

Rogerson Aircraft Corporation

Purchase Order Terms and Conditions

1. **Agreement/Acceptance/Modification:** An Order is Buyer's Offer to Seller, and acceptance is expressly limited to its terms without additions, deletions or other modifications. Seller's commencement of performance, delivery of any supplies or services, or acknowledgement of this Order shall conclusively evidence such acceptance. NO CHANGE OR MODIFICATION TO THIS ORDER (INCLUDING ANY ADDITIONAL OR DIFFERENT TERMS IN SELLER'S ACCEPTANCE) SHALL BE BINDING ON BUYER UNLESS AGREED TO IN WRITING AND SIGNED BY BUYER'S AUTHORIZED PROCUREMENT REPRESENTATIVE.
2. **Price:** Seller shall furnish the supplies and services called for by this Order at the price or prices stated in this Order. Any increases or decreases in any stated price will only be reflected through an amendment to this Order. If this Order is placed on an open basis and in absence of subsequent agreement, then the price to Buyer shall be no higher than Seller's lowest prevailing price for the same or substantially similar supplies or services of comparable quality on the date of the Order.
3. **Taxes:** The prices stated herein include all applicable federal state and local taxes and duties, except state and local sales and use taxes which by statute may be passed on the Buyer. Such sales and use taxes shall be separately stated on Seller's invoice, and Buyer agrees either to pay such amount or furnish Seller with evidence sufficient to sustain an exemption therefrom. In the event it is determined that any taxes included in the prices herein are not required to be paid, Seller agrees to notify Buyer, and for taxes paid, to make prompt application for the refund thereof, to take all proper steps necessary to obtain same, and when received, to remit same to Buyer, or if not remitted, to decrease the contract price accordingly.
4. **Specifications:** Seller shall comply with all specifications in this order and (unless the goods called for by this order are standard commercial products) with all applicable U.S. Government specifications.
5. **Inspection/Rejection:** a) Buyer and Buyer's customer shall have the right to inspect and test the material and workmanship of all goods at all places and times including, when practicable, during the period of manufacture, and if any such inspection or test is made on the premises of Seller, Seller shall furnish, without additional charge to Buyer, all reasonable facilities and assistance for the safe and convenient performance of the inspection or test. b) Notwithstanding (i) prior inspection, (ii) payment for, or (iii) use of the goods ordered hereunder, Buyer shall have the right to reject any such goods which do not conform to all requirements of this order. Such right shall be exercisable within the period provided in Buyer's applicable specification, or elsewhere in this order or in the absence thereof, within six (6) months following Buyer's receipt of the goods called for hereunder. Also such rejected goods shall be returned to Seller at Seller's risk and expense (transportation collect declared at full value, unless Seller advises otherwise), for full credit or refund (at Buyer's option) excepting, however, those goods which Buyer elects to repair at Seller's expense or to retain at an equitable reduction in price. The rejected goods returned to Seller shall not be replaced by Seller except upon written instructions from Buyer. Rejected goods shall not again be tendered for acceptance without disclosure of former rejection. Resubmitted goods must be shipped separately. Should Buyer elect to repair the nonconforming goods, all terms and conditions of the order shall remain in full force and effect as to the goods furnished by Seller. Prior inspection or test, payment for, or use of the goods ordered hereunder does not relieve Seller from any responsibility regarding defects or other failures to meet the requirements of this order which may be discovered prior to acceptance. Acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud. Buyer's rights under the subparagraph shall be in addition to and shall not be deemed to diminish its rights under this paragraph or under the paragraph hereof entitled "Warranty".
