



Marki Microwave, LLC Purchase Order Terms and Conditions (2025-12-08)

1) Definitions

(a) "Buyer" means Marki Microwave LLC (also designated herein as "Marki") and/or its duly authorized representatives as designated on the face of this Order.

(b) "Goods" means any subset of Products (as defined below) that consist of tangible property.

(c) "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.

(d) "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.

(e) "Seller" means the party identified on the face of this Order with whom Marki is contracting for goods and/or services.

(f) "Services" means any subset of Products that consist of intangible services provided by or on behalf of Seller for benefit of Marki under an Order.

2) Exclusive Terms

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 Order 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 Marki and have no effect unless expressly accepted in writing by an authorized Marki Microwave LLC procurement representative. Marki's payment for Products received under this Order shall not constitute Marki's acceptance of any Seller-proposed additional or conflicting terms or conditions.

3) Time of the Essence

(a) Time is of the essence on all deliveries under this Order. Buyer may terminate the Order, in whole or in part, if Seller fails to:

(i) make delivery of the products or to perform the services within the time specified herein,

(ii) replace or correct defective products in accordance with the warranty provisions herein,

(iii) perform any other provisions of this order or to so fail to make progress as to endanger performance in accordance with the terms hereof, including delivery schedules.

(b) Seller shall notify Buyer in writing immediately of any actual or potential delay to the performance of this Order and include a proposed revised schedule. Buyer has no obligation to accept the proposed revised schedule.

4) Changes and Cancellation

Buyer may, at any time and by written, verbal, or electronic communication referencing this order, suspend, cancel, reschedule, increase, or decrease the ordered quantities, or make changes reasonably consistent with the scope of this Order to the applicable drawings, designs or specifications; method of shipment or packaging; or place of delivery.

(i) There shall be no charge, expense, liability, or penalty fee for Buyer's cancellation, change, or rescheduling of delivery under the Order if such action is: (1) made more than 30 days prior to the shipment date as set forth on the Order or as otherwise agreed with the Seller; (2) due to Seller's breach of these terms, including failure to timely deliver goods or services as specified by this Order; or (3) due to 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.

(ii) If Buyer cancels, changes, or reschedules delivery under the Order other than as set forth in '(i)' above, whereby such action causes an increase or decrease in the Seller's cost of performance of this Order, then on Seller's request an equitable adjustment shall be negotiated promptly in good faith for actual, reasonable, substantiated, and allocable costs, excluding Seller profit, incurred by the Seller as a direct result of such action. Any claim by Seller for adjustment under this section must be asserted within fifteen (15) days from the date of receipt by Seller of Buyer's cancellation/change/rescheduling order and should be followed as soon as practicable with a specification of the amount claimed and supporting cost figures, or it will be deemed waived. Nothing herein shall excuse Seller from proceeding with this Purchase Order as changed, pending resolution of the claim.

6) Substitutions

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

8) Delivery

(a) Seller shall deliver Products FCA (INCOTERMS 2010) Seller's shipping point identified on this Order by the specified carrier on the date and to the location requested in the Order. Title and risk of loss shall transfer to Buyer at that point. Partial shipments are not allowed without Buyer's prior consent. BUYER shall not be responsible for payment of any invoice until the Products have been properly delivered

(b) All Products shall be packed for shipment (i) in accordance with best commercial practice, (ii) acceptable to common carriers for shipment at the lowest rate and in accordance with applicable regulations, and (iii) adequate to insure safe arrival of the goods at the named destination.

(c) 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 sole expense, upgrade the shipping service to an expedited delivery method to ensure timely delivery.

(c) Buyer's Order number must appear on all correspondence, shipping labels, packing lists, bills of lading, air bills, and invoices. To the extent Goods are to be imported across international borders under this Order, the Seller shall provide a true and correct harmonized tariff schedule (HTS) code, the Goods shall be correctly labeled as to Country of Origin, and to the extent necessary a Certificate of Compliance may be required for each such shipment. Seller shall mark all containers with necessary lifting, handling, and shipping information and also Order numbers, date of shipment, and the names of the consignee and consignor. An itemized packing list must accompany each shipment.

