

NEILL AIRCRAFT COMPANY

**STANDARD PURCHASE ORDER
TERMS AND CONDITIONS
REV 10/16**

1. **ACCEPTANCE:** Acceptance of this order by Seller on these terms and conditions shall be evidenced by Seller's commencement of performance. Commencement of performance includes any act by Seller evidencing intent to supply the items ordered, including, but not limited to, orders for materials, applications of bench labor or engineering effort, acquisition of tooling, start of manufacturing, etc. This purchase order constitutes the entire agreement between the Seller and the Buyer and may be changed or modified only by written instrument signed by Buyer's authorized representative.

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 should accompany each invoice. Buyer's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

3. **WARRANTY:** Seller warrants to Buyer and its customers that (i) all materials and work covered by this order will conform to the specifications, drawings, samples, symbols or other description specified by Buyer and will be merchantable, of good material and workmanship and free from defect for a period of one year from date of acceptance. (ii) All material and work covered by this order, which is in accord with Seller's design, drawings or specifications will be fit and sufficient for the purposes intended.

4. **INSPECTION:** All material and work will be subject to final inspection and approval by Buyer after delivery, notwithstanding prior payment. Payment will not constitute final acceptance. Buyer, at his option, may either reject any material or work not in conformity with the requirements and terms of this order, or 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 assumes the risk of loss or damage. Seller agrees to accept procure insurance satisfactory to Buyer insuring the full insurable value of all Buyer's property in Seller's possession against loss or damage, satisfactory evidence of such insurance shall be submitted to Buyer promptly. Seller shall pay all taxes assessed against Buyer's property or its use while in Seller's possession 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 a written order and without notice to sureties, make changes within the general scope of this order, in any one or more of the following: (i) Drawing, designs or specifications for the supplies to be furnished or to be specially manufactured for the Buyer, (ii) method of shipment or packing, (iii) place or time of delivery, and (iv) property to be furnished by Buyer. If any such change causes an increase or decrease in the cost of, or the time required for performance of this order, an equitable adjustment shall be made in the price or delivery schedule, or both, and shall be modified in writing accordingly. Any claim by the Seller for adjustment under this Article must be asserted within twenty (20) days from the date of notification of the change. However, if it decides the facts justify such action, Buyer may receive and act upon any such claims asserted at any time prior to final payment under this order. Where the cost of material made obsolete or excess as a result of a change is included in Seller's claim for adjustment, the Buyer shall have the right to prescribe the manner of disposition of such property.

9. **PATENT INDEMNITY CLAUSE:** Seller guarantees that the sale or use of the Seller's products will not infringe any U. S. or foreign patent. Seller shall hold Buyer harmless from all claims and against Buyer or Buyer's customers, mediate or immediate, and against all costs and that Buyer incurs by reason of any infringement action. Seller shall, upon Buyer's request and at Seller's expense, defend infringement actions predicated upon the sale or use of the Seller's products.

10. **DRAWINGS:** All drawings, specifications and data furnished by Buyer to Seller shall remain the property of Buyer and shall not be disclosed by Seller and shall be used by Seller only as and to the extent required for performance of the order, unless the Buyer shall

otherwise approve in writing. Upon completion of work by Seller, under this order and upon Buyer's request Seller shall promptly return 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 therewith make up no further use either directly or indirectly of any such drawings, specification or data or any information derived there from, without Buyer's prior written consent.

11. COMPLIANCE WITH APPLICABLE LAWS: Seller shall comply with all applicable laws, statutes, rules, regulations or orders of the United States or any State or political subdivision and same shall be incorporated by reference. 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 an 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 has the right to set-off against any amount which may become payable by Buyer to Seller under this order or otherwise, any amounts which Seller may owe to Buyer, whether arising under this order or otherwise.

15. WAIVER: The failure of Buyer to require the performance of any of the terms, covenants or conditions of the order or to exercise any of its rights shall not be construed as a waiver of the future performance of any such terms. The obligations of Seller with respect to such future compliance 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 save Buyer harmless from claims for death or injury 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 Workmen's Compensation Insurance. Employee's liability insurance in the minimum amount of One Million US Dollars covering all such personnel while on Buyer's premises.

18. TERMINATION: (A) Termination -Convenience. The performance of work under this order may be terminated, in whole or in part, by Buyer for Buyer's convenience in accordance with the "Termination" clause in FAR 52.249-2 (as modified in 49.502(e). In paragraph (c) of FAR 52.549-2, change 45 days of 90 days; in (d), change one year to six months. (B) Default: This order may be terminated in whole or in part by Buyer for default in accordance with the "Default" clause in FAR 52.249-8 (incorporated by Clause 21. "Disputes," Remedies granted under this clause shall be in addition to any other remedies, which may be available to Buyer. 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 on the fact hereof, 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 purchase 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) Either party may litigate any disputes arising under or relating to this order before any court of competent jurisdiction or forum selected by Buyer, pending resolution of any such dispute by settlement or by final judgment, Seller shall proceed diligently with performance. (b) Choice of law: For Commercial orders, the laws of Buyer's State shall apply. For government contracts 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 Buyer's State's laws shall apply. The subcontractor has no direct appeal rights against the government.

22. EXPECTATIONS: All product will be delivered 100% on-time with a Quality level of 100%.