6. **Warranty.** a) Seller warrants to Buyer, its successors, assigns, customers, and user of goods sold by Buyer that all goods provided hereunder shall be (i) merchantable; (ii) new, (iii) free from defects in workmanship and material; (iv) with regard to goods designed by Seller, free from defects in design; (v) suitable for the purposes intended whether expressed or reasonable implied; (vi) in compliance with all applicable specification, drawings, and performance requirements; and (vii) free from liens and encumbrances on title delivery, inspection, test, acceptance or use. Payment for the goods furnished hereunder shall not affect Seller's obligation under this warranty. Such warranties, and all other warranties, expressed or implied, shall survive delivery, without expense to Buyer, when notified of such nonconformity by Buyer, providing Buyer elects to provide Seller with the opportunity to do so. Deliveries of corrected or replaced goods shall be accompanied by a written notice specifying that such goods are corrections or replacement. In the event that Seller fails to correct defects in or replace nonconforming goods promptly. Buyer, after reasonable notice to Seller, shall have the right to correct or replace such goods and charge Seller for the cost incurred by Buyer. b) If services or technical data are to be provided by Seller hereunder, Seller warrants to Buyer that such services and/or technical data have been performed in a professional and workmanlike manner.
7. **Confidential Information.** Use of Drawings, Specifications, etc. Seller shall not disclose to any third party or use any information whatever concerning its purchase order, or the Buyer's drawings, specifications, samples, and other material intended for use herewith, or with respect to any of the Articles furnished hereunder, without first obtaining the written consent of Buyer. The Buyer shall retain title at all times to such drawings, specifications, samples and other material, all of which, including copies thereof, upon request or upon completion of this order, shall be promptly returned to Buyer. Any knowledge or information which Seller shall have disclosed, or may hereafter disclose, to Buyer in connection with the purchase of any of the Articles shall not, unless otherwise specifically agreed upon in writing by Buyer, be deemed to be confidential information and shall be acquired free from any restriction as part of the consideration for this purchase order.
8. **Patent, Copyrights and Trademarks.** The Seller shall hold and save Buyer, its subsidiaries, agents, customers, and users harmless of and from any and all loss, damage or liability (including legal expense) for or on account of or resulting from any claim of infringement of any existing or future letters, patents, copyrights, trademarks, or the like with respect to any of the articles furnished under this purchase order. The fact that Buyer furnished specification to Seller with respect to any of the Articles, shall neither relieve the Seller from its obligation hereunder nor limit the Seller's liability therefor, nor shall the same be deemed to constitute an undertaking by Buyer to hold Seller harmless against any such claim which arises out of compliance with the specifications.
9. **Termination/Cancellation/Stop Work.** a) Termination - Convenience: The performance of work under this order may be terminated, in whole or part, by Buyer for Buyer's convenience in accordance with the "Termination" clause in FAR 52.249-2, which is incorporated herein by reference except "Government" and "Contracting Officer" means Buyer, and "Contractor" means Seller as used therein: delete (c); insert "6 months" in lieu of "1 year" in (d); and insert "45 days" in lieu of "90 days" in (k). b) Termination - Default: This order may be terminated, in whole or part, by Buyer for default in accordance with the "Default" clause in FAR 52.249-B, which is incorporated here by reference except "Government" and "Contracting Officer" in all paragraphs other than (c) means "Buyer", "Contractor" means Seller, and reference to a Disputes clause refers to Article 30 hereof. If the parties fail to agree on the amount to be paid for manufacturing materials referred to in paragraph (d) of the "Default" clause, the amount shall be the responsible value thereof (not to exceed a reasonably allocated portion of the price of this Order). c) Termination/Cancellation - Other: by written notice to Seller, Buyer may cancel this Order, in whole or in part, in the event of suspension of Seller's business, insolvency or Seller, institution of bankruptcy, reorganization, arrangement or liquidation proceedings by or against seller, appointment of a trustee or receiver for Seller's property or business, or any assignment by Seller for the benefit or creditors. Such cancellation shall be deemed "for default" in accordance with paragraph (b) of this clause, and the rights and obligations of the parties shall be determined as therein provided. d) Stop Work: The Buyer may, by written notice to Seller, require the Seller to stop for a period not to exceed ninety (90) days all or any part of the work called for by the Order in accordance with the "Stop Work Order" clause in FAR 52.212-13, which is incorporated herein by reference except "Government" and "Contracting Officer" means Buyer, and "Contractor" means Seller as used therein and insert "20 days" in lieu of "30 days" in (b)(2).
