



A Service-Disabled Veteran-Owned Small Business

PURCHASE ORDER TERMS & CONDITIONS¹

1. DEFINITIONS. As used in this Purchase Order, the below terms shall have the following meanings:

- 1.1 “Buyer” means Minburn Technology Group, LLC;
- 1.2 “Seller” means the party identified on the face of this Order, with whom Buyer is contracting for the procurement of the Items;
- 1.3 “Purchase Order” and “Order” are used interchangeably and refer to this contractual instrument;
- 1.4 “Customer” means the party who issued the prime contract or higher tier subcontract to Buyer;
- 1.5 “Government” means the United States Government;
- 1.6 “Items” means those products or services which Seller is contracted to furnish to Buyer under this Purchase Order.
- 1.7 “Prime Contract” means Buyer’s prime contract, or higher tier subcontract, with a Customer, under which this Order is issued;
- 1.8 “Parties” shall refer collectively to Buyer and Seller.

2. APPLICABILITY / ORDER OF PRECEDENCE. To the extent that this Order has been placed pursuant to a master purchase agreement or similar term purchasing agreement (collectively a “MPA”) which prohibits the use of purchase order terms and conditions, these Purchase Order Terms & Conditions shall not apply to the Order. To the extent that this Order has been placed pursuant to a MPA which does not prohibit purchase order terms and conditions, these Purchase Order Terms & Conditions shall not apply to the extent that they are inconsistent with the terms of such MPA, which MPA terms shall control in the event of conflict.

3. APPLICABLE LAW. This Purchase Order and any matter arising out of or related to the performance thereof shall be governed by the laws of the Commonwealth of Virginia, except that its conflicts of laws provisions shall not apply. Matters involving the U.S. Government shall be governed solely by federal law.

4. COMPLIANCE WITH LAWS. Seller warrants that it will comply with all applicable federal, state and local laws and regulations, codes, rules, ordinances and other legal mandates of any type (collectively referred to as “Laws”), including without limit, the Procurement Integrity Act, 41 U.S.C. 423.

5. ACCEPTANCE OF PURCHASE ORDER. This Purchase Order supersedes any prior offers, negotiations, and agreements concerning the subject matter herein and constitutes the entire agreement between Buyer and Seller. Seller must provide notification of receipt of Order within 24 hours and a countersigned confirmation of the Order prior to delivery. To the extent that Seller fails to return a signed acceptance copy and acknowledgement of this Order as requested, this Purchase Order becomes a binding

¹ Minburn Technology Group, LLC (Effective December 1, 2022)



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agreement, subject to the specific terms and conditions stated herein, upon the Seller's acknowledgment, Seller's commencement of performance, or Seller's acceptance of payment.

6. CHANGES. Buyer 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, Seller shall promptly notify buyer and the price and/or delivery schedule shall be equitably adjusted and the Purchase Order so modified. Seller shall commence any such change pending such modification. Seller must assert its right to an equitable adjustment in the purchase order price or delivery schedule under this clause for changes to this purchase order within thirty (30) days from the date of receipt of Buyer's written change order.

7. TRANSPORTATION. Unless otherwise provided in this Purchase Order, transportation charges for the shipping of Items shall be prepaid and separately invoiced to Buyer. No insurance or premium transportation costs will be allowed unless authorized by Buyer. In accordance with and subject to the "Title and Risk of Loss" section below, risk of loss, regardless of cause, is Seller's responsibility until the conforming Items have received acceptance by Buyer and Customer notwithstanding Buyer's physical possession of the Items, unless such loss or damage is caused by the negligence of the Buyer.

8. TITLE AND RISK OF LOSS. Unless otherwise provided in this Purchase Order, the F.O.B. point shall be the delivery destination indicated in this Order, and title to the Items and risk of loss or damage shall pass to Buyer upon Buyer's and Customer's acceptance of the Items.

9. INVOICES. An itemized invoice shall be submitted electronically to AccountsPayable@minburntech.com. The invoice must contain the same Purchase Order number, description of supplies/services, quantity, unit price, extended price, PO line number, part number, and any additional information specified by Buyer in accompanying documentation. The invoice must also include invoice number, invoice date, remit to address and a breakout of tax and freight charges (if applicable). Any invoice with missing or incorrect information will be rejected, and the Seller will be required to resubmit a corrected invoice for payment.

