



Welkin Sciences

WELKIN SCIENCES, LLC

TERMS AND CONDITIONS OF PURCHASE FROM SUPPLIERS

Ver. 1.2 (September 2021)

1. DEFINITIONS

- (a) “Buyer” means Welkin Sciences, LLC.
- (b) “Goods” mean the equipment, firmware, software components, goods, supplies, reports, data, materials, articles, items, parts, components, or other items purchased from Seller or to be supplied by Seller under an Order.
- (c) An “Order” means Buyer’s purchase order, either in paper or electronic form, sent by Buyer to Supplier.
- (d) “Services” means the services identified in an Order to be provided by Seller to Buyer.
- (e) “Supplier” means the legal entity providing Goods and/or Services or otherwise providing Work pursuant to an Order or Agreement.
- (f) “Terms and Conditions” means these Welkin Sciences Terms and Conditions of Purchase from Suppliers.
- (g) “Work” means the Goods and/or Services constituting the subject matter of the Order.

2. Order Acceptance. All transactions are governed by these Terms and Conditions. Supplier’s acknowledgement, acceptance of payment, or commencement of performance, shall constitute Supplier’s acceptance of the Order, these Terms and Conditions, and all other terms and conditions contained in the Order and/or incorporated therein. Any proposal or document from Supplier that includes different or additional terms that vary from any of Buyer’s terms and conditions of purchase are objected to and disallowed. These Terms and Conditions integrate, merge, and supersede any prior offers, negotiations, and agreements concerning the subject matter hereof and constitute the entire agreement between the parties.

3. Warranty. Supplier represents that with respect to all materials, supplies, and equipment (herein collectively referred to as “materials”) delivered and services furnished hereunder: (i) title shall be good, merchantable, rightful and the materials free of any security interest, lien or encumbrance; (ii) the materials will be new, free from defects in material and workmanship, be of quality, size, description and dimension required by Buyer, be fit for the purpose for which they are purchased and will meet the specifications, if any, and that Supplier’s services will be performed in a skillful and workmanlike manner; and (iii) the materials, the process by which they are made, the use for which they are designed by Supplier, and Buyer’s use of the materials will not infringe any patent, trademark, copyright, or other rights of any third parties (“Intellectual Property Rights”). This express warranty shall not be deemed waived by reason of either or both the receipt of the materials and payment therefore by Buyer. The foregoing is in addition to any and all other express or implied warranties applicable to the materials purchased hereunder. Supplier also warrants to Buyer that all

documentation and certifications by Supplier or Supplier's subcontractors or business partners related to the Work and Order, as applicable, are current, complete, truthful, and accurate, and have been signed or stamped, as applicable, by individuals authorized and qualified to sign or stamp such documentation and certifications.

