

# AIRBUS

## AIRBUS HELICOPTERS INC. – TERMS AND CONDITIONS – COMMERCIAL

### A. ACCEPTANCE:

1. This order is Buyer's offer to purchase the goods and/or services (hereby referred to as "goods") described on the attached purchase order hereof from Seller. Buyer's placement of this order with Seller is expressly conditioned upon Seller's acceptance of all the terms and conditions of purchase contained on or attached to this order.
2. Any additional or different terms or conditions which may appear in any communication from Seller are hereby expressly objected to and shall not be effective or binding unless specifically agreed to in writing by Buyer, and no such additional or different terms or conditions in any printed form of Seller shall become part of this contract despite Buyer's acceptance of goods, unless such acceptance specifically recognizes and assents to their inclusions.
3. Any objection by Seller to the terms and conditions hereof shall be ineffective unless Buyer is advised in writing thereof within ten days of the date of this order.

B. **IDENTIFICATION:** All invoices, packages, shipping notices, instruction manuals and other written documents affecting this order shall contain the applicable order number. Packing lists shall be enclosed in each box or package shipped pursuant to this order, indicating the contents therein. Invoices will not be processed for payment until all items invoiced are received.

C. **SHIPPING INSTRUCTIONS:** All goods are to be shipped to Buyer freight prepaid, F.O.B. Buyer's address as set forth on the attached purchase order hereof, unless otherwise stated. Any changes to status of F.O.B. will be mutually agreed in writing by both parties. Buyer reserves the right to reject C.O.D.

D. **SPECIAL CHARGES:** Seller shall be responsible for the payment of all charges for handling, packaging, wrapping, bags, containers and related matters unless Buyer has assumed an express obligation therefore by notation on the reverse side hereof.

E. **DELIVERY:** Time is of the essence, and this order may be terminated if delivery is not made or services are not performed by the date specified. No change in the scheduled delivery date or performance will be permitted without Buyer's prior written consent. No acceptance of goods after the scheduled delivery date will waive Buyer's rights with respect to such late delivery nor shall it be deemed a waiver of future compliance with the terms hereof.

F. **RISK OF LOSS:** Regardless of F.O.B. point, Seller agrees to bear all risk for loss, damage, injury, or destruction of goods and materials ordered herein which occur prior to acceptance of goods by Buyer. No such loss, damage, injury, or destruction shall release Seller from any obligations hereunder.

G. **PAYMENT:** Buyer will remit payment to Seller by mail at Seller's address as set forth on the reverse side hereof.

H. **ASSIGNMENT:** Seller shall not assign this contract or the right to payment due hereunder, without Buyer's prior written consent.

I. **LIENS, CLAIMS AND ENCUMBRANCES:** Seller warrants and represents that Seller has good and marketable title to the goods and that the goods will, when delivered hereunder, be free and clear of all liens, claims, security interests, charges or encumbrances of every kind.

### J. **INSPECTION AND QUALITY CONTROL:**

1. All goods furnished under this order shall be subject to inspection and tests by Buyer, or representatives of any third party purchasing Buyer's product in which the goods will be used ("User's Representative"). To the extent practicable, inspection may be made at all times and places, including the period of manufacture and in any event prior to acceptance.
2. In case any goods are defective in material or workmanship or otherwise not in conformity with the requirements or specifications of this order, Buyer shall have the right either to reject such goods (with or without instructions as to their disposition), require their correction, or accept the goods and designate a reduced price which is equitable under the circumstances. Any goods which have been rejected or required to be corrected shall be removed or, if permitted or required by Buyer, corrected in place by and at the expense of the Seller promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. If the Seller fails promptly to remove such goods which are required to be removed or promptly to replace or correct such goods, Buyer may, by contract or otherwise, replace or correct such goods and charge to the Seller the cost occasioned Buyer thereby, or Buyer may terminate this order for default as provided in Paragraph "K" hereof.
3. If inspections or tests are made by Buyer or User's Representative on the premises of Seller or Seller's supplier or sub-contractor, Seller without additional charge shall provide all reasonable facilities and assistance for the safety and convenience of such inspectors in the performance of their duties. If inspection or test is made at a point other than the premises of Seller or Seller's supplier or sub-contractor, it shall be at the expense of Buyer except as otherwise provided in this order. In case of rejection, Buyer shall not be liable for any reduction in value of samples used in connection with such inspection or test. Buyer reserves the right to charge Seller any additional cost to inspect and test when goods are not ready at the time such inspection and test is requested by Buyer or when re-inspection or retest is necessitated by prior rejection.
4. Inspection and acceptance or rejection of goods shall be made as promptly as practicable after delivery as may be specified herein, regardless of prior payment. Failure to inspect, accept or reject goods shall neither relieve Seller