10. PAYMENT TERMS. Payment can be made via EFT or check. Unless otherwise specified in this Purchase Order, terms of payment are "Net 45 days." Unless otherwise specified and agreed to in the Purchase Order, prices include all applicable federal, state, and local taxes, duties, tariffs, and similar government-imposed fees, all of which shall be listed separately on the invoice.

11. INSPECTION AND ACCEPTANCE. Buyer and Customer may inspect and/or test materials, work in progress, and completed supplies and services at reasonable times and places during the performance of work. No such inspection shall relieve Seller of its obligations to furnish and warrant all work in accordance with the requirements of this Purchase Order. Unless otherwise agreed in writing, all Items are subject to Buyer's inspection at destination, notwithstanding any previous inspection by Buyer or Customer. If the Items fail in any respect to conform to this Purchase Order, Buyer may accept or reject the whole or any unit thereof. Buyer may reject Items within a reasonable time (not more than thirty business days) after delivery or tender. Acceptance does not of itself impair any other legal or equitable remedy for non-conformity.

12. PRIORITY RATING. If this Purchase Order exceeds \$125,000 and contains a DPAS rating, this order is a "rated order" certified for national defense, emergency preparedness, and energy program use under the Defense Priorities and Allocation Systems (DPAS) (15 C.F.R. 700). Countersignature by the



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Seller is deemed to be acknowledgement of the DPAS rating and the Seller shall accept and abide by all the requirements of that regulation. Rated orders shall take preference over all unrated customer orders if and as necessary to meet required delivery dates. Among rated orders, DX rated orders shall take precedence.

13. COUNTERFEIT PRODUCTS/PARTS. For purposes of this Section 13, “Goods” are any tangible items, including without limitation the lowest level of separately identifiable items, such as parts, articles, components, and assemblies. “Counterfeit Goods” are Goods that are or contain items misrepresented as having been designed, produced, and/or sold by an authorized manufacturer and seller, including without limitation unauthorized copies, replicas, or substitutes. The term also includes authorized Goods that have reached a design life limit or have been damaged beyond possible repair but are altered and misrepresented as acceptable.

Seller agrees and shall ensure that Counterfeit Goods are not delivered to Buyer or Customer. Goods delivered to Buyer or Customer or incorporated into other Goods and delivered pursuant to this Order shall be new and shall be procured directly from the Original Component Manufacturer (OCM)/Original Equipment Manufacturer (OEM), or through an OCM/OEM authorized distributor chain. If requested by Buyer, Seller shall provide OCM/OEM documentation that authenticates products. Seller shall report suspected or confirmed counterfeit items into the Government-Industry Data Exchange Program (GIDEP).

14. TERMINATION FOR CONVENIENCE. Buyer, based upon its own determination or at the direction of any Customer, and without liability, may terminate this Order in whole or in part, by written notice of termination for convenience to Seller. In the event of a termination for convenience, the Seller shall immediately stop all work identified in the termination notice and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of the Purchase Order, Seller shall be paid the prices set forth in this Order for Items accepted prior to the effective date of termination, plus reasonable charges Seller can demonstrate to the satisfaction of the Buyer using its standard record keeping system have resulted from the termination. Seller will not be paid for any work performed or any costs incurred which reasonably could have been avoided.

15. 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: (i) fails to deliver the Items within the time specified in this Order; (ii) fails to make sufficient progress with the work, thereby endangering completion of performance within the time specified; or (iii) fails to comply or fails to perform in accordance with the provisions of this Order. In such instances, Buyer may, at its option and only in writing, provide a period within which Seller may cure its default prior to Buyer’s terminating this Order for default. If Buyer terminates this Order in whole or in part, Buyer may repurchase similar Items from others and Seller shall be liable for any additional costs for the terminated Items, and for any other damages caused Buyer by the Seller’s default. Buyer shall pay Seller the Order price for any completed Items delivered and accepted, provided, however, that Buyer may withhold from any payments due Seller, any sum necessary to protect Buyer against any liability or expenses due to Seller’s default.

16. DISPUTES. Any dispute arising under this Order shall be brought in a federal court located in the Commonwealth of Virginia, to the extent that such court has jurisdiction over such dispute. Pending any



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such litigation or decision, judgment, or appeal thereon, Seller shall proceed diligently with the performance of this Order in accordance with the instructions of Buyer. The prevailing party in any dispute shall be required to pay the other party's costs, including reasonable attorneys' fees.