- 4. Compliance with Laws; Standards and Testing.** Supplier represents and warrants that all Work furnished hereunder, and Supplier's manufacturing thereof, complies with all applicable laws, ordinances, rules, and regulations ("Laws"). Supplier shall treat materials prior to shipment to Buyer in accordance with testing standards requested by Buyer, and shall furnish Buyer certifications in support thereof upon Buyer's written request.
- 5. Indemnity.** Supplier will defend, indemnify, and hold harmless Buyer, its affiliates, vendors, customers, insurers, and their officers, directors, shareholders, employees, and agents (together, the "Indemnified Parties") from and against any and all loss, liability, and expense by reason of (i) any actual or alleged violation of Laws; (ii) any actual or alleged infringement of Intellectual Property Rights; (iii) injury, death or property damage resulting, in whole or in part, from any negligent act or omission on the part of the Supplier or which may result from the installation, operation, or use of the materials furnished hereunder; (iv) a defect in the manufacture or design of the materials supplied hereunder; or (v) any breach or alleged breach by Supplier of any representation, warranty, or other provision of these Terms and Conditions. Upon notification, Supplier shall promptly assume full responsibility for the defense of any suit or proceeding which may be brought against Buyer or any of its subsidiaries, affiliated companies, agents and vendors in connection with the above, or for alleged unfair competition resulting from similarity in design, trademarks, or appearance of the materials or equipment. Supplier shall further indemnify and hold the Indemnified Parties harmless from any and all expenses, losses, claims, royalties, profits, and damages, including court costs and attorneys' fees, resulting from the bringing of such suits or proceedings or the threat thereof and from any settlement, decree, or judgment therein. Buyer reserves the right to control any such suit or proceeding. Supplier shall cooperate in all reasonable respects with Buyer's defense of any claim.
- 6. Cover; Delivery.** In case of default by Supplier, Buyer may obtain materials and services from other sources and hold Supplier responsible for any damages occasioned thereby. The dates of delivery and quantities specified herein are of the essence for the Order and delivery must be effected within the specified time period. If deliveries are not made on time and in the quantities specified, Buyer reserves the right to cancel and to purchase the Goods and/or Services elsewhere and hold Supplier accountable therefore. Supplier shall cooperate with Buyer in respect to all customs formalities applicable to the import or export of the materials, shall be responsible for determining proper import or export classifications, and shall provide Buyer documentation to Buyer's reasonable satisfaction for such classifications.
- 7. Prices.** Orders shall not be filled at prices higher than those quoted or charged to Buyer or specified herein. Unless otherwise agreed in writing, prices include packaging, labeling, crating, taxes, and duties. Unless otherwise agreed in writing, all prices include shipping and delivery CIF (Buyer's facility).
- 8. Inspection and Rejection.** The Work is subject to inspection, test, and acceptance by Buyer and the ultimate purchaser. Buyer shall have a reasonable number of days from the date of arrival to inspect the Work and notify Supplier of any non-conformity to the order specifications (including quantity and delivery dates). Such inspection may not occur until final sale of the materials to Buyer's customers. Buyer reserves the right to reject any Work, even after delivery and inspection at

customer's site, which does not fulfill the specifications of the order or time of delivery and (i) return rejected Work to Supplier at Supplier's risk and expense for full credit at the order price without prejudice to any right to other damages for such breach; (ii) to require Supplier at Supplier's expense to replace rejected Work at the unit price of the Order; or (iii) consider the Order breached as to the rejected quantity and cancelled as to any unfulfilled portion of the Order, and to hold Supplier liable for such breach and cancellation. Supplier is not relieved of the responsibility imposed by this clause, either as to proper packaging, quantity of materials or specifications, by reason of acceptance by Buyer.

- 9. Industry Specific Requirements.** Supplier shall immediately notify Buyer upon receipt of any Government-Industry Data Exchange Program ("GIDEP") Alert related to Goods, and shall provide Buyer with a list of any affected Goods. For GIDEP Alerts caused in whole or in part by the Goods, Supplier shall immediately replace all affected goods at its sole expense, including any installation and removal costs for the Goods so affected, and reimburse Buyer for any damages and commercially reasonable expenses incurred by Buyer.

- 10. Choice of Law.** These Terms and Conditions shall be construed, and the respective rights and duties of Buyer and Supplier shall be determined, according to the laws of the State of Colorado, without giving effect to its principles of conflicts of laws. The UN Convention on Contracts for the International Sale of Goods shall not apply these Terms and Conditions.

- 11. Payment and Invoicing.** Invoices and bills of lading showing full routing should be dated and mailed at the time of shipment, and a separate invoice must be made for each destination showing point of shipment and how shipped. The discount period, if any, stated in the face of the Order shall be calculated from the date of receipt by Buyer of a proper invoice from Supplier.

