



Nighthawk Flight Systems, Inc. Purchase Order Terms and Conditions

1. Nighthawk Flight Systems, Inc. reserves the right of final approval of product, procedures, processes, and equipment. Any remedies of Nighthawk Flight Systems, Inc. for rejection set forth in these terms and conditions are in addition to, and not in lieu of or in limitation of, any other rights or remedies which Nighthawk Flight Systems, Inc. may have under applicable law or under the terms of the purchase order.
2. All special processes required by this purchase order must be performed by qualified personnel.
3. Nighthawk Flight Systems, Inc. reserves the right to review and approve Supplier's Quality Management System ("QMS"). Standard QMS requirements include:
 - a. Suppliers providing special processing must maintain a system for validating processes similar to that of a NADCAP program or other system as required by this purchase order.
 - b. Nighthawk Flight Systems, Inc.'s customer-directed sources must operate in accordance with approved specifications and standards as dictated and controlled by the customer in question.
 - c. Suppliers initially approved for use via Certification (ISO, AS9100 etc.) must notify Nighthawk Flight Systems, Inc. of any changes to that certification.
4. Supplier shall maintain the proper identification and revision status specifications, drawings, process requirements, inspection/verification instructions and other relevant technical data.
5. Nighthawk Flight Systems, Inc. reserves the right to approve or specify any designs, tests, inspections plans, verifications, use of statistical

techniques for product acceptance, and any applicable critical items, including key characteristics.

- 6.** Nighthawk Flight Systems, Inc. reserves the right to designate requirements for test specimens for design approval, inspection/verification, investigation, or auditing.
- 7.** Supplier is required to:
 - a.** Notify Nighthawk Flight Systems, Inc. of nonconforming product immediately upon discovery.
 - b.** Obtain Nighthawk Flight Systems, Inc.'s written approval for nonconforming product disposition.
 - c.** Notify Nighthawk Flight Systems, Inc. of changes in product and/or processes, changes of suppliers and changes of manufacturing locations.
 - d.** Flow down to the supply chain the applicable requirements including customer requirements.
- 8.** Supplier is required to retain all records associated with the purchase order for a minimum of _____ years.
- 9.** Nighthawk Flight Systems, Inc. reserves the right of access by Nighthawk Flight Systems, Inc.'s representatives, our customers, and any regulatory authorities to the applicable areas of all facilities, at any level of the supply chain involved in the order and to all applicable records.
- 10.** Invoices must have the exact price and terms or authorization for changes and must be received from Nighthawk Flight Systems, Inc. in writing prior to shipping.
- 11.** Any goods or materials not in accordance with specifications will be rejected and held at the Supplier's risk while awaiting disposition. The supplier is responsible for any freight or delivery costs incurred on rejected goods or materials.
- 12.** Time of delivery and time of performance by Supplier is of the essence. Nighthawk Flight Systems, Inc. reserves the right to cancel all or part

of any purchase order if it is not received within the time specified without penalty.

13. Packing slips, Certificates of Conformance, process certifications and/or test results (if requested) must accompany all shipments.
14. By acceptance of any purchase order, Supplier warrants that: that all work and services relating to this purchase order will be done in a safe, proper, and workmanlike manner and in compliance with all applicable codes, regulations, laws, standards and specifications concerning safety, performance, and otherwise and, without limitation, including work and services on or to premises controlled by Nighthawk Flight Systems, Inc. and to or with property or parts of Nighthawk Flight Systems, Inc.; that all materials and goods shipped under the purchase order complies with all applicable codes, regulations, laws and standards; that Supplier shall have good and marketable title to such materials and goods free and clear of any liens and encumbrances; and such materials and goods do not infringe on any patent, copyright, or other intellectual property right of any third party. Supplier further warrants that all such materials and goods shall be free from defects in materials and workmanship and shall be in conformity with the requirements of the purchase order. Nighthawk Flight Systems, Inc.'s approval of Supplier's design or acceptance of such materials and goods shall not be construed to relieve Supplier of these warranties and such warranties shall survive the acceptance of such materials and goods. Said warranties shall be in addition to, and not in limitation or replacement of any warranties of additional scope given by Supplier to Nighthawk Flight Systems, Inc. and any warranties that may exist as a matter of law. Any remedies specified in the purchase order, or these terms and conditions shall be in addition to, and shall not be in lieu of or otherwise limit, any remedy which Nighthawk Flight Systems, Inc. may have under applicable law, including (without limitation) claims for damages.
15. Nighthawk Flight Systems, Inc. shall have the right at anytime prior to the complete delivery of the materials or goods to make changes therein and changes in packaging, time, place and schedule of delivery and method of transportation and Supplier agrees to accept such changes. If any such changes cause an increase or decrease in cost or the time required for performance, and an itemized claim for adjustment is made within thirty (30) days of the notice of change, and equitable

