLICABLE TO PURCHASE ORDERS FOR COMMERCIAL ITEMS UNDER ALL GOVERNMENT CONTRACTS:

1. **52.203-7** "Anti-Kickback Procedures" (Excepting paragraph (c)(1) (Applicable to Purchase Orders that exceed \$150,000.)
2. **52.203-12** "Limitation on Payments to Influence Certain Federal Transactions" (Applicable to Purchase Orders exceeding \$150,000.)
3. **52.203-13** "Contractor Code of Business Ethics and Conduct" (Applicable to Purchase Orders (i) that have a value more the \$5,000,000; and (ii) that have a performance period of more than 120 days. (In Paragraph (b)(3)(i) the meaning of "agency office of the Inspector General" and "Contracting Officer" does not change; in Paragraph (b)(3)(ii) the meaning of "government" does not change; in Paragraphs (b)(3)9iii) and (c)(2)(ii)(F) the meaning of "OIG of the ordering agency", "IG of the agency", "agency OIG", and "Contracting Officer" do not change.)
4. **52.204-10** "Reporting Executive Compensation and First-Tier Subcontract Awards" (Applicable to Purchase Orders of \$25,000 or more when Buyer is the Prime Contractor.) (The usual substitution of the parties is not applicable to this clause. Seller shall report to Buyer the information required under the clause.)
5. **52.209-6** "Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment" (Applicable to Purchase Orders of \$30,000 or more.)
6. **52.215-22** "Limitations on Pass-Through Charges – Identification of Subcontract Effort" (Applicable to solicitations for Purchase Orders that will incorporate FAR clause 52.215-23 or 52.215-23 Alt I.)
7. **52.215-23 & Alt I** "Limitations on Pass – Through Charges (Include Alternate I if it is included in the prime contract) (Under other than DoD prime contracts, applicable to time and material and labor hour Purchase Orders that exceed the simplified acquisition threshold; and under DoD prime contracts, applicable to time and material, labor hour, and fixed price Purchase Orders except those identified in FAR 15.408(n)(2)(B)(2), that exceed the threshold for obtaining cost or pricing data in accordance with FAR 15.403-4.)
8. **52.219-8** "Utilization of Small Business Concerns"
9. **52.222-21** "Prohibition of Segregated Facilities" (Applicable to Purchase Orders exceeding \$10,000.)
10. **52.222-26** "Equal Opportunity" (Applicable to Purchase Orders exceeding \$10,000.)
11. **52.222-35** "Equal Opportunity for Veterans" (Applicable to Purchase Orders exceeding \$100,000.)
12. **52.222-36** "Affirmative Action for Workers with Disabilities" (Applicable to Purchase Orders exceeding \$15,000.)
13. **52.222-40** "Notification of Employee Rights Under the National Labor Relations Act" (Applicable to Purchase Orders that exceed \$10,000 and are issued under prime contracts resulting from Solicitations issued after December 12, 2010.)
14. **52.222-41** "Service Contract Act of 1965" (Applicable to Purchase Orders that are subject to the Service Contract Act o 1965.)
15. **52.222-50 & Alt I** "Combatting Trafficking in Person" (Alternate I is applicable to Purchase Orders if it is included in the prime contract.)
16. **52.222-54** "Employment Eligibility Verification" (Applicable to Purchase Orders (i) for construction or commercial or noncommercial services (except commercial services that are part of a purchase of COTS item, or an item that would be a COTS item but for minor modifications performed by the COTS provider, and that are normally provided for that COTS item); (ii) has a value of more than \$3000; and (iii) includes work performed in the United States.)

17. **52.244-6** "Subcontracts for Commercial Items"
18. **52.247-64** "Preference for Privately Owned US-Flag Commercial Vessels."