- 12. Force Majeure.** If the manufacture, transfer, or receipt or use by either party of any Work covered hereby is prevented, restricted or interfered with by reason of any event beyond the reasonable control of the party so affected, such party, upon prompt notice to the other party (and in the case of Buyer, prior to actual shipment), shall be excused from making or taking deliveries hereunder to the extent of such prevention, restriction or interference but, at Buyer's option, deliveries so omitted shall be made upon notice thereof to Supplier, upon cessation of such contingency.

- 13. Assignment.** Except as otherwise provided herein, neither party may assign the Order or any of its obligations hereunder without the other party's written consent.

- 14. Insurance.** Supplier shall maintain at its own expense at all times while performing hereunder occurrence-based liability insurance and product-liability insurance with a reputable and financially responsible carrier(s) for coverage in amounts not less than USD 1 million per occurrence, USD 2 million in aggregate, and all other insurance required by applicable law. Supplier shall furnish insurance certificates as directed by Buyer, satisfactory in form and substance to Buyer, showing the above coverages, and providing for at least ten (10) days prior written notice to Buyer by the insurance company of cancellation or material modification.

- 15. Supplier's Representatives.** If Supplier's employees, subcontractors, consultants, or other representatives under Supplier's control perform any services at Buyer's premises or at Buyer's direction at the premises of others, (i) such persons shall comply with all rules and regulations of such premises; and (ii) Supplier shall keep materials and the premises on which the Work is performed free

and clear of all liens for material and labor incident to the performance of Supplier's services hereunder.

- 16. Termination.** In the event of (i) any proceeding voluntary or involuntary in bankruptcy or insolvency by or against Supplier, or in the event of an appointment of a receiver or assignee for the benefit of creditors, with or without Supplier's consent; or (ii) any change in control and/or ownership of Buyer, Buyer may cancel any unfilled part of the Order without any liability whatsoever on Buyer's part.
- 17. Buyer's Property.** All tools, dies, patterns, designs, molds, drawings, specifications, and other data or papers, and the like furnished by Buyer to Supplier in connection with the Order by Buyer remains the property of Buyer. In the event materials furnished by Buyer to Supplier include any intellectual property of Buyer, Supplier is granted a non-exclusive, non-transferable, non-sublicenseable, and non-assignable license required only for the production of materials under the Order, and shall use Buyer's intellectual property only for that purpose. Except for this license, no right, interest, ownership, or privilege of use of Buyer's intellectual property shall inure to the benefit of Supplier.
- 18. Dispute Resolution.** Any dispute, controversy, or claim arising out of or related in any way to the Order, these Terms and Conditions, and/or any related contract, including but not limited to the validity, scope, and enforceability of this clause, which cannot be amicably resolved by the parties shall be solely and finally settled by arbitration administered by the American Arbitration Association in accordance with its commercial arbitration rules. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitration shall take place before a panel of three (3) arbitrators sitting in El Paso County, Colorado. The language of the arbitration shall be English. The arbitrators will be bound to adjudicate all disputes in accordance with the laws of the State of Colorado. The decision of the arbitrators shall be in writing with written findings of fact and shall be final and binding on the parties. Each party shall bear its own costs relating to the arbitration proceedings irrespective of its outcome. This section provides the sole recourse for the settlement of any disputes arising out of, in connection with, or related to these Terms and Conditions.
- 19. ITAR Registration and Export-Controlled Items.** If the Order calls for the provision or handling of export-controlled items, Supplier shall comply with all applicable laws and regulations. Export-controlled items means items and intellectual property that are subject to the Export Administration Regulations (the "EAR") or the International Traffic in Arms Regulations (the "ITAR"). These include systems, equipment, components, materials, software, and technology as defined in the Arms Export Control Act and defense articles, defense services, and related technical data as defined in the ITAR. Supplier shall register with the Department of State's Directorate of Defense Trade Controls (DDTC) if required by the ITAR. Supplier shall consult with the DDTC regarding any questions relating to compliance with the ITAR and shall consult with the Department of Commerce's Bureau of Industry and Security (BIS) regarding any questions relating to compliance with the EAR. Supplier shall notify Buyer if any deliverable under the Order is restricted by applicable Trade Control Laws. Before providing Buyer with any item or data controlled under any of the Trade Control Laws, Supplier shall provide Buyer in writing with the export classification of any such item or controlled data and shall notify Buyer in writing of any changes to such export classification information in the future. Supplier represents that an official authorized to bind Supplier has determined that Supplier or the designer, manufacturer, supplier, or other source of the Work has properly determined their export classification.