adjustment will be made, and this agreement modified in writing in accordance with these terms and conditions.

- 16.** Nighthawk Flight Systems, Inc. has the right to terminate this purchase order for convenience, in whole or in part, at any time upon written notice to Supplier. Unless such termination is due to default of Supplier or failure of Supplier to assure adequate performance, Nighthawk Flight Systems, Inc. shall pay Supplier on a pro rata basis for work completed as of the date of termination and upon such payment all equipment, materials, work-in-progress, finished goods, drawings, information, special tooling, and other things for which Nighthawk Flight Systems, Inc. has paid shall at Nighthawk Flight Systems, Inc.'s option become the property of Nighthawk Flight Systems, Inc. and be released by Supplier to Nighthawk Flight Systems, Inc. upon demand for pick-up and removal. The provisions of this clause are without prejudice to any other rights or remedies of Nighthawk Flight Systems, Inc. including those resulting from default by Supplier.
- 17.** Nighthawk Flight Systems, Inc. shall have the right to cancel this purchase order, in whole or in part, if the goods or services are in Nighthawk Flight Systems, Inc.'s judgment non-conforming or defective or not delivered as scheduled, or if Supplier fails to comply with or fulfill any of the terms and conditions of the order with Nighthawk Flight Systems, Inc.'s shipping and billing instructions, or if in Nighthawk Flight Systems, Inc.'s opinion the credit or ability of Supplier to perform becomes impaired, whereupon Nighthawk Flight Systems, Inc. shall have the continuing right to obtain the goods or services ordered from another source with any resulting increase in cost thereof charged to and paid by Supplier, all without prejudice to any other rights or remedies of Nighthawk Flight Systems, Inc. and in addition thereto.
- 18.** Nighthawk Flight Systems, Inc. shall have the option of canceling undelivered orders in whole or part without penalty if the fulfillment of any terms or provisions of this purchase order is delayed or prevented or Nighthawk Flight Systems, Inc.'s business is interrupted by an excusing cause, including revolutions or other disorders, wars, acts of enemies, strikes, fires, floods, or acts of God. Without limiting any of the listed causes, the term "excusing causes" also includes any other cause not within the control of Nighthawk Flight Systems, Inc. whose performance is interfered with that Nighthawk Flight Systems, Inc. is

unable to prevent by the exercise of reasonable diligence, whether it is one of the listed causes or not.