7) Shipment Variances

Seller must ship the exact quantity shown on the face of the Order to Buyer on the shipment date. Unless Buyer agrees in writing to accept variances, any shipment in excess of the amount stated on the face of the Order, in advance of the agreed upon schedule, or late shipments will be, at Buyer's sole discretion, held at Seller's risk while awaiting return shipping instructions and will be returned to Seller at Seller's expense, including all costs for return, handling, and shipping. Material for which return shipping instructions are not received within a reasonable time, not exceeding fifteen (15) days, may be destroyed or sold by Buyer at public or private sale and the proceeds, if any, applied towards storage and handling charges.

9) Inspection and Acceptance

(a) All Products 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. 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.

(b) Buyer may, upon inspection, reasonably timely reject all or any portion of Products that fail to conform to the Order in any manner. For rejected Products, Buyer may, at its discretion: 1) require Seller to repair, replace, reperform, or reimburse the purchase price of rejected Products; or 2) keep and rework any such Products not conforming. Cost of any such repair, rework replacement, repackaging, and/or reinspection by Buyer shall be at Seller's expense. Seller's warranty (as set forth below) will survive any acceptance of delivery of Products under this Order,

10) Price; Invoicing; Payment Processing

(a) Seller warrants that the price to be charged for the Products identified on the face of the Order are not in excess of the lowest price charged to any other purchaser of such Products of similar quantities and delivery requirements.

(b) The prices set forth in the Order include all applicable federal, state, and local taxes and miscellaneous charges, including but not limited to duties, customs, tariffs, and surcharges. All such taxes and charges shall be stated separately on Seller's invoice.

(c) Except if Buyer provides prior written consent, Seller invoices shall be dated no earlier than the date of shipment or delivery of services rendered.

(d) Buyer shall pay the stated value of this Order per the net number of days defined by the Payment Terms as stipulated on this Order, and if no such payment terms are stipulated then within 45 days of shipment (Net45). Resulting *Invoice Due Date* and *Invoice Discount Due Date* determination will be based on the later of Buyer's:

- (i) actual receipt of invoice;
- (ii) receipt of products/services ordered; or
- (iii) the date any and all Order-related applicable non-conformity issues are resolved.

(e) All payments by Buyer to Seller will be in U.S. dollars, processes via ACH, check, wire transfer, or credit card. Seller is responsible for providing to Buyer timely and accurate information necessary for processing payment. Seller agrees that Buyer may rely on transfer and account instructions included on any Seller invoice or on any other transfer directions received from Seller, and that payment in accordance with any such payment instructions shall be deemed payment to Seller.

11) Warranty

- (a) Seller warrants the Goods delivered pursuant to this Order shall be:
- (i) new (unless specifically described by Buyer otherwise in the Order);
 - (ii) free from defects in workmanship, manufacturing, materials, and design;
 - (iii) conform to any sample or specification furnished by Seller;
 - (iv) not knowingly infringe any patent, trademark, copyright, or other third-party intellectual property right;
 - (v) contain only authentic materials from original suppliers or component manufacture, with unaltered labels and other markings;
 - (vi) not incorporate materials or content made in contravention on laws regarding slavery and human trafficking of the country or countries in which they are doing business;
 - (vii) be free of any lien or encumbrance; and
 - (viii) conform to all the requirements of this Order.
- (b) 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 workmanship.
- (c) All warranties in this Order shall survive inspection, test, final acceptance, and payment for Goods and Services and shall extend from final acceptance for a minimum period of one (1) year. Buyer's approval of Seller's Product or design shall not relieve Seller of the warranties set forth herein.
- (d) To avoid counterfeit materials (as defined in SAE Aerospace Standard AS5553) and to verify materials are "conflict free" (as defined in §1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act), Seller shall obtain and retain all documentation required to fully trace unbroken chain of custody from the original source of manufacture for all Products delivered hereunder, and on request of Buyer, shall provide such authenticating documentation, including but not limited to documentation on country of origin, certificates of conformance, shipping and receiving documents, and supplier packing slips.
- (e) These warranty entitlements shall inure to the benefit of both Buyer and Buyer's customers. As used in this Order, Buyer's customers 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.
- (f) If any Products delivered hereunder do not meet the warranties specified herein, Buyer may at its election, require Seller to promptly correct, at no cost to Buyer, any defective or non-conforming products by prompt repair or replacement, or Buyer may return such defective or non-conforming Products to Seller at Seller's expense and recover the purchase price paid.
- (g) Seller shall indemnify, defend and hold Buyer harmless from all liability, damages, settlements, costs and expenses (including reasonable attorney fees) for all claims and suits made or brought against Buyer for any alleged infringement of any third-party patents, copyrights, trade secrets, trademarks, or other intellectual property rights by reason of the sale or use of said Products. The foregoing warranty and indemnification shall not apply to any portion of the Products supplied hereunder that are made in accordance with Buyer's written custom specifications.