20. Government End User.

- (a) If the Order involves the United States Government as End User, the following terms and Conditions are also applicable. To the extent this Section 20 conflicts with the preceding sections of these Terms and Conditions, this Section 20 shall govern. Rights conferred on Buyer and obligations imposed on Supplier by Section 20 are cumulative with the rights conferred on Buyer and obligations imposed on Supplier by the preceding sections of these Terms and Conditions.
- (b) **Gratuities/Kickback Prohibition.** No gratuities (in the form of entertainment, gifts, or otherwise) or kickbacks shall be offered or given by Supplier, or anyone acting on Supplier’s behalf, to any employee of Buyer with a view toward securing favorable treatment as a supplier.
- (c) **Additional Definitions.**
 - (i) “FAR” shall mean the Federal Acquisition Regulations, contained in Title 48, Code and Federal Regulations (CFR).
 - (ii) “DFARS” shall mean the Department of Defense Supplement to the Federal Acquisition Regulation contained in Title 48, Code of Federal Regulations (CFR).
 - (iii) “Government” and “Contracting Officer,” when used in the FAR, shall mean the Buyer.
 - (iv) “Contractor” when used in the FAR, shall mean Supplier.
 - (v) “Contract,” when used in the FAR, shall mean these Terms and Conditions, as well as the Order. In the event of any contradiction between these Terms and Conditions and the Order, these Terms and Conditions shall govern.
 - (vi) Any reference to “COTS” items refers to commercially available off-the-shelf items.
- (d) **Applicable FAR and DFARS Clauses.** The following FAR and DFARS clauses are incorporated by reference, with the same force and effect as if they were given in full text. Dollar values in parentheses represent Order values, less than which the clause is not applicable thereto. If any of the following FAR or DFARS clauses by their terms do not apply to a particular Order, such clauses are considered to be self-deleting. Supplier agrees to flow down these clauses to its suppliers to the extent required by the clauses.

FAR/DFARS Clauses		
Clause	Title of Provision	Notes/Application
52.203-3	Gratuities (Apr. 1984)	Does not apply to Orders that do not exceed \$150,000. Note: As used in this clause, “Government” means “Buyer (except “Government” means “Buyer or Government” in the phrase “to any Officer, official or employee of the Government”); “hearing” means opportunity to be heard; and “in any competent court” means “pursuant to the Dispute Resolution clause contained herein”.
52.203-6	Restrictions on Subcontractor Sales to the Government (Sep 2006)	Does not apply to Orders less than \$250,000.
52.203-7	Anti-Kickback Procedures (May 2014)	This provision, except subparagraph (c)(1), is applicable to any Order and all lower-tier subcontracts which exceed \$150,000. Supplier shall immediately notify Buyer of any alleged violations involving Buyer’s or Supplier’s employees.
52.203-8	Cancellation, Rescission, and recovery of Funds for Illegal or Improper Activity (May 2014)	
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (May 2014)	