17. LIMITATION OF LIABILITY. Buyer's liability shall not, under any circumstances, be greater than the total dollar amount of the Order indicated herein. In no event will Buyer be liable for consequential, incidental, indirect, punitive or special damages (including loss of profits, data, business or goodwill), regardless of whether such liability is based on breach of Purchase Order, tort, strict liability, breach of warranties, failure of essential purpose or otherwise, and even if advised of the likelihood of such damages.

18. INDEMNIFICATION.

18.1 General Indemnity. Seller shall indemnify, defend, and hold harmless Buyer from any damages, costs or penalties incurred by Buyer as a result of Seller's negligent acts or omissions, misconduct, violations of law, or as a result of a breach by Seller of its obligations under this Purchase Order.

18.2 Infringement Indemnity. Seller shall indemnify, defend, and hold harmless Buyer, its Customer and those for whom Buyer may act as an agent (collectively "Indemnified Party"), from any costs, expenses, damages, or liability that Indemnified Party may incur as a result of any proceedings charging infringement of any patent, copyright, trademark or other intellectual property right by reason of sale or use of any Items furnished by Seller under this Purchase Order.

19. INSOLVENCY. If Seller ceases to conduct normal business operations (including inability to meet its obligations), or if any proceeding under bankruptcy or insolvency laws is brought by or against Seller, or a receiver for Seller is appointed or applied for, or Seller makes an assignment for the benefit of creditors, Buyer may terminate this Order for default and without liability, except for deliveries previously made or for Items covered by this Order then completed and subsequently delivered in accordance with the terms of this Order.

20. ASSIGNMENT/SUBCONTRACTING. Neither this Purchase Order nor any obligation or right under this Order shall be transferred or assigned by Seller to another party without the prior written consent of the Buyer, which consent shall not be unreasonably withheld. Seller shall not subcontract the complete or any substantial portion of the work under this Order without the prior written consent of the Buyer.

21. INTERPRETATION. The Parties agree that this Purchase Order, including all attachments, shall constitute the entire agreement and understanding between the Parties hereto and shall supersede and replace any and all prior or contemporaneous representations, agreements or understandings of any kind, whether written or oral, relating to the subject matter hereof. No terms or conditions of sale set forth in Seller's quotation or acknowledgement 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.

22. WAIVER. 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.

23. FAR, DFARS and Agency FAR Supplement Clauses. This Order is a “commercial item” subcontract in support of a US government prime contract or higher-tier subcontract. As such, this Order incorporates the mandatory Federal Acquisition Regulation (“FAR”) clauses for commercial item subcontracts as set forth in FAR 52.212-5(e) and certain Defense Federal Acquisition Supplement (“DFARS”) clauses (collectively the “Procurement Clauses”), as set forth below. The Procurement Clauses apply to this Order to extent indicated and have the same force and effect as if they were given in full text. The full text of the clauses can be accessed at: <http://www.acquisition.gov/far/>. To the extent necessary to effect the purpose of a particular clause, it shall be deemed modified to substitute definitions to reflect the fact that the Order is a subcontract rather than a prime contract, e.g., “Government” or “United States” shall mean Buyer, “Contractor” shall mean Seller, etc. Seller agrees that upon request of Buyer it will negotiate in good faith with Buyer relative to changes amending this Purchase Order to incorporate additional provisions herein or to change provisions hereof, as Buyer may reasonably deem necessary in order to comply with the provisions of the applicable Prime Contract.

- a. FAR 52.203-13, Contractor Code of Business Ethics and Conduct
- b. FAR 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements
- c. FAR 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities
- d. FAR 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment
- e. FAR 52.219-8, Utilization of Small Business Concerns
- f. FAR 52.222-21, Prohibition of Segregated Facilities
- g. FAR 52.222-26, Equal Opportunity
- h. FAR 52.222-35, Equal Opportunity for Veterans
- i. FAR 52.222-36, Equal Opportunity for Workers with Disabilities
- j. FAR 52.222-37, Employment Reports on Veterans
- k. FAR 52.222-40, Notification of Employee Rights Under the National Labor Relations Act
- l. FAR 52.222-50, Combating Trafficking in Persons
- m. FAR 52.222-54, Employment Eligibility Verification
- n. FAR 52.222-62, Paid Sick Leave Under Executive Order 13706
- o. FAR 52.224-3, Privacy Training
- p. FAR 52.225-26, Contractors Performing Private Security Functions Outside the United States
- q. FAR 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels
- r. DFARS 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting
- s. DFARS 252.246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System.