B. THE FOLLOWING DFARS CLAUSES ARE APPLICABLE TO PURCHASE ORDERS FOR COMMERCIAL ITEMS UNDER DoD CONTRACTS:

1. **252.204-7008** "Export Controlled Items"
2. **252.215-7003** "Excessive Pass-Through Charges – Identification of Subcontract Effort" (APR 2007) (Applicable to solicitations for Purchase Orders issued under Department of Defense (DoD) solicitations issued after April 25, 2007 and before May 13, 2008 and that do not specifically incorporate the FAR Limitations on Pass-Through Charges provision, except solicitations for firm-fixed price (FFP) Purchase Orders and fixed-priced (FP) Purchase Orders with economic price adjustment.)
3. **252.215-7003** "Excessive Pass-Through Charges – Identification of Subcontract Effort" (MAY 2008) (Applicable to solicitations for Purchase Orders issued under DoD solicitations issued after May 12, 2008 and before October 14, 2009 and that do not specifically incorporate the FAR Limitations on Pass-Through Charges provision, except solicitations for FFP Purchase Orders and FP Purchase Orders with economic price adjustment.)
4. **252.215-7004** "Excessive Pass-Through Charges" (APR 2007) (Applicable to Purchase Orders issued under DoD contracts awarded after April 25, 2007 and before May 13, 2008 and that do not specifically incorporate the FAR Limitations on Pass-Through Charges clause, except FFP Purchase Orders and FP Purchase Orders with economic price adjustment.)
5. **252.215-7004 & Alt I** "Excessive Pass-Through Charges (MAY 2008) (Include Alternate I if it is included in the prime contract) (Applicable to Purchase Orders under DoD contracts awarded after May 12, 2008 and before October 14, 2009 and that do not specifically incorporate the FAR Limitations on Pass-Through Charges clause, except FFP Purchase Orders and FP Purchase Orders with economic price adjustment.)
6. **252.223-7008** "Prohibition of Hexavalent Chromium" (Applicable to all Purchase Orders for supplies, maintenance and repair services, or construction materials.)
7. **252.225-7008** "Restriction on Acquisition of Specialty Metals" (Applicable to Purchase Orders for the delivery of specialty metals as end items to Buyer or Seller to the extent necessary to ensure compliance of the end products that Buyer will deliver to the Government when DFARS clause 252.225-7009 is in the prime contract.)
8. **252.225-7009** "Restriction on Acquisition of Certain Articles Containing Specialty Metals" (excluding paragraph (d) which is deleted from this clause). (Applicable to Purchase Orders for items containing specialty metals to the extent necessary to ensure compliance of the end products that Buyer will deliver to the Government under prime contracts awarded, or modified to include the clause, after July 28, 2009.)
9. **252.225-7010** "Commercial Derivative Military Article – Specialty Metals Compliance Certificate" (Applicable to solicitations for Purchase Orders that will incorporate DFARS clause 252.225-7009.)
10. **252.225-7014 & Alt I** "Preference for Domestic Specialty Metals and Alternate I" (Applicable to Purchase Orders for items containing specialty metals that the Buyer will deliver to the Government under prime contracts awarded before July 29, 2009 and that do not specifically incorporate a different specialty metals clause.)
11. **252.225-7014 (Deviation (Dev.) No. 2006-O004 & Alt I (Dev. No. 2006-O0004)** "Preference for Domestic Specialty Metals" (DEVIATION No. 2006-O0004 and Alternate I (DEVIATION No. 2006-O0004). (Applicable to Purchase Orders for items containing specialty metals that the Buyer will deliver to the Government under prime contracts awarded after November 15, 2006 and before October 26, 2007 and that do not specifically incorporate a different specialty metals clause.)
12. **252.225-7014 (Dev. No. 2007-O0011 & Alt I (Dev. No. 2007-O0011)** "Preference for Domestic Specialty Metals" (DEVIATION No. 2007-O0011) and Alternate I (DEVIATION No. 2007-O0011) (Applicable to Purchase Orders for items containing specialty metals that the Buyer will deliver to the Government under prime contracts awarded after October 25, 2007 and before January 29, 2008 and that do not specifically incorporate a different specialty metals clause)
13. **252.225-7014 (Dev. No. 2008-O0002 & Alt I (Dev. No. 2008-O0002)** "Preference for Domestic Specialty Metals" (DEVIATION No. 2008-O0002) and Alternate I (Dev. No. 2008-O0002) "Applicable to Purchase Orders for Items containing specialty metals that the Buyer will deliver to the Government under prime contracts awarded after January 28, 2008 and before July 29, 2009 and that do not specifically incorporate a different specialty metals clause)
14. **252.227-7013** "Rights in Technical Data Noncommercial Items" (Applicable whenever any technical data for commercial items developed in part at Government expense will be provided for delivery to the Government under this Purchase Order.)
15. **252.227-7015** "Technical Data – Commercial Items" (Applicable whenever any technical data related to commercial items developed in any part at private expense will be provided under this Purchase Order for delivery to the Government)
16. **252.227-7037** "Validation of Restrictive Markings on Technical Data" (Applicable to Purchase Orders requiring the delivery of technical data)
17. **252.244-7000** "Subcontracts for Commercial Items and Commercial Components (DoD Contracts)"
18. **252.246-7003** "Notification of Potential Safety Issues" (Applicable to Purchase Orders for (i) parts defined as critical safety items in accordance with this clause; (ii) systems and subsystems, assemblies, and subassemblies integral to a system, and (iii) repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system)
19. **252.246-7007** Contractor Counterfeit Electronic Part Detection and Avoidance System
20. **252.247-7023** "Transportation of Supplies by Sea"
21. **252.247-7024** "Notification of Transportation of Supplies by Sea"

