



Terms and Conditions

1. General. Unless otherwise specifically agreed in writing signed by an authorized employee of Timberline Helicopters, Inc. (hereinafter "Seller"), these Terms and Conditions of Sale (Agreement) shall apply to all sales of goods ("Products") by Seller.

2. Offer and Acceptance. Seller's quotation acknowledgment or invoice constitutes Seller's offer to sell solely in accordance with the exact terms and conditions hereof, and supersedes all previous written and oral quotations, representations and/or agreements. Acceptance can be made by Buyer by any commercially reasonable means, including Buyer's issuance of an order, acceptance of Seller's quotation, acceptance of Products provided hereunder, acknowledgment or return of Seller's acknowledgment form or by electronic transmission. Acceptance hereof by Buyer is expressly limited to the exact terms hereof. If Buyer shall use its own purchase order or other form to order from Seller, such form shall be used for convenience only and shall evidence Buyer's unconditional agreement to these terms and conditions. Any inconsistent or additional terms or conditions contained therein are expressly objected to by Seller.

Where this Agreement is found to be an acknowledgment, if such acknowledgment constitutes an acceptance of an offer, such acceptance is expressly made conditional upon Buyer's assent to the terms of such acknowledgment, and acceptance of any part of Products delivered by Seller shall be deemed to constitute such assent by Buyer.

3. Price. All prices represent those in effect at the time of quotation and are for term specified at the time of quote. Unless prices are bid or quoted as "firm" Seller reserves the right to invoice at prices in effect at date of shipment, regardless of prior bid and whether notice was received by Buyer. Prices are F.O.B. Seller's warehouse, unless otherwise specified. Unless otherwise agreed in writing, prices are stated in United States dollars, are exclusive of sales, use, excise or similar taxes and are subject to any price adjustment necessitated by Seller's compliance with any act of government. Any tax or other governmental charge upon the production, sale, shipment or use of the Products which Seller is required to pay or collect from Buyer shall be paid by Buyer to Seller unless Buyer furnishes Seller with a tax exemption certificate acceptable to the appropriate taxing authority. Any changes as may occur on or prior to dates of shipment in applicable tariffs, freight rates or transportation charges and any prepayment by Seller of freight charges shall be for the account of Buyer and shall be paid by Buyer with and in addition to the purchase price. Any special handling requested by Buyer will be at Buyer's expense.

4. Payment. Unless otherwise agreed, payment is due within thirty (30) days of invoice date. Payment shall be in United States currency. Buyer agrees to pay interest on all past due invoices at the rate of one and one-half percent (1 ½%) per month or the highest rate allowable by law, if lower. Should it be necessary for Seller to institute formal proceedings to collect any past due amounts from Buyer, Seller shall be entitled to recover its attorney fees and other costs associated with the proceedings.

Seller's acceptance of orders and shipments and delivery shall be subject to approval by Seller's Credit Department. If, in the sole judgment of Seller, the financial condition of Buyer at any time prior to delivery does not justify the continuance of the work to be performed by Seller hereunder on the terms of payment agreed upon, Seller may require full or partial payment in advance or cancel any order (or portion thereof) then outstanding and receive reimbursement for Seller's reasonable and proper cancellation charges. Title to and right to possession of (but not risk of loss to) any Product sold



hereunder remains in Seller and remains personal property until all payments therefore are made in full by Buyer, and Buyer agrees to do all acts necessary to protect such right and title. In the event of bankruptcy or insolvency of Buyer, or in the event any proceeding is brought by or against Buyer under any bankruptcy or insolvency laws, Seller shall be entitled to cancel any order (or portion thereof) then outstanding at any time during the period