

NEILL AIRCRAFT COMPANY

**STANDARD PURCHASE ORDER
TERMS AND CONDITIONS
REV 11/19**

1. **ACCEPTANCE:** This Order is Buyer's offer to Seller and integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof. Seller's acknowledgement, acceptance of payment, or commencement of performance, including, but not limited to, Seller's orders for materials, applications of bench labor of engineering effort, acquisition of tooling, and start of manufacturing, shall conclusively evidence Seller's unqualified acceptance of this offer as written. This Order constitutes the entire agreement between the Seller and the Buyer, and, unless expressly accepted in writing by Buyer's authorized representative, additional or differing terms or conditions proposed by Seller or included in Seller's acknowledgement are objected to by Buyer and have no effect.

2. **PACKING AND SHIPMENT:** Deliveries shall be made as specified without change for boxing, crating, or storage, unless otherwise specified. Material shall be suitably packed to secure lowest transportation costs and to conform to the requirements of common carriers and any applicable specifications. Buyer's order numbers and symbols must be plainly marked on all invoices, packages, bills of lading and shipping orders. Bills of lading shall accompany each invoice. Buyer's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

3. **WARRANTY:** Seller warrants that all materials and work covered by this Order shall conform to all specifications, requirements, drawings, samples, symbols or other descriptions specified by Buyer and be merchantable and free from defects in materials, workmanship, and manufacturing processes. To the extent Seller is responsible for the designs, drawings, or specifications for material or work covered by this Order, Seller warrants that all such material and work shall be free from design and specification defects. This warranty shall begin upon final acceptance and extend for a period of one (1) year. All warranties shall run to Buyer and its customers.

4. **INSPECTION:** Notwithstanding any payment, prior test or inspection, or passage of title, all material and work shall be subject to final inspection and approval by Buyer at destination. If Seller delivers non-conforming material or work, Buyer may, in addition to any other remedies available at law or at equity, either (i) reject such material or work or (ii) rework the same at Seller's expense. Rejected material may be returned at Seller's risk and expense at the full invoice price plus applicable incoming transportation charges, if any. No replacement of defective material or work shall be made unless specified by Buyer.

5. **DELIVERY:** Delivery shall be strictly in accordance with Buyer's delivery schedule. If Seller's deliveries fail to meet such schedule, Buyer, without limiting its other remedies, may direct expedited routing. The difference between the expedited routing and the order routing costs shall be paid by Seller. Material fabricated beyond Buyer's release or Seller's normal lead-time unless otherwise specified, is at Seller's risk. No deliveries shall be made in advance of Buyer's delivery schedule.

6. **BUYER'S PROPERTY IN SELLER'S POSSESSION:** Title to any property furnished by Buyer on other than a charge basis shall, at all times, remain in Buyer's name. Seller shall assume the risk of, and be responsible for, any loss, destruction of, or damage to Buyer's property while in Seller's possession or control. Seller shall, at its sole cost, maintain insurance satisfactory to Buyer covering any loss or damage to Buyer's property in Seller's possession or control for the full replacement value. Seller shall promptly submit to Buyer satisfactory evidence of such insurance. Seller shall pay all taxes assessed against Buyer's property or its use while in Seller's possession or control and also file all necessary declarations and reports. The Seller must maintain a property control system acceptable to the Buyer.

7. **TAXES:** Seller agrees (a) these prices do not include any state or local sales, use, or other tax from which an exemption is available for purposes of this Order, and (b) these prices include all other applicable federal, state and local taxes. Seller agrees to accept and use tax exemption certificates supplied by Buyer if acceptable to the taxing authorities. If any tax included in these prices was not required to be paid by Seller, Seller shall notify Buyer promptly and diligently pursue a refund. Refund shall be paid to Buyer.

8. **CHANGES:** Buyer may at any time, by written notice, and without notice to sureties or assignees, make changes within the general scope of this Order in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipping or packing; (iii) place of inspection, acceptance, or point of delivery; (iv) reasonable adjustments in quantities or delivery schedules or both; (v) property to be furnished by Buyer; and (vi) terms and conditions of this Order required to meet Buyer's obligations under customer contracts. Seller shall comply immediately with such direction. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of this Order, Buyer shall make an equitable adjustment in the Order price and/or delivery schedule and modify this Order accordingly. Seller must assert its right to an equitable adjustment under this clause within twenty (20) days from the date of receipt of the written change order from Buyer. However, Buyer may, at its sole discretion, consider any claim asserted at any time prior to final payment under this Order. If Seller's proposed equitable adjustment includes the cost of property made obsolete or excess by the change, Buyer shall have the right to prescribe the manner of disposition of the property.

9. INTELLECTUAL PROPERTY: Seller warrants that the work performed and the sale or use of products delivered by Seller under this Order will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. Seller shall indemnify and hold harmless, and upon Buyer's request shall defend, Buyer, its officers, directors, employees, consultants, agents, affiliates, successors, permitted assigns, and customers from and against all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorney's fees, all expenses of litigation and/or settlement, and court costs, arising out of any action by a third party that is based upon a claim that the work performed or sale or use of products delivered by Seller under this Order infringes or otherwise violates the intellectual property rights of any person or entity.

10. DRAWINGS: Unless otherwise approved in writing by Buyer, all drawings, specifications, and data furnished by Buyer to Seller shall remain the property of Buyer, shall be disclosed by Seller only to those employees necessary for the performance of the Order, and shall be used by Seller only as required for performance of the Order. Upon completion of work by Seller under this Order and upon Buyer's request, Seller shall promptly return all drawings, specifications, and other data furnished by Buyer in connection therewith together with all copies or reprints then in Seller's possession or control, and Seller shall make no further use, either directly or indirectly, of any such drawings, specifications, or other data or information derived therefrom without Buyer's prior written consent.