12) Indemnity

a) Seller agrees to defend, at its own expense, any claims made against Buyer by a third party unrelated to Buyer ("**Claimant**") alleging that the Products provided under the Order directly infringe a patent, trademark, copyright, or trade secret ("**IP**"). Seller further agrees to indemnify Buyer against actual damages for such claims which are finally awarded against Buyer that by a court of competent jurisdiction, or agreed to in a settlement approved in advance by Seller in writing, such approval not to be unreasonably withheld. Buyer will reasonably timely notify Seller of all allegations in the claim and provide all reasonable information necessary for the defense of the claim.

c) Seller shall have no obligations under subsection 'a', above, with respect to any claim that would not have arisen, but for: (i) Seller's use of any material, part or subassembly provided by or specified by Buyer, or Seller's compliance with any designs furnished by Buyer; (ii) modifications or additions made to Products by Buyer or any third party not under the direction or control of Seller; or the (iii) the use or combination of the Products with any other material, part, structure, or other external elements not provided by or specified by Seller.

d) If an infringement claim is asserted, or if Seller believes one likely, Seller shall, at its sole expense and election: (i) to procure for Buyer the right to use the Products; or (ii) to modify the Products as appropriate to avoid such rightful claim of infringement, as long as modification for this purpose does not materially impair the operation thereof.

13) 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 pay be cancelled.

14) Remedies; No Waiver

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. 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.

15) Disputes and Governing Law

(a) Disputes arising under this order will be construed in accordance with the laws of the state of Delaware, notwithstanding its conflict of laws rules, except, and to the extent that, subsection (b) below applies. The parties consent to jurisdiction and venue in the federal or state courts in Delaware. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this agreement.

(b) For Orders on which Buyer has expressly specified on the Order that Federal Acquisition Regulations (“FARs”) or Defense Federal Acquisition regulations (“DFARS”) shall apply, then any provision of this agreement that is incorporated into the text or by reference into any FAR or DFAR specified in section 16(d) below, or regulation implementing such FAR, or that is substantially based on such regulation or FAR or DFAR provision, will be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contracts appeals, and quasi-judicial agencies of the United States Government.

16) Export Control; Compliance with Law; FARs and DFARS

(a) Seller warrants that the Products will be manufactured, sold, used, and rendered in compliance with all relevant federal, state, and local laws, orders, rules, ordinances, and regulations, including all applicable laws and regulations of Seller’s place of performance, including but not limited to: i) the U.S. Foreign Corrupt Practices Act (15 U.S.C. §78 et seq.), and any other applicable anti-corruption and anti-kick-back laws and regulations in the Seller’s place of performance; ii) SAE Aerospace Standard AS5553 (on avoidance, detection, mitigation, and disposition of counterfeit electronic parts; and iii) The California Transparency in Supply Chains Act of 2010 to eradicate slavery and human trafficking in a direct supply chain for tangible goods (Cal. Civ. Code §1714.43), or similar laws regarding slavery and human trafficking of the country or countries in which Seller is doing business. In addition to minimum standards imposed by law, Suppliers are further encouraged to implement appropriate management systems with respect to human rights, labor, ethics, environmental, health and safety.

(b) Without limiting the preceding subsection, both Seller and Buyer agree to comply with all applicable export laws, regulations, and orders, including compliance as applicable with the U.S. International Traffic in Arms Regulations (“ITAR”) and the Export Administration Regulations (“EAR”).

(i) Specifically, Buyer agrees that it will not resell, re-export or ship, directly or indirectly, any Product or technical data in any form without obtaining appropriate export or re-export licenses, if required, from the U.S. Government, and its other relevant country of operation, if applicable.

(ii) Seller shall control the disclosure of and access to technical data, information and other items received under this Order in accordance with US export control laws and regulations, including but not limited to the EAR and ITAR if applicable.

(c) Seller shall notify Buyer as soon as possible in the event that it learns that any Products delivered to Buyer are non-compliant with any applicable law, regulation or international standard, including but not limited to, 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. Seller shall from time-to-time certify its compliance upon request by Buyer. Seller will ensure that its compliance hereunder is reasonably documented, and such documentation shall be retained and made available upon request for a minimum of ten (10) years. Seller will be liable for any and all costs associated with such compliance as well as any expenses or damages incurred by Buyer or its customers as a result of Seller’s non-compliance hereunder.