- 19.** Acceptance of any purchase order or shipment of any part of any purchase order will constitute Supplier's agreement to all its specifications, including, but not limited to, terms, delivery, and prices. Any additional or different terms proposed by Supplier are rejected unless expressly assented to in writing by Nighthawk Flight Systems, Inc.
- 20.** Unless otherwise provided in the purchase order, title, and risk of loss with respect to the materials and goods to be furnished pursuant to the purchase order shall remain with Supplier until actual delivery of the materials and goods to, and acceptance thereof by, Nighthawk Flight Systems, Inc. at which time title and risk of loss will pass to Nighthawk Flight Systems, Inc..
- 21.** Supplier agrees to defend, indemnify and save harmless Nighthawk Flight Systems, Inc., its officers, agents, successors, assigns and customers against all claims, demands, damages, costs, expenses, attorneys' fees or liability of any kind which arise from, or are related in any way to: (i) the actual or alleged infringement of any trade name, trademark, copyright or patent, or the misappropriation of any trade secrets or confidential information arising in connection with the possession, sale, or use of the materials and goods delivered, or services rendered to Nighthawk Flight Systems, Inc. under the purchase order; (ii) injuries or damages to any person or property arising from the performance of services by Supplier for Nighthawk Flight Systems, Inc.; (iii) the performance of or breach of the purchase order by Supplier or any agent or subcontractor of Supplier; and (iv) claims of third parties relating to or arising in connection with services performed and/or materials or goods delivered under the purchase order. This paragraph shall survive termination of the purchase order and acceptance or rejection by Nighthawk Flight Systems, Inc. of the materials and/or goods under the purchase order.
- 22.** The parties agree that the purchase order, including these terms and conditions, together with any documents attached hereto or incorporated by reference, contain the complete and final agreement by Nighthawk Flight Systems, Inc., and Supplier. The purchase order

supersedes all prior understandings, agreements, and negotiations between the parties with respect to the subject matter hereof.

- 23.** The purchase order may not be amended or otherwise modified except by a writing which is executed by Nighthawk Flight Systems, Inc. Any acknowledgment form or other document of Supplier containing terms and conditions shall not have the effect of modifying the terms and conditions of this purchase order, even if executed by Nighthawk Flight Systems, Inc., and such documents are hereby specifically rejected. Nighthawk Flight Systems, Inc. shall consider a request by Supplier for an amendment only if such request is in writing and is directed to specific paragraphs or items in the purchase order. No such amendment will be binding on Nighthawk Flight Systems, Inc. unless specifically accepted in writing by Nighthawk Flight Systems, Inc.
- 24.** No waiver of any right of Nighthawk Flight Systems, Inc. under the purchase order or law shall be effective unless executed in writing by Nighthawk Flight Systems, Inc.
- 25.** The construction and performance of the purchase order shall be determined by the laws of the State of California.
- 26.** Nighthawk Flight Systems, Inc. shall have the right to recover from Supplier all costs and expenses (including, but not limited to, attorneys' fees) incurred by Nighthawk Flight Systems, Inc. in enforcing the provisions of the purchase order.
- 27.** No right or interest in this purchase order may be assigned by Supplier without the written permission of Nighthawk Flight Systems, Inc., and no delegation of any obligation owed by Supplier may be made without the written permission of Nighthawk Flight Systems, Inc. Any attempted assignment or delegation shall be wholly void and totally ineffective for all purposes.
- 28.** Supplier agrees not to publicize the fact that Nighthawk Flight Systems, Inc. has contracted with Supplier and not to disclose any details or other information about the order without Nighthawk Flight Systems, Inc.'s written permission. Unless otherwise known to the public, all information disclosed by Nighthawk Flight Systems, Inc. to Supplier is confidential and proprietary and Supplier agrees that it shall not be disclosed or used except for the purpose of performing the

purchase order. All things (such as drawings, documents, etc.) containing such information are the property of Nighthawk Flight Systems, Inc. and are to be delivered to it upon demand. The supplier agrees that no information disclosed by it to Nighthawk Flight Systems, Inc. shall be confidential unless due notice thereof is given in advance to and accepted by Nighthawk Flight Systems, Inc. in writing.

- 29.** Supplier is and shall remain an independent contractor. No employee, agent, or representative of Supplier or its subcontractors shall be deemed to be an employee of Nighthawk Flight Systems, Inc. Supplier shall provide all safeguards and take all necessary precautions in connection with work and services performed by or for it relating to this purchase order to prevent the occurrence of any accident, injury, death, loss, or damage to any person or property and shall be solely responsible therefor.
- 30.** In no event shall Nighthawk Flight Systems, Inc. be liable for consequential, incidental, or special damages of any kind or for damages more than the price allowable to the portion of the materials, goods, or services on which the claim is based. Action on any claim against Nighthawk Flight Systems, Inc. must commence within one year after the cause of action has accrued.