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- from responsibility for such goods as are not in accordance with the order requirements nor impose liability of Buyer therefore.
5. Seller shall provide and maintain inspection and quality control systems acceptable to Buyer covering goods furnished hereunder. Records of all inspection work by both Buyer and Seller shall be kept intact and made available upon request to the other party during the performance of this order and for six years following delivery of goods under this order.
  6. Without limiting the generality of this Paragraph "J", Seller agrees if a special production run is made, that the first goods produced under this order are subject to "first article acceptance" prior to further fabrication. If the first article of goods submitted fails to meet the inspection acceptance requirements, a new first article will be submitted for approval. This procedure shall be continued until an acceptance first article of goods has been approved. First article acceptance shall be based on the requirements of the drawings, specifications, and purchase documents, as applicable. Acceptance of the first article of goods shall not be considered acceptance of subsequent part production of goods. The submission of the first article of goods shall be accompanied by the physical data forwarded by the supplier, the tool number used to produce goods and, in the case of goods produced in molds, dies, etc. with more than one cavity, the Seller shall submit a first article from each cavity and identify the first article to indicate the cavity it represents.
  7. Seller shall provide Buyer appropriate material certifications both governmental and nongovernmental, as described on the reverse side hereof or as otherwise specified by Buyer.
  - K. **DEFAULT:** Buyer may, by written notice of default to Seller, cancel the whole or any part of this order or exercise its remedies in Paragraph "L" hereof or any other remedy provided buyers of goods by law or in equity including any remedy under the Uniform Commercial Code in any of the following circumstances:
    1. If Seller fails to make delivery or performance of the goods within the time specified herein or any extension thereof.
    2. If, in Buyer's good faith judgment, Seller fails to perform any of the other provisions of this order or fails to make progress in the manufacture of the goods or performance of the services the result of which failure is to jeopardize performance of this order in accordance with its terms and does not cure such failure within a period of ten days, or such longer period as Buyer may authorize in writing after receipt of notice from Buyer specifying such failure.
    3. Seller is in breach of any of the terms or conditions of this order;
    4. If Seller becomes insolvent or makes an assignment for the benefit of creditors, or if there shall be instituted by or against Seller any proceeding under any bankruptcy reorganization, arrangement, readjustment of debt or insolvency law of any jurisdiction or for the appointment of a receiver or trustee in respect to any of Seller's property and such proceeding is not dismissed or cured within 60 days; or
    5. If any change occurs in the condition or affairs (financial or otherwise) of Seller or of any person or entity that controls or is the majority owner of Seller, which Buyer determines, in its sole discretion, impairs Seller's ability to perform hereunder or increases Buyer's risk.
  - L. **REMEDIES:** In the event of a default by Seller hereunder, the remedies of Buyer shall be as follows:
    1. If Buyer cancels this order in whole or in part as provided in Paragraph "K" Buyer may procure upon such terms and in such manner as Buyer may deem appropriate goods similar to those cancelled and Seller shall be liable to Buyer for any excess costs for such similar goods, provided that Seller shall continue the performance of this order to the extent not cancelled under the provisions of this order.
    2. Buyer shall be entitled to exercise all other rights and remedies provided by the Uniform Commercial Code and any other legal remedies available to it.
    3. The rights and remedies of Buyer provided in this Paragraph "L" shall not be exclusive.
    4. The failure of the Buyer to insist upon strict performance or any of the terms of this order or to exercise any rights hereunder shall not be construed as a waiver of Buyer's rights hereunder.
  - M. **WARRANTIES:** Seller warrants that goods supplied and services performed under this order shall conform to specifications herein and are MERCHANTABLE and FIT FOR THE PARTICULAR PURPOSES for which such goods and services are ordinarily employed.
    1. Seller further warrants to the Buyer and to any third party ultimately using the goods, whether such third party is a customer of Buyer or not, that all goods delivered under this order will be free from defects in material and workmanship and will conform to applicable specifications, drawings, samples and descriptions. If Seller is responsible for design of goods, Seller warrants that all goods delivered under this order will be suitable for use by Buyer, including installation by Buyer in its ultimate products. Buyer's written approval of designs furnished by Seller shall not relieve Seller of its obligations under this warranty.
    2. Seller shall be liable for all losses, claims expenses and damages, including but not limited to incidental and consequential damages, both to Buyer and its customers incurred as a result of any defect in or breach of warranty concerning any goods covered by this order.