52.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (Sep 2007)	Does not apply to Orders that do not exceed \$150,000.
52.203-12	Limitation on Payments to Influence Certain Federal Transactions (Oct 2010)	Does not apply to Orders that do not exceed \$150,000.
52.203-15	Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5)	Only applies to Orders funded under the Recovery Act.
52.203-17	Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Apr 2014)	Only applies to Orders that exceed \$250,000.
52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017)	
52.204-10	Reporting Executive Compensation and First-Tier Subcontract (Jun 2020)	If Supplier meets the thresholds specified in this provision, Seller must make its mandatory reports of executive compensation by posting such information to the U.S. Government's System for Award Management database.
52.204-21	Basic Safeguarding of Covered Contractor Information Systems (Jun 2016)	Does not apply to Orders of COTS items.
52.204-23	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Oct 2018)	
52.204-25	Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2020)	
52.209-6	Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Oct 2015)	Does not apply to Orders of COTS Goods or to Orders that do not exceed \$35,000.
52.209-10	Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015)	
52.215-14	Integrity of Unit Prices (Oct 2010), excluding paragraph (b)	Does not apply to Orders: (1) below \$250,000; (2) for commercial items; or (3) for Services where Goods are not required.
52.215-15	Pension Adjustments and Asset Reversions (Oct 2010)	
52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions (July 2005)	
52.215-19	Notification of Ownership Changes (Oct 1997)	
52.215-22	Limitations on Pass-Through Charges – Identification of Subcontract Effort (Oct 2009)	
52.222-3	Convict Labor (Jun 2003)	
52.222-4	Contract Work Hours and Safety Standards Act – Overtime Compensation (May 2014)	
52.222-21	Prohibition of Segregated Facilities (Apr 2015)	Does not apply to Orders where the Supplier is exempt under 52.222-26.
52.222-26	Equal Opportunity (Sep 2016)	Does not apply to Orders where the Supplier is exempt by the terms of this provision.
52.222-29	Notification of Visa Denial (Apr 2015)	
52.222-35	Equal Opportunity for Veterans (Oct 2015)	Applies only to Orders of at least \$150,000.
52.222-36	Equal Opportunity for Workers with Disabilities (Jun 2020)	Applies only to Orders in excess of \$15,000.
52.222-37	Employment Reports on Veterans (Feb 2016)	Applies only to Orders of at least \$150,000.
52.222-40	Notification of Employee Rights Under the National Labor	Applies only to Orders exceeding \$10,000 that will be

	Relations Act (Dec 2010)	performed at least partially in the United States.
52.222-41	Service Contract Labor Standards (May 2014)	
52.222-50	Combating Trafficking in Persons (Mar 2015); Alternate I (Mar 2015)	
52.222-51	Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment – Requirements (May 2014)	
52.222-52	Exemption from Application of the Service Labor Standards to Contracts for Certain Services – Certification (May 2014)	
52.222-53	Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services– Requirements (May 2014)	
52.222-54	Employment Eligibility Verification (Oct 2015)	Only applies to certain Orders for Services exceeding \$3500.
52.222-55	Minimum Wages Under Executive Order 13658 (Nov 2020)	Applies only to Orders subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, to be performed at least in part in the U.S.
52.222-62	Paid Sick Leave Under Executive Order 13706 (Jan 2017)	Applies only to Orders subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, to be performed at least in part in the U.S.
52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving (Jun 2020)	Applies only to Orders in excess of \$10,000.
52.225-1	Buy American – Supplies (Jan 2021)	
52.225-8	Duty Free Entry (Oct 2010)	
52.225-13	Restrictions on Certain Foreign Purchases (Feb 2021)	
52.225-26	Contractors Performing Private Security Functions Outside the United States (Oct 2016)	
52.227-1	Authorization and Consent (Jun 2020)	Applies only to Orders that exceed \$250,000. NOTE: For purposes of this provision, the defined term “Government” will not be substituted with “Buyer.”
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (Dec 2007)	Applies only to Orders that exceed \$250,000. NOTE: For purposes of this provision, the defined terms “Government” and “Contracting Officer” will not be substituted with “Buyer.”
52.227-9	Refund of Royalties (Apr 1984)	Only applies to Orders where the amount of royalties included in the price exceeds \$250.
52.232-40	Providing Accelerated Payments to Small Business Subcontractors (Dec 2013)	
52.233-3	Protest After Award (Aug 1996)	
52.244-6	Subcontracts for Commercial Items (Jul 2021)	
52.245-1	Government Property (Sep 2021)	Applies to any Orders that involve handling of Government Property by the Supplier.
52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006)	
252.203-7001	Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies (Dec 2008)	Does not apply to Orders that do not exceed \$250,000 or to Orders for commercial items.
252.203-7002	Requirement to Inform Employees of Whistleblower Rights (Sep 2013)	
252.204-	Disclosure of Information (Oct 2016)	