10. **Packing and Shipping.** All items shall be prepared and packed in accordance with sound commercial practices to prevent damage or deterioration, secure lowest transportation rates, and comply with carrier tariffs. No charges will be paid by Buyer for preparation, packing, crating, or cartage unless so stated in this Order. Each shipment shall be marked with the applicable Order number and part number. Two Copies of the packing sheet shall be attached to each shipment. Items sold F.O.B. place of shipment shall be forwarded freight charges collect. Seller shall make no declaration concerning value of the product shipped except where the tariff rating or rate is dependent upon the released or declared value, in which event, such value shall be released or declared at the maximum value for the lowest rating or rate. All items to be shipped F.O.B. Seller's plant, F.O.B. city of origin, or F.O.B. Shipping points also shall be delivered by Seller F.O.B. equipment of carrier designated by Buyer the nearest point such equipment is available.
11. **Delivery.** Deliveries shall be in strict accordance with the schedule and quantities as specified in this Order. If it appears that Seller's deliveries will not meet such schedule, or if Seller's deliveries fail to meet such schedule, upon request by Buyer, and in addition to any other rights or remedies provided to Buyer by law or under this Order, Seller shall ship via expedited routing necessary to meet such schedule or to recover the maximum possible time lost by failure to deliver on schedule, and pay the cost difference between the expedited routing and the Order routing without Seller's fault or negligence. At Buyer's option, any early deliveries may be returned to Seller at Seller's expense or payment deferred to the date payment would be become due according to the specific schedule.
12. **Changes.** Buyer may, at any time, by written notice to the sureties, 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 packing or shipment; (iii) place of inspection, acceptance and/or point of delivery; (iv) specified quantities; (v) the period of performance of work; and (vi) data requirements, and Seller shall comply therewith. Should any such change cause an increase or decrease in the cost of, or the time required for performance of this Order, an equitable adjustment shall be negotiated for this Order, and the Order will be modified accordingly. No claim by Seller for such adjustment will be valid unless submitted to Buyer within fifteen (15) days from Buyer's written notice of such change, or such longer period as may be authorized by the Buyer in writing. Where the cost of the property made obsolete or excess as a result of a change is included in Seller's claim, Buyer shall have the right to prescribe the manner of disposition of such property. Failure to agree on any claim for equitable adjustment under this clause shall relieve Seller from proceeding without delay in the performance of this Order as agreed. Buyer and Seller agree that there shall be no adjustment in the price or time for performance hereunder unless an authorized representative of Buyer's Procurement Department shall have directed a change thereto by the issuance of a written notice as preceded by this clause. Seller shall advise Buyer's Procurement Department if Seller receives, from any source other than that Department, any notification which Seller regards as a change to this Order. Seller shall provide such advice in writing no later than five (5) working days from receipt of any such notification and prior to taking action in accordance therewith.
13. **Invoices and Payment.** Seller, upon submission of proper invoices, will be paid the stipulated herein for supplies delivered and accepted, or services rendered and accepted, less deduction, if any as herein provided. Cash discount calculation is determined by received date of supplies or services receiving date of correct invoice, whichever is later. Invoice must not be dated prior to shipment of supplies. Payment will be made in accordance with the terms of this Order. Buyer's check will be accepted in payment without discount for collection. Payment will be subject to deduction of any valid claim of Buyer against Seller arising for this or any other transaction, including, but not limited to, subsequent adjustment for shortages and for allowance for supplies rejected and expense of rework incurred by Buyer. If items of this Order do not appear on, or agree with, Seller's invoice as rendered, Seller agrees the Buyer may change the invoice to conform to this Order and make payment accordingly, or return such invoice to Seller for correction prior to payment. Buyer shall be entitled at all times to set off any amount owing at any time from Seller to Buyer against any amount payable by Buyer to Seller.
