



ORBCOMM PURCHASE ORDER TERMS AND CONDITIONS

- 1. Acceptance/Agreement:** This purchase order ("Order") is an offer by the company identified on the face of this Order (the "Buyer") for the purchase of the goods or services specified, from the party to whom the Order is addressed (the "Seller"). Orders expressly limit acceptance to the terms of each individual Order and any terms contained on the face of any other purchase order, confirmation or similar document submitted by Seller. Buyer hereby objects and rejects any different or additional terms contained in any such document provided by Seller. To the extent that this Order might be treated as an acceptance of Seller's prior offer, such acceptance is expressly made on condition of assent by Seller to all of the terms hereof, including those that are additional to, or different from, the terms of Seller's offer or prior offer. This Order shall be deemed accepted by the Seller upon the first of the following to occur: (a) Seller making, signing or delivering to Buyer any letter, form or other writing or instrument acknowledging acceptance; (b) any performance by Seller under the Order; or (c) the passage of five (5) days after Seller's receipt of the Order without written notice to Buyer that Seller does not accept. The Order expressly limits Seller's acceptance to the terms of the Order. These terms expressly exclude any of Seller's terms and conditions of sale or any other documentation issued by Seller in connection with this Order. This Order, together with any documents incorporated herein by reference, constitutes the sole and entire agreement of the parties with respect to the Order and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties and communications, both written and oral, with respect to the subject matter of this Order. Notwithstanding the foregoing, if a master agreement covering procurement of the goods or services described in this Order exists between Buyer and Seller, the terms of such master agreement shall prevail over any inconsistent terms herein.
- 2. Prices/Payment:** The price of the goods or services is the price stated on the face of this Order and shall remain fixed for duration of Seller's delivery of goods under the applicable and accepted Order, regardless of changes in market conditions. Seller shall invoice Buyer for the Order within thirty (30) days of delivery. Unless otherwise stated in the Order, Buyer shall pay all properly invoiced amounts due to Seller within sixty (60) days after receipt of such invoice, except for any amounts disputed by Buyer. The parties shall seek to resolve such disputes in good faith and with expediency. Seller shall continue performing its obligations hereunder notwithstanding such dispute. Without prejudice to any other right or remedy, Buyer reserves the right to set off any amount owing to it by Seller against any amount payable by Buyer to Seller. Payment of an invoice is not evidence or admission that the goods or services meet the requirements of the Order. Seller agrees that any advance or prepaid amounts paid by Buyer with respect to an Order are paid solely to secure Seller's performance and shall remain the property of Buyer until the goods covered by such Order have been delivered by Seller. Until such time, Seller shall hold such amounts solely for the benefit of Buyer and shall have no ownership interest therein. Upon delivery of the applicable goods, Seller's right to retain the prepaid amounts shall vest. If Seller fails to deliver the goods, Seller shall promptly refund all prepaid amounts to Buyer within five (5) business days of notice by Buyer of such failure, without offset or deduction.
- 3. Delivery:** Seller shall deliver the goods and/or perform the services at the delivery location, DDP Incoterms 2020, on the date(s) specified in the applicable Order. If no delivery date is specified, Seller shall deliver in full within a reasonable time of receipt of the Order. Time is of the essence in the fulfillment and delivery of goods subject to an Order. If Seller fails to deliver the goods in full, on or by the delivery date, Buyer may (i) require Seller to arrange expedited shipping of the goods at Seller's sole cost and expense, or (ii) terminate the Order immediately without penalty to Buyer and, upon such termination, Buyer may procure equivalent or substitute goods from other suppliers, and Seller shall be liable for any difference in price. Seller shall indemnify Buyer against any losses, damages, and reasonable costs and expenses attributable to Seller's failure to deliver.
- 4. Shipping Instructions:** Unless otherwise specified in an Order, all goods shall be packaged by Seller in suitable containers to permit safe transportation and handling and in compliance with the shipping rules and regulations of both the Seller and shipper (cosignor) as agreed to by the Buyer and receiver (consignee). Each delivered container must be labeled and marked to identify contents without opening, include Buyer's Order number and all boxes and packages must contain packing sheets listing contents.
- 5. Inspection:** Payment for the goods or services delivered hereunder shall not constitute acceptance thereof. Buyer shall have the right to inspect such goods or services and to reject any that are in Buyer's judgment defective or nonconforming. goods or services rejected and goods or services supplied in excess of quantities set forth in the Order may be returned to Seller at its expense and, in addition to Buyer's other rights, Buyer may charge Seller all expenses of unpacking, examining, repacking, and reshipping such goods. In the event Buyer receives goods or services whose defects or nonconformity is not apparent on examination, Buyer reserves the right to require