(d) For Orders on which Buyer expressly designates that the Order is placed in support of and charged to a particular U.S. Government contract or subcontract, then to the extent not self-limited or excepted by the express language in the applicable regulations, the Federal Acquisition Regulations (FARs) listed below, and if a Department of Defense contract then also the Defense Federal Acquisition Regulation Supplement (DFARS) listed below, are incorporated herein by reference as if set forth in full text. In addition the those listed below, FARs and DFARS specific to the Order may also be designated in writing on the Order, and such FARs and DFARS are also incorporated by reference to the same extent as those listed below. In all such clauses applied 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, 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 the subject matter of this Order, such clauses are deemed to be self-deleting.

A. FEDERAL ACQUISITION REGULATIONS (FAR):

- 52.203-13, Contractor Code of Business Ethics and Conduct (Nov 2021)
- 52.203-17, Contractor Employee Whistleblower Rights (Nov 2023)
- 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017)

- FAR 52.204-21, Basic Safeguarding of Covered Contractor Information Systems
- 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities (Dec 2023)
- 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Nov 2021)
- 52.204-27, Prohibition on a ByteDance Covered Application (Jun 2023)
- 52.204-30, Federal Acquisition Supply Chain Security Act Orders—Prohibition. (Dec
- 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015)
- 52.219-8, Utilization of Small Business Concerns (Jan 2025)
- 52.222-35, Equal Opportunity for Veterans (Jun 2020)
- 52.222-36, Equal Opportunity for Workers with Disabilities (Jun 2020)
- 52.222-37, Employment Reports on Veterans (Jun 2020)
- 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010)
- 52.222-41, Service Contract Labor Standards (Aug 2018)
- 52.222-50, Combating Trafficking in Persons (Oct 2025)
- 52.222-54, Employment Eligibility Verification (Jan 2025)
- 52.222-55, Minimum Wages for Contractor Workers Under Executive Order 14026 (Jan 2022).
- 52.222-62, Paid Sick Leave Under Executive Order 13706 (Jan 2022)
- 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (Mar 2023)

B. DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT (DFARS):

- 252.203-7002, Requirement to Inform Employees of Whistleblower Rights (Dec 2022)
- 252.204-7000, Disclosure of Information (Oct 2016)
- 252.204-7008, Compliance with Safeguarding Covered Defense Information Controls (Oct 2016)
- 252.204-7009, Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information (Jan 2023)
- 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting (May 2024)
- 252.204-7018, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services (Jan 2023)
- 252.204-7019, Notice of NISTSP 800-171 DoD Assessment Requirements (Nov 2023)
- 252.204-7020, Contractor Compliance With the Cybersecurity Maturity Model Certification Level Requirements (Nov 2025)
- 252.225-7048, Export-Controlled Items (Jun 2013)
- 252.227-7013, Rights in Technical Data—Other Than Commercial Products and Commercial Services (Aug 2025)
- 252.227-7015, Technical Data - Commercial Products and Commercial Services (Jan 2025)
- 252.244-7000, Subcontracts for Commercial Products or Commercial Services (Nov 2023)
- 252.246-7007, Contractor Counterfeit Electronic Part Detection and Avoidance System (Jan 2023)

17) Confidential Information

The provisions and terms of any separate non-disclosure or confidentiality agreement in effect as of the Order date (“**Separate NDA**”) shall apply to data provided under such Order. To the extent no such Separate NDA exists, then all materials, including but not limited to specifications, tools, drawings, samples, goods, and data, furnished by Buyer to Seller in support of the Order shall be treated as confidential and shall not be disclosed by Seller to any third party or used for any purpose other than the proper fulfillment of the Order unless otherwise agreed by Buyer in writing. All such materials shall be returned to Buyer upon request.

18) Limitation of Damages

EXCEPT AS SET FORTH IN SECTIONS 12 (INDEMNITY) AND 17 (CONFIDENTIALITY), NEITHER PARTY WILL BE LIABLE TO THE OTHER HEREUNDER FOR LOSS OF PROFITS, EXCESS COSTS, OR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BUYER’S TOTAL LIABILITY HEREUNDER FOR ALL CAUSES OF ACTION WILL NOT EXCEED THE TOTAL PURCHASE PRICE OF THE ORDER.