14. **Gratuities.** Seller warrants that neither it nor any of its employees, agents, or representatives has offered or given any gratuities to any of Buyer's employees, agents, or representatives. If it is found that Seller or any of its employees, agents, or representatives had offered or given any gratuities to Buyer's employees, agents, or representative with, in Buyer's opinion, a view toward securing purchase order or contracts from Buyer, or securing favorable treatment with respect thereto, Buyer may, by written notice to Seller cancel this purchase order under Clause 10 hereof.
15. **Waiver.** The failure of Buyer to enforce at any time any of the provisions of this Order, or to exercise any option herein provided, or to require at any time performance by the Seller of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions nor in any way to affect the validity of this Agreement or any part hereto, of the right of Buyer thereafter to enforce each and every provision.
16. **Assignment.** Seller may not assign this Order or any portion thereof, except that claims for monies due or to become due hereunder may be assigned by Seller to a bank, trust company, or other financial institution. Seller shall supply Buyer immediately with two copies of any such assignment and shall indicate on each invoice to whom payment is to be made. Payments to an assignee of any monies due to be made due hereunder, shall be subject to set-off or recoupment for any present or future claim or claims which Buyer may have against Seller arising under this or any other Order and Buyer may without notice to the assignee, make direct settlement and/or adjustments in price with Seller behind both Seller and Assignee.
17. **Indemnification.** In the event Seller, its employees, agents, subcontractors, and/or lower-tier suppliers, in the performance of this Order, enter premises occupied by or under the control of Buyer, Seller shall indemnify and hold harmless Buyer, its officers, and employees to the extent it is held legally liable from any loss, cost, damage, expense, or liability by reason of property damage or personal injury of any nature or kind arising out of, as a result of, or in connection with such performance, if occasioned in whole or in part by the actions or omissions of Seller, its employees, agents, subcontractors, and/or lower-tier suppliers.
18. **Subcontracting.** Seller agrees to obtain Buyer's written approval before subcontracting this Order or any substantial portion thereof, providing, however, that this limitation shall not apply to the purchase by Seller of standard commercial supplies or raw materials. Seller shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the requirements of this Order. Buyer approval of any such contract submitted for approval shall not relieve Seller from any obligation imposed by this Order or impose on Buyer any responsibility for the work to be performed under such subcontract.
19. **Independent Contract.** It is understood and agreed that Seller shall be deemed to be an independent contractor in all its operations and activities hereunder; and that the employees furnished by the Seller to perform work hereunder shall be deemed to be Seller's employees exclusively.
20. **Other Rights and Remedies.** The rights and remedies herein reserved to the Buyer shall not be exclusive and shall be cumulative and additional to any other or further rights and remedies provided in law or equity. In any provision of this Order is or becomes void or unenforceable by force or operation of law, all other provisions shall remain valid and enforceable.
21. **Order of Precedence.** In the event of any inconsistency in this contract, unless otherwise provided herein, the inconsistencies shall be resolved by giving precedence in the following order: (a) the special provision appearing on the face of the Order, (b) these Purchase Order's General Terms and Conditions; (c) the specifications; (d) the drawings; (e) the other provisions of the contract, whether incorporated by reference or otherwise.
22. **Compliance with Laws and Regulations.** Seller warrants that Seller's performance of this contract will comply with all applicable federal, state and local law regulations. On its invoice, or in other form satisfactory to Buyer, Seller shall submit certification that the final goods covered by this contract were produced in compliance with all applicable requirements of Sections 6.7 and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the U.S. Department of Labor issued under Section 14 hereof.
23. **Interpretation of Order.** The provision of this Order shall be governed by and construed according to the Laws fo the State of the Buyer's office indicated on the face of this Order.
24. **Government Contract Provisions.** If a Government contract number appears on the face of this order, the provisions of the Federal Acquisition Regulations (FAR) and applicable supplemented regulations set forth in addendum A are incorporate herein by reference. The applicable penalty rating shall be set forth on the face of the Order.