replacement or re-performance, as well as payment of damages. Nothing contained in this Order shall relieve in any way the Seller from the obligation of testing, inspection and quality control.

- 6. Product Changes:** Seller shall not make any changes to the form, fit, or function of any goods, or to the price, materials, material source or origin, equipment, manufacturing process or methodology, or manufacturing location of any goods, without Buyer's prior written authorization supported by a revised Order. Seller shall provide Buyer with no less than ninety (90) days' advance written notice of any proposed change and shall not implement such change without Buyer's written approval.
- 7. Counterfeit Parts:** Seller shall not supply or incorporate into any goods, any counterfeit, fraudulent, or suspect part and shall source parts only from the original manufacturer, an authorized distributor, or another source approved in writing by Buyer. Seller shall maintain reasonable counterfeit-prevention and traceability controls and promptly notify Buyer of any suspected counterfeit part. Seller, at its sole cost, shall replace or refund any affected part, at Buyer's option, and shall be liable for all resulting costs, losses, recalls, and third-party claims, notwithstanding any limitation of liability. For purposes of this section, "Counterfeit Part" means any part, component, material, or other item that is falsely represented as to its identity, authenticity, source, manufacturer, authorized distribution status, date or place of manufacture, lot or serial number, condition, performance, certification, or compliance with applicable specifications.
- 8. Termination:** Buyer may revoke this Order at any time prior to the shipment of goods or performance of services which are the subject matter of this Order. Buyer may also terminate this Order, in whole or in part, for any reason upon thirty (30) days written notice to Seller. In addition to any remedies provided herein, Buyer may terminate this Order with immediate effect, either before or after acceptance of goods or services, if Seller has breached any of the terms herein. If Seller becomes insolvent, commences or has commenced by it or against it bankruptcy proceedings, receivership, reorganization or assignment for the benefit of creditors, then the Buyer may terminate this Order. If Buyer terminates this Order for any reason, Seller's sole and exclusive remedy is payment for the goods or services received and accepted by Buyer prior to the termination.
- 9. Warranties:** Seller warrants to Buyer that for a period of eighteen (18) months, or such period as may be specified on the face of the Order, from the date of receipt by Buyer, all goods, services or goods furnished in connection with services will: (a) be new and free from any defects in workmanship, material and design; (b) conform to applicable specifications; (c) be fit for their intended purpose and operate as intended; (d) be free and clear of all liens, security interests or other encumbrances; and (e) not infringe or misappropriate any third party's intellectual property rights. These warranties survive any delivery, inspection, acceptance or payment. These warranties are cumulative and in addition to any other warranty or remedy provided by law or equity. Any applicable statute of limitations runs from the date of Buyer's discovery of the noncompliance. If Buyer gives Seller notice of noncompliance, Seller shall, at its own cost and expense, promptly replace or repair the nonconforming goods or services.
- 10. Indemnification:** Seller shall defend, indemnify, and hold Buyer and Buyer's parent company, its subsidiaries, affiliates, successors or assigns and its respective directors, officers, shareholders, and employees (collectively, "Indemnitees") harmless against any and all loss, injury, death, damage, liability, claim, action, judgment, interest, penalty, cost or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder (collectively, "Losses") arising out of or occurring in connection with Seller's performance of its obligations or Seller's negligence, willful misconduct or breach of the terms of this Order, or where possession of the goods infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party. Seller shall not enter into any settlement without Buyer's or Indemnitee's prior written consent.
- 11. Limitation of Liability:** To the greatest extent permitted by local law, in no event will Buyer or its affiliates be liable for any lost revenues, lost profits, loss of anticipated savings, loss of business, loss of opportunity, depletion of goodwill, additional operational and administrative costs and expenses, the cost of procuring replacement goods or service or any incidental, indirect, consequential, special or punitive damages. In no event shall Buyer's liability to Supplier exceed the total amount of fees actually paid by Buyer to Supplier hereunder.
- 12. Confidential Information:** All non-public, confidential or proprietary information of the Buyer including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, pricing, discounts or rebates, disclosed by Buyer to Seller, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with the Order is confidential, solely for the use of performing the Order and may not be disclosed or copied unless authorized by Buyer in writing. Upon Buyer's request, Seller shall promptly return all documents and other materials received from Buyer. Buyer shall be entitled to injunctive relief for any violation of this Section in