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252.204-7012	Safeguarding Covered Defense Incident Reporting (Oct 2016)	Applies only to Orders for which performance will involve covered defense information.
252.204-7014	Limitations on Use or Disclosure of Information by Litigation Support Contractors (May 2016)	
252.204-7015	Notice of Authorized Disclosure of Information for Litigation Support (May 2016)	
252.204-7020	NIST SP 800-171 DOD Assessment Requirements (Nov 2020)	Does not apply to Orders 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 (Dec 2014)	
252.223-7008	Prohibition of Hexavalent Chromium (Jun 2013)	
252.225-7001	Buy American and Balance of Payments Program (Dec 2017)	Applies (in lieu of FAR 52.225-1) if the Work includes non-domestic components.
252.225-7007	Prohibition on Acquisition of Certain Items from Communist Chinese Military Companies (Dec 2018)	Applies only to Orders for items covered by the United States Munitions List or the 600 series of the Commerce Control List.
252.225-7013	Duty-Free Entry (Apr 2020)	
252.225-7021	Trade Agreements (Sep 2019)	Applies (in lieu of FAR 52.225-5) if the Work contains other than U.S.-made, qualifying country, or designated country end products.
252.225-7048	Export-Controlled Items (Jun 2013)	
252.226-7001	Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (Apr 2019)	Applies only to Orders exceeding \$500,000.
252.227-7013	Rights in Technical Data – Noncommercial Computer Software and Noncommercial Items (Feb 2014)	Applies (in lieu of FAR 52.227-14) only to Orders requiring delivery of technical data involving noncommercial items, or involving commercial items developed in any part at U.S. Government expense.
252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (Feb 2014)	Applies (in lieu of FAR 52.227-14) only to Orders requiring delivery of any noncommercial computer software or computer software documentation.
252.227-7015	Technical Data – Commercial Items (Feb 2014)	Applies only to Orders requiring delivery of technical data relating to commercial items developed in any part at private expense. For purposes of this provision, commercial computer software is not considered a “commercial item.”
252.227-7016	Rights in Bid or Proposal Information (Jan 2011)	
252.227-7018	Rights in Noncommercial Technical Data and Computer Software – Small Business Innovation Research (SBIR) Program (Feb 2014)	
252.227-7019	Validation of Assertion Restrictions – Computer Software (Sep 2016)	Applies only to Orders involving delivery of computer software.
252.227-7030	Technical Data – Withholding of Payment (Mar 2000)	
252.227-7037	Validation of Restrictive Markings on Technical Data (Jun 2013)	
252.231-	Supplemental Cost Principles (Dec 1991)	

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252.232-7017	Accelerating Payments to Small Business Subcontractors – Prohibition on Fees and Consideration (Apr 2020)	
252.244-7000	Subcontracts for Commercial Items (Jun 2013)	
252.246-7003	Notification of Potential Safety Issues (Jun 2013)	
252.246-7007	Contractor Counterfeit Electronic Part Detection and Avoidance System (Aug 2016), paragraphs (a) through (e)	Applies only to Orders of electronic parts or assemblies containing electronic parts
252.246-7008	Sources of Electronic Parts (May 2018)	Applies only to Orders of electronic parts or assemblies containing electronic parts, but does not apply to Orders where the Supplier is the original manufacturer.
252.247-7023	Transportation of Supplies by Sea - Basic (Feb 2019)	