18) Indemnification

Seller further agrees to defend, indemnify and save Buyer harmless from any loss, damage, fine, penalty or expense that Buyer may suffer as a result of Seller's failure to comply with the warranties in this Section.

19) California Senate Bill 657

Seller shall be in compliance with California Senate Bill 657, "The California Transparency in Supply Chain Act of 2010" in accordance with Section 1714.43 of the California Civil Code and Section 19547.5 of the California Revenue and Taxation Code.

20) Insurance

Seller shall maintain and cause its subcontractors to maintain the following minimum insurance coverages: Statutory Workers' Compensation coverage and Employers' Liability with a limit of \$500,000; commercial General Liability (including bodily injury and property damage, product liability coverage, and contractual liability coverage) with a limit of \$1,000,000 per occurrence.

21) Export Control

(a) If Seller is a US company that engages in the business of either manufacturing or exporting defense articles or furnishing defense services, Seller hereby certifies that it has registered with the US Department of State Directorate of Defense Trade Controls and understands its obligations to comply with the International Traffic in Arms Regulations ("ITAR") and the Export Administration Regulations ("EAR").

(b) Seller shall control the disclosure of and access to technical data, information and other items received under this Purchase Order in accordance with US export control laws and regulations, including but not limited to the ITAR. Seller agrees that no technical data, information, or other items

provided by Buyer in connection with this Order shall be provided to any foreign persons or to a foreign entity, including a foreign subsidiary of Seller, with the express written authorization of Buyer and Seller's obtaining of the appropriate export license, technical assistance agreement, or other requisite documentation for ITAR-controlled technical data or items. It shall be the sole responsibility of Seller to determine whether the information provided by Buyer is technical data as outlined in the ITAR (22 CFR 120-130) prior to any release to a third party abiding by the terms outlined herein. Seller shall indemnify Buyer for all liabilities, penalties, costs or expenses that may be imposed on or incurred by Buyer in connection with any violations of such laws and regulations by Seller.

(c) Seller shall immediately notify buyer if it is or becomes listed on any Excluded or Denied Part List of an agency of the US Government or if its export privileges are denied, suspended, or revoked.

22) Seller Records

Seller shall maintain general records relating to this Order for a minimum period of five (5) years after completion of final delivery of materials, goods, or services pursuant to this Order or for such longer period as required by statute or as may be specified elsewhere in this Order.

23) Fraudulent/Counterfeit Electronic Parts; Avoidance, Detection, Mitigation, and Disposition

Seller shall be in compliance AS5553.

24) Dodd-Frank Wall Street Reform and Consumer Protection Act

Seller shall be in compliance Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) if applicable to the manufacturing of their product(s) and certifies that they have conducted a reasonable country of origin inquiry for the "conflict minerals utilized in the manufacturing of their products. Conflict minerals includes Tantalum, Tin, Gold or Tungsten that originate in the Democratic Republic of the Congo (DCR) or an adjoining country.

25) Obsolescence/Product Discontinuance

Seller shall provide Marki Microwave written advance notice (hereafter "Product Discontinuance Notice" or "PDN") of any product discontinuances as soon as possible but no later than six (6) months before the Last Buy Date (LBD). At a minimum, a PDN shall include: Part Number, Marki Microwave part number, planned substitutions, and last order and shipment dates.