addition to any other reliefs or remedies at law or in equity. This Section shall not apply to information that is: (a) in the public domain; (b) rightfully and legally known to the Seller at the time of disclosure; or (c) rightfully and legally obtained by the Seller on a non-confidential basis from a third party.

- 13. Insurance:** In the event that Seller's obligations hereunder require or contemplate performance of services by Seller's employees, or persons under contract to Seller, to be done on Buyer's property, or property of Buyer's customers, the Seller agrees that all such work shall be done solely as an independent contractor and that the persons doing such work shall not be considered employees of the Buyer. Seller shall maintain at its sole expense the following insurance coverages: (a) Commercial General Liability with limits of not less than \$5,000,000 per occurrence; (b) Workers' Compensation as required by applicable law; and (c) Professional Liability/Errors & Omissions with limits of not less than \$2,000,000. Seller shall name Buyer as an additional insured on all applicable policies and shall provide Buyer with certificates of insurance evidencing such coverage upon request. All policies shall provide that they may not be cancelled or materially changed without thirty (30) days' prior written notice to Buyer. Seller shall indemnify and save harmless and defend Buyer from any and all claims or liabilities arising out of the work covered by this paragraph.
- 14. Taxes/Duties:** Unless specified otherwise on the face of the Order, the prices are inclusive of, and Seller shall be solely responsible for and pay, all taxes and/or duties including, but not limited to, value added tax, goods and services tax, sales, use or consumption tax. No sales or use tax shall be added when a valid tax exemption is indicated on the face of this Order by the Buyer.
- 15. Compliance with Law:** Each Party will comply in all material respects with all applicable laws, rules, and regulations of any country or governmental authority with jurisdiction over the performance of its obligations under this Order including, but not limited to, the requirements of RoHS, REACH and CA Prop 65 directives and legislation. Seller shall (i) provide ORBCOMM with certificates or declarations of compliance at the time of PO fulfillment, (ii) notify ORBCOMM of any reportable substances as identified by those directives, (iii) notify ORBCOMM of any changes in compliance or reportable substances, (iv) comply with ORBCOMM's Supplier Code of Conduct, as may be updated from time to time, available at <https://www.orbcomm.com/corporate-social-responsibility> or upon request, and (v) comply with all applicable anti-bribery and anti-corruption laws, including the U.S. Foreign Corrupt Practices Act ("FCPA"), the UK Bribery Act 2010, and any other applicable anti-corruption legislation.
- 16. Data Privacy:** To the extent Seller processes any personal data of or on behalf of Buyer in connection with this Order, Seller shall: (a) process such personal data only in accordance with Buyer's written instructions and solely for the purposes of performing its obligations hereunder, and pursuant to the Vendor Data Processing Agreement as updated from time to time and made available at <https://www.orbcomm.com/po-terms>; (b) implement and maintain appropriate technical and organizational measures to protect personal data against unauthorized or unlawful processing, accidental loss, destruction or damage; (c) comply with all applicable data protection and privacy laws and regulations including, without limitation, the General Data Protection Regulation (EU), any applicable U.S. state privacy laws and any other applicable national, federal, provincial, state or local data privacy laws, as each of them may be amended or supplemented from time to time; (d) not disclose personal data to any third party without Buyer's prior written consent; and (e) upon Buyer's request or upon termination of this Order, promptly return or securely destroy all personal data in Seller's possession. Seller shall notify Buyer without undue delay, and in any event within forty-eight (48) hours, upon becoming aware of any actual or suspected breach involving Buyer's personal data.
- 17. Intellectual Property:** To the extent Seller creates, develops, or delivers any work product, deliverables, software, inventions, or other materials (collectively, "Work Product") in the performance of services under this Order, all such Work Product shall be deemed works made for hire" and the exclusive property of Buyer, and all proprietary and moral rights in such Work Product shall be vested in the Buyer. To the extent any Work Product does not qualify as a work made for hire under applicable law, Seller hereby irrevocably assigns to Buyer all right, title, and interest in and to such Work Product, including all intellectual property rights therein. Seller shall execute all documents and take all actions reasonably requested by Buyer to perfect, confirm, or enforce Buyer's ownership rights in the Work Product.
- 18. Export:** Seller shall not directly or indirectly use, distribute, transfer, or transmit any item of information (even if incorporated into other products, software, and technical information) provided to it by Buyer, except in compliance with United States export laws and regulations and the export laws and regulations of any other applicable countries.
- 19. Audit Rights:** Buyer and its authorized representatives shall have the right, upon reasonable prior written notice and during normal business hours, to audit and inspect Seller's books, records, and facilities to verify Seller's compliance with the terms of this Order including, without limitation, compliance with applicable laws, regulatory requirements, the Vendor Data Processing Agreement, and ORBCOMM's Supplier Code of Conduct. Seller shall maintain complete and accurate records relating to this Order for a minimum of three (3) years following the date of final delivery. Buyer's

right to audit shall not be exercised more than once per calendar year unless Buyer has reasonable cause to believe a material breach has occurred.

- 20. Governing Law:** The construction, interpretation and performance of this Order, as well as the legal relations of the parties arising hereunder, shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to the conflict or choice of law provisions thereof. Seller hereby irrevocably submits to the exclusive jurisdiction of the United States District Court for the Southern District of New York, for the purpose of any suit, action or other proceeding arising out of, in connection with or related to this Order including without limitation any disputes as to the formation or subject matter hereof and hereby waives to the extent not prohibited by law, and agrees not to assert, by way of motion, as a defense or otherwise, in any such proceeding, any claim that is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that any such proceeding brought in one of the abovenamed courts is improper, or that this Order or the subject matter hereof may not be enforced in or by such court. The parties expressly exclude the application of the United Nations Convention on Contracts for the International Sale of goods.
- 21. Non-Exclusivity:** Nothing contained herein is intended or shall be construed as creating any exclusive arrangement with the Seller. This Agreement shall not restrict Buyer from acquiring similar, equal or like services and/or goods from other Sellers, entities or sources.
- 22. Force Majeure:** Neither party shall be liable to the other for any delay or failure in performing its obligations under the Order to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, without such party's fault or negligence, and which by its nature could not have been foreseen by such party ("Force Majeure Event"). Force Majeure Events include generally accepted acts of God such as earthquakes, natural fires, tornadoes, hurricanes and the like, government restrictions, declared epidemic/pandemic, declared war, declared terrorist acts, US recognized embargoes, third-party employment strikes subject to the Seller's business continuity plan. Seller's economic hardship or changes in market conditions are not considered Force Majeure Events and shall not give rise to a right to amend an Order including, but not limited to, pricing set forth therein or to terminate an Order. Seller shall use all diligent efforts to end the failure or delay of its performance, ensure that the effects of any Force Majeure Event are minimized and resume performance under the Order. If a Force Majeure Event prevents Seller from performance for a continuous period of more than fifteen (15) business days, Buyer may terminate this Order immediately by giving written notice to Seller without penalty to the Buyer.
- 23. Severability:** If any term or provision of this Order is found invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term of this Order or invalidate or render unenforceable such term in any other jurisdiction.
- 24. Miscellaneous:** Seller shall not assign, transfer, delegate or subcontract any of its rights or obligations under the Order without Buyer's prior written consent. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment shall relieve the Seller of any of its obligations hereunder. No modification, alteration or amendment of the Order shall be binding unless agreed to in writing and signed by Buyer. No waiver by any party of any of the provisions of the Order shall be effective unless explicitly set forth in writing and signed by the party so waiving. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from the Order by Buyer shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, or privilege hereunder preclude any other exercise of any additional right, remedy, or privilege.