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3. The foregoing express warranties shall be in addition to any warranty customarily made by Seller of the goods and any implied warranties and shall be construed as conditions as well as warranties.
  4. Seller's warranty shall extend for a period of 24 months after the goods are delivered and accepted by Buyer and applied to its intended use. Where Buyer incorporates any goods into a product of Buyer to be delivered to its customer, Seller's obligations under this Paragraph "M" shall be for the benefit of Buyer's customer and shall extend to one year after application of the goods to their intended use.
  5. The warranties, representations and covenants of Seller shall survive the delivery of goods or completion of the services provided and shall be fully enforceable thereafter. Seller's warranty hereunder is part of the consideration for this order, any payment by Buyer hereunder is conditional upon this warranty remaining in effect; and no modification or other change of this warranty shall be valid unless evidenced by Buyer's written change order.
- N. **INFRINGEMENTS**: Seller warrants that Buyer's purchase, installation, and/or use of goods covered hereby will not result in any claim of infringement, or actual infringement or any patent, trademark, copyright, franchise, or other intellectual property right.
- O. **INDEMNIFICATION**: Seller shall indemnify and hold Buyer harmless from and against all claims, losses, expenses, damages, causes of actions and liabilities of every kind and nature, including without limitation court costs and reasonable attorney's fees, arising from or out of any breach or alleged breach of any of Seller's covenants, obligations, representations or warranties hereunder or from other acts or omissions of Seller, its officers, agents, employees, sub-contractors and guests, regardless of the reason therefore or the party who is asserting such claim against Buyer.
- P. **SERVICE OR INSTALLATION OF WORK**: In the event this order requires the performance of work or installation of goods by Seller upon any property or project of Buyer, the following conditions shall also be applicable:
1. Seller shall take precautions to protect all property and persons from damage or injury arising out of its work and shall comply with all fire, safety and other applicable regulations prescribed by any governmental agency and by Buyer and/or the owner of the project upon which work is being performed, and shall be responsible for the observance thereof by all sub-contractors, employees, agents and representatives of Seller and its sub-contractors. Seller shall also obtain at its own expense and provide Buyer with proof of insurance coverage satisfactory to Buyer for workman's compensation and damage, public liability, personal injury, employer's liability and other applicable insurance.
  2. Seller shall keep the premises and work free and clear of all mechanics' and materialmen's liens or claims. Seller shall promptly pay for all labor and material and if Seller fails to do so Buyer, without waiving any rights or remedies against Seller for or by reason of such failure may, but without obligation to do so, pay the same and deduct the amount of such payments from sums due Seller hereunder; and Buyer may withhold any payment to Seller until receiving such affidavits, waivers, and releases with respect to claims for labor and materials as Buyer may require.
  3. The work shall remain at Seller's risk prior to written acceptance by Buyer and/or the owner of the project and Seller shall replace at its own expense all work damaged or destroyed by any cause whatsoever.
  4. Seller shall observe and comply with the wages, hours and working conditions required of Buyer by any applicable labor agreement or local state or federal law.
  5. Seller shall perform its work in accordance with the schedules established by Buyer and shall fully cooperate with Buyer and others engaged in work on the project so that the work on the entire project may be performed with the utmost speed, consistent with good practices. In case of conflict, Buyer may direct the necessary coordination.
  6. Seller shall carry on its work so that the premises shall at all times be clean, orderly and free from debris and upon completion shall remove all equipment and unused materials from the project, clean up all refuse and debris and leave the site or work clean, orderly and in good condition.
  7. Seller shall require Seller's employees, agents, contractors or sub-contractors to abide by Buyer's Work and Safety rules when work or services are performed at Buyer's premises. Buyer has the right to exclude personnel from Buyer's premises who do not abide by such rules, and at Buyer's election, to declare a default under the order.
  8. Seller is solely liable for its employees, agents, contractors or sub-contractors and their action while on Buyer's premises and the Seller indemnities and will protect Buyer from all losses, claims, expenses, damages arising from or out of the presence of activity of Seller's employees while at Buyer's premises.
  9. Seller shall act as an independent contractor and not as the agent, employee or representative of Buyer. None of the benefits ordinarily provided by Buyer to its employees, including without limitation, compensation and unemployment insurance, shall be made available to Seller or its employees. In the performance of the work contemplated hereby, Seller, except as modified hereby, shall have the complete authority to control and direct the details of the work.
- Q. **ADVERTISING**: No advertising or publicity matter having or containing any reference to Buyer or any of its staff members shall be made by Seller or anyone in Seller's behalf unless Seller has written consent of Buyer.
- R. **DISCLOSURE OF INFORMATION**: All data and information not already in the public domain, developed or disclosed during the life of this order will be the property of the Buyer and will be classified in secrecy and confidence by the Seller.

