

**TC-05**  
**Terms and Conditions of Purchase**  
**(Purchase Order International Terms and Conditions – Fixed Price Procurement)**

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The Orbital ATK, Inc. terms and conditions referenced in the Purchase Order (TC-01, TC-04, TC-06, or TC-07), hereafter (“**Terms and Conditions of Purchase**”) are modified by the following additional or replacement clauses as indicated:

**1. COMPLIANCE WITH THE FOREIGN CORRUPT PRACTICES ACT AND OTHER ANTICORRUPTION LAWS AND REGULATIONS**

A. Both Seller and Buyer agree that they will comply fully with all applicable United States (“**U.S.**”) and non-U.S. anti-corruption and anti-bribery laws and regulations, including, the United States Foreign Corrupt Practices Act 1977 (“**FCPA**”), the U.K. Bribery Act 2010, and any laws intended to implement the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

B. Both Seller and Buyer agree that they will not give, authorize, offer or promise to give any money or any other thing of value, directly or indirectly, to any current or former government official or employee (including employees of a state-owned or controlled enterprise or a public international organization), candidate for political office or an official of a political party, or any employee, director or consultant of a non-government client or potential client, for the purpose of securing any improper or unfair advantage or obtaining or retaining business in connection with this Order. To be clear, customs officials are considered to be public / government officials to whom these laws apply. Any violation of any provision contained in this Section by either party shall be grounds for immediate termination of this Order by the other party.

C. Seller will notify Buyer if it becomes aware that any owner, partner, officer, director or employee of Seller or of any parent or subsidiary company of Seller is or becomes an official or employee of the government or of an agency or instrumentality of a government or a candidate for political office or a political party official during the term of this Order.

D. In carrying out its responsibilities under this Order, Seller has not made and will not make any facilitating payment (as that term is defined in the FCPA).

E. Seller will promptly disclose to Buyer together with all pertinent facts any violation or alleged violation of this Section in connection with the performance of this Order.

F. Seller will include this Section or an equivalent provision in lower tier subcontracts under this Order.

**2. CURRENCY**

Unless otherwise specified in the Order, all prices and payments will be in the currency of the United States (i.e., U.S. dollars), with no prices or payments adjusted for changes in currency exchange.

**3. EXPORT CONTROL**

The following text replaces the section entitled “Export Compliance” found in Orbital ATK’s Terms and Conditions of Purchase (Section 35 in TC-01, TC-06, and TC-07, and Section 36 in TC-04):.

A. Seller understands and agrees to comply with all applicable U.S. sanctions and export control laws and regulations specifically including but not limited to the International Traffic in Arms Regulations (22 Code of Federal Regulations (“**CFR**”) Part 120 et seq.; “**ITAR**”), the Export Administration Regulations (15 CFR Part 730 et seq; “**EAR**”), the Foreign Assets Control Regulations (31 CFR Part 500 et seq; “**OFAC Regulations**”) (“**U.S. export control laws and regulations**”) and the terms of any export/import authorization to the extent applicable to this Order. In recognition of Seller’s obligations under the U.S. export control laws, Seller agrees that if Seller at any time becomes aware of any potential violations of the U.S. export control laws relating to this Order, Seller will immediately notify Buyer in writing. Seller will also comply fully with the export/import laws and regulations of the countries in which it operates regarding the performance of this Order. Seller will inform Buyer in writing of any such laws and regulations which will impact Buyer’s use of the Work.

**TC-05**  
**Terms and Conditions of Purchase**  
**(Purchase Order International Terms and Conditions – Fixed Price Procurement)**

---

B. Seller will control the disclosure of and access to Defense Articles, Commodities, Technical Data/Technology, and Software (“**Export Controlled Items**”) received under this Order in accordance with U.S. export control laws and regulations, including the ITAR and EAR. Seller agrees that no Export Controlled Items provided by Buyer in connection with this Order, whether in their original form or after being incorporated into other end-items, will be provided to any non-U.S. persons, including any subsidiary, affiliate, parent company and/or supplier of Seller, without the written authorization of Buyer and Seller’s obtaining of the appropriate U.S. re-export authorizations. In addition, Seller will not provide access to Buyer’s Export Controlled Items to its third country national employees and/or dual country national employees without prior separate authorization and approval by Buyer and the U.S. Government.

C. If Seller is authorized to sublicense in writing by Buyer and the U.S. Government under an export/import authorization and prior to any disclosures of Export Controlled Items, Seller will obtain a non-disclosure agreement from each authorized third party. The non-disclosure agreement will meet the requirements of the ITAR. Seller will provide a copy of the executed non-disclosure agreements to Buyer’s authorized procurement personnel.

D. It will be the responsibility of Buyer to notify and properly mark all Export Controlled Items provided under this Order to Seller. If any Export Controlled Item is not so marked, Seller will request from Buyer and Buyer will provide Seller with the proper jurisdiction and classification prior to any release of the Export Controlled Item to a third party in accordance with the terms herein.

E. Seller represents that neither Seller nor any corporate affiliate of Seller are included on any of the restricted party lists maintained by the U.S. Government. Seller will immediately notify Buyer in writing if it or any corporate affiliate (i) is or becomes listed on any Excluded or Denied Party List of any agency of the U.S. Government or on the consolidated list of asset freeze targets designated by the United Nations, European Union and United Kingdom; or (ii) if it has had its export privileges are denied, suspended or revoked in whole or in part by any U.S. or non-U.S. government entity or agency.

F. As necessary to support this Order, Seller will, at its own expense, prepare any necessary documentation and request any necessary U.S. Government approval for re-exports or any other Government approval for exports in a timely manner. In the event that approval to export or re-export contains restrictions or limitations from the respective Government which prohibit the transfer of required Export Controlled Data is denied, significantly delayed or returned without action, both Buyer and Seller will not be considered to have breached this Order. In such an event, Buyer may terminate the Order for convenience in accordance with Section 32 (Termination for Convenience) of Terms and Conditions of Purchase.

G. When requested by Buyer, Seller at its own expense will furnish Buyer with any documentation including import certificates or end-user statements which is necessary to support Buyer’s application for import or export authorizations. Buyer may be required to obtain information concerning nationality or export status of Seller’s employees. Seller agrees to provide such documentation and information as necessary and certifies the documentation and information to be true and correct. If the Government of either Party denies, fails to grant or revokes any import or export authorizations necessary for the performance of this Order, that Party will immediately notify the other Party in writing and neither Party will be considered to have breached its contractual responsibilities with respect to the directly affected activities of the Order.

H. Seller will defend, indemnify and hold harmless Buyer for all damages that may be imposed on or incurred by Buyer in connection Seller’s violations of export and import laws and regulations.

I. The following terms are defined in the referenced regulations: “**Defense Article**” (ITAR 22 CFR §120.6), “**Commodity**” (EAR 15 CFR Part 772), “**Technology**” (EAR Part 772), “**Software**” (ITAR § 121.8(f) and EAR Part 772), “**Defense Services**” (ITAR §120.9), and “**US Person**” (ITAR §120.15).

#### **4. EXTRAS**

Work will not be supplied in excess of quantities specified in this Order. Seller will be liable for handling charges and return shipment costs for any excess quantities.

**TC-05**  
**Terms and Conditions of Purchase**  
**(Purchase Order International Terms and Conditions – Fixed Price Procurement)**

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**5. GIFTS/GRATUITIES/KICKBACKS**

Seller will not offer or give any gifts, gift foods, promotional items, unsolicited items, kickbacks or gratuity, including inside the packages or containers of any procured item. Unmanifested or uninvoiced items which are not properly documented may cause delays in customs clearances. Certain commodities may require additional customs or other government agency forms prior to clearance.

**6. INCOTERM**

The following text replaces Section 21 entitled “Delivery, Title, and Risk of Loss” in the Terms and Conditions of Purchase:

Unless this Order specifically provides otherwise, the INCOTERM is DAP [destination location named] in accordance with INCOTERMS 2010. Pricing for transportation expenses will be reflected in pricing accordingly. Title to Work delivered under the Order will pass to Buyer upon formal acceptance, regardless of when or where Buyer takes physical possession, unless the Order specifically provides for earlier passage of title. Risk of loss or damage to Work will remain with the Seller until, and will pass to Buyer, upon the delivery to the DAP point. The risk of loss of nonconforming Work remains with the Seller until cure and acceptance of conforming Work.

**7. LANGUAGE AND STANDARDS**

The official text of this Order will be in American English language. All reports, correspondence, drawings, notices, marking and other communications will be in American English. Unless otherwise provided in writing, all documentation and Work will employ units of United States standard weights and measures.

**8. NO CONTRIBUTIONS, FEES AND COMMISSIONS**

This Section applies only if this Order involves Defense Articles or Defense Services as defined in Section 3 above.

In carrying out its responsibilities under this Order, Seller will not authorize, promise, offer or make any political contributions as defined in 22 CFR Section 130.6 or any fees or commissions as defined in 22 CFR Section 130.5.

**9. OFFSET CREDIT/COOPERATION**

This Order has been entered into in direct support of Buyer’s international offset programs. All offset benefit credits resulting from this Order are the sole property of Buyer to be applied to the offset program of its choice. Seller will assist Buyer in securing appropriate offset credits from the respective country government authorities.

**10. OZONE DEPLETING SUBSTANCES**

Unless Buyer agrees otherwise in writing, the Seller certifies by acceptance of this Order that the Work is not manufactured with any ozone-depleting substances (as identified in 26 CFR Section 52.4682-3(f)(6), Appendix C) in Seller’s manufacturing processes and the Work does not contain such substances.

**11. PACKING, MARKING AND SHIPMENT**

The following text replaces Section 23 entitled “Packing, Marking, and Shipping Documents” in the Terms and Conditions of Purchase:

A. Seller will pack, mark and deliver all Work in accordance with requirements specified in the Order. Any expense incurred by Buyer as a result of improper preservation, packaging, packing, marking or method of delivery will be reimbursed by Seller.

**TC-05**  
**Terms and Conditions of Purchase**  
**(Purchase Order International Terms and Conditions – Fixed Price Procurement)**

---

**B. Packing and Marking.**

1. If no specific instructions are provided, utilize best commercial practice and transportation regulations to ensure protection in shipment and storage. No charges will be allowed for packaging design, packing, crating, freight, local cartage, and/or any other services unless so specified in the Order.
2. If Seller uses wood packaging materials (“WPM”) for Work being imported into the United States, the WPM shall meet and be marked in accordance with the requirements of International Standards for Phytosanitary Measures (publication No. 15, “Guidelines for Regulating Wood Packaging Material in International Trade”) as implemented by U.S. Department of Agriculture.
3. If the shipment involves a substance or material that U.S. Secretary of Transportation has determined is capable of posing an unreasonable risk to health, safety or property when transported in commerce and has been designated as hazardous under Federal Hazardous Materials Transportation Law (as identified in the Hazardous Materials Table in 49 C.F.R. Section 172.101), Seller will properly prepare and mark the shipment and provide the Material Safety Data Sheets according to the International Air Transportation Association Dangerous Goods Regulations.
4. U.S. Customs and Border Protection requires that, at the time of importation into the United States, all items of non-U.S. origin are marked with its country of origin. This marking must be legible, indelible, permanent, conspicuous and in English. Seller will ensure the Work and/or its packaging is marked with the required country of origin at the time of importation into the United States.
5. Each container will be marked in English to show the container number (e.g., Box 1 of 2), Order number, handling and loading instructions, item number, shipment information, and names and addresses of Buyer and Seller.
6. The number 1 container of each shipment will contain the following in a securely attached, clearly marked waterproof wrapper: (a) a packing list, (b) any test or other report required by the Order, and (c) one copy of Seller’s commercial invoice clearly marked as “Commercial Invoice.”

**C. Routing.**

1. Any transportation charges paid by Seller for which Seller is entitled to reimbursement will be shown on Seller’s invoice as a separate line item with the receipted freight bill attached to the invoice.
2. Seller will strictly adhere to Buyer’s written routing instructions, according to designated INCOTERMS 2010.
3. Seller will use U.S. Federal Aviation Administration approved waivers for non-radiographic inspection, if applicable.

**D. Documentation.**

1. A complete packing list showing this Order number, part numbers, line item, serial number, gross weight and unit dimensions will be included with each shipment of Work.
2. Bills of lading/Airway bills will include this Order number. Seller will provide all required shipping papers to Buyer prior to final payment.

**TC-05**  
**Terms and Conditions of Purchase**  
**(Purchase Order International Terms and Conditions – Fixed Price Procurement)**

---

3. If the Work will be imported into the U.S., the invoices will be in English and include at minimum the following elements. If the Work will be delivered to another country, it is recommended, but not required that the invoices contain the following elements. Additional statements or other details may be required and provided depending on the requirements for importation of the purchased hardware:

- Invoice date and number
- Program name
- Purchase order number
- Names and addresses of Seller and/or shipper, Buyer
- INCOTERMS 2010
- U.S. port of entry
- Detailed description (wording must match import license/authorization, if applicable), for each individual item in the shipment:
  - Part number
  - Model Number
  - Serial Number
  - Harmonized Schedule Number
  - Quantity
  - Unit value
  - Total Value
  - Currency code (3-letter ISO format, for example USD)
  - Net Weight for each line on the customs invoice
  - Gross Weight
  - Country of origin (manufacture)
- List separately any assists and/or additional costs in manufacturing each part.
- For chemicals or dangerous goods materials:
  - U.N. information
  - Material Safety Data Sheet (MSDS)
  - Dangerous Goods Certificate
- Statements on the invoice:
  - Import license/authorization number or exemption (if applicable)
  - Specify Temporary (if it will return to the manufacturer) vs. Permanent Import
  - “Value for customs purposes only”
  - If a U.S. Government contract applies, Buyer will provide Seller with the prime contract number and if applicable, contract number, and delivery order number to include on invoices.

## **12. PREFERENTIAL TRADE PROGRAMS**

A. If the Work will be delivered to a destination country having a customs union or other preferential trade program with Seller's country, Seller will cooperate with Buyer to review eligibility of goods or services for any special program for Buyer's benefit and provide Buyer with the required documentation to support any claims for duty-free or reduced duty entry of the goods into the destination country. The required documentation will be verified by the Seller and originally signed by the verifying company official who has direct knowledge of the facts contained in the documentation. If a blanket certificate is issued, the information will be revised accordingly whenever changes occur and the document will be verified on an annual basis by the Seller and resubmitted to Buyer on an annual basis during the life of the Order.

B. Seller will agree and cooperate with any verification audit/on-site inspection at Seller's facilities requested by Buyer or Buyer's customs authorities to verify compliance with the rules of the origin requirements.

## **13. TRAVEL COSTS**

All travel incurred by Seller in the performance of this Order is included within the Order price and will not be separately reimbursed by Buyer unless such travel is expressly authorized in writing in advance by Buyer's authorized procurement personnel.