11. COMPLIANCE WITH APPLICABLE LAWS: Seller shall comply with all applicable Federal, State, and local laws, statutes, rulings, ordinances, regulations, and orders. Seller shall include on all of its invoices to Buyer the following statement: "The Seller represents that with respect to the production of the articles and/or performance of the services covered by this invoice, it has fully complied with all provisions of the Fair Labor Standards Act of 1938 as amended."

12. CANCELLATION: Buyer shall have the right to cancel for default all or any part of the undelivered portion of this Order if Seller breaches any of these terms, including warranties, or if Seller becomes insolvent or commits an act of bankruptcy. Such right of cancellation is in addition to, and not in lieu of, any other remedies which Buyer may have in law or equity.

13. ASSIGNMENT: None of the sums due or to become due nor any of the work to be performed under this Order shall be assigned without Buyer's prior written consent.

14. SET-OFF: Buyer may at any time set off any amount owed by Buyer to Seller against any amount owed by Seller to Buyer, whether such amounts arise under this Order or otherwise.

15. WAIVER: The failure of Buyer to enforce any of the provisions of this Order or applicable law shall not constitute a waiver of the requirements of such provisions or law, or as a waiver of Buyer's right thereafter to enforce such provisions or law, and Seller's obligations with respect to such provisions or law shall continue in full force and effect.

16. PRICE WARRANTY: Seller warrants that the price of the ordered items does not exceed the price charged by the Seller to any other customer purchasing the same items in like or similar quantities and under similar conditions of purchase.

17. HOLD HARMLESS: Seller agrees to indemnify and hold Buyer harmless from and against any claims of bodily injury or death to Seller's personnel arising while such personnel are on premises owned or controlled by Buyer in connection with the performance of this Order. Seller shall maintain statutory Workers' Compensation Insurance in compliance with all requirements of the laws of the State where such premises are located. In addition, Seller shall maintain Employer's Liability Insurance with a limit of not less than One Million U.S. Dollars covering all such personnel while on Buyer's premises.

18. TERMINATION: The remedies granted under this Clause 18, "Termination," shall be in addition to, and not in lieu of, any other remedies which may be available to Buyer. (A) Termination for Convenience: Buyer reserves the right to terminate this Order, or any part hereof, for its convenience in accordance with the "Termination" clause in FAR 52.249-2 (as modified in 49.502(e)), which is incorporated herein as if set forth in full, except that "Government" and "Contracting Officer" shall mean Buyer, "Contractor" shall mean Seller, "Contract" shall mean Order, any claim by Seller for an equitable price adjustment shall be asserted within forty-five (45) calendar days, and all documentation supporting such a claim must be asserted not later than six (6) months after Seller's receipt of the Notice of Termination. (B) Termination for Default: This Order, or any part hereof, may be terminated by Buyer for default in accordance with the "Default" clause in FAR 52.249-8, which is incorporated herein as if set forth in full, except that "Government" and "Contracting Officer" shall mean Buyer, "Contractor" shall mean Seller, "Contract" shall mean Order. If the parties fail to agree on the amount to be paid for manufacturing materials referred to in paragraph (f) of the "Default" clause, the amount shall be their reasonable value (not to exceed a reasonable allocable portion of the price of this Order.)

19. TERMS OF PAYMENT/DISCOUNT: Seller agrees by acceptance of this Order that, unless otherwise stated herein, or as otherwise mutually agreed to in writing, the terms of payment set forth in the Order shall commence with the acceptance of the deliverables. In the event a discount is offered for payment within a specified period, such specified period for purposes of taking the discount shall also

commence on the date of acceptance of the deliveries. Acceptance of the deliverables is defined as the acknowledgement of the Buyer's Receiving Inspection Department that the deliverables conform to the requirement of this Order

20. SUBCONTRACTING: (a) No items to be delivered under this Order shall be procured by Seller from a third party in completed or substantially completed form without Buyer's written consent unless this purchase is being made from Seller in its capacity as a retailer, jobber, or distributor. No purchase order or subcontract placed by Seller under this Order shall be on a cost-plus-a-percentage-of-cost basis. (b) Seller agrees to obtain Buyer's approval before subcontracting this Order or any substantial portion of it, provided, however, that this limitation shall not apply to the purchase of standard commercial supplies or raw material. In addition, Seller shall select subcontractors on a competitive basis to the maximum practical extent.

21. DISPUTES: (a) All disputes arising under or relating to this Order that are not disposed of by mutual agreement may be decided by recourse to an action at law or in equity, provided that either party may only bring suit in federal or state court in the State of California. Pending resolution of any such dispute by settlement or by final judgment, Seller shall proceed diligently with performance of this Order. (b) Choice of law: For Commercial orders, this Order will be governed by and construed in accordance with the laws of the State of California, without regard to conflicts principles that would result in the application of the laws of another jurisdiction. If this Order is in support of a Government contract, prime contract, or subcontract, the Order will be governed by and construed in accordance with the law as enunciated and applied by federal judicial bodies, boards of contract appeals, and quasi-judicial agencies of the federal government. To the extent that the federal common law of government contracts is not dispositive, the laws of the State of California shall apply. Seller has no direct appeal rights against the government.

22. HEADINGS: The descriptive headings contained in this Order are for convenience of reference only and in no way define, limit or describe the scope or intent of this Order.

23. SEVERABILITY: If any provision in this Order is or becomes void or unenforceable by force or operation of law, all other provisions shall remain valid and enforceable.

24. EXPECTATIONS: All product will be provided in accordance with Neill Aircraft's Quality Objectives.