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Seller will keep confidential all such data and information until it comes into the public domain or until Buyer consents in writing to disclosure.

- S. **ATTORNEY'S FEES:** In any suit or action brought to enforce any term, condition, or covenant herein, or to recover damages arising from any breach of this contract, the losing party shall pay to the prevailing party reasonable attorneys' fees and all other costs and expenses which may be incurred by the prevailing party in any such suit or action and in any reviews thereof and appeals there from.
- T. **LAW:** The laws of the State of Texas shall govern this order.
- U. **INTENDED USE:** Unless otherwise stated, the goods ordered are to have an intended usage in the manufacture, construction, modification, maintenance, repair and/or servicing of the Buyer's products and facilities.
- V. **EQUAL OPPORTUNITY:** This contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a), 41 CFR 60-741.5(a). The regulations at 41 CFR 60-1.4(a) prohibit discrimination on the bases of race, color, sex, sexual orientation, gender identity, religion, national origin or other legally protected status, and require affirmative action by covered prime contractors and subcontractors to ensure that applicants are employed and that employees are treated during their employment without regard to their race, color, sex, sexual orientation, gender identity, religion, national origin, or other legally protected status. Furthermore, the contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information. The regulations at 41 CFR 60-300.5(a) prohibit discrimination against qualified protected veterans, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans. The regulations at 41 CFR 60-741.5(a) prohibit discrimination against qualified individuals on the basis of disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.
- W. **AFFIRMATIVE ACTION:** We acknowledge familiarity with Title VII of the Civil Rights Act of 1964 and Executive Order 11246, together with all applicable rules and regulations of the Equal Opportunity Commission and the Office of Federal Contract Compliance, and certify that we are in compliance with such requirements as they pertain to Government contractors, subcontractors, and suppliers to contractors and subcontractors.
- X. **AFFIRMATIVE ACTION FOR SPECIAL DISABLED VIETNAM VETERANS AND HANDICAPPED WORKERS:** Purchases of \$2,500.00 or more are subject to the provisions of the Rehabilitation Act of 1973, as amended, and in addition, purchases of \$10,000.00 or more are subject to provisions of Executive Order 11246, as amended by Executive Order 11375; and the Vietnam Era Veterans' Readjustment Act of 1974, as found in 37 U.S.C. 2012.
- Y. **SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS POLICY:** Buyer is committed to a balanced program for developing and maintaining action-oriented involvement to further the intent of Public Law 95-507. Wherever applicable, buyer agrees to carry out the policy of utilization of small business concerns and small disadvantaged business concerns in accordance with FAR 52.219-8.
- Z. **PERFORMANCE OF WORK:** All goods and services will be performed using labor of legal resident(s) or legal alien(s) as determined by location of performance.

THIS PURCHASE ORDER IS INTENDED BY THE BUYER AND SELLER TO BE A FINAL EXPRESSION OF THEIR AGREEMENT AND IS ALSO INTENDED TO BE A COMPLETE AND EXCLUSIVE STATEMENT COVERING THE TERMS OF THIS AGREEMENT. NO COURSE OF PRIOR DEALINGS BETWEEN THE BUYER AND SELLER AND NO USAGE OF THE TRADE SHALL BE RELEVANT TO SUPPLEMENT OR EXPLAIN ANY TERM USED IN THIS PURCHASE ORDER. ACCEPTANCE OR ACQUIESCENCE IN A COURSE OF PERFORMANCE RENDERED UNDER THIS PURCHASE ORDER SHALL NOT BE RELEVANT TO DETERMINE THE MEANING OF THIS PURCHASE ORDER EVEN THOUGH THE ACCEPTING OR ACQUIESCING PARTY HAS KNOWLEDGE OF THE NATURE OF THE PERFORMANCE AND OPPORTUNITY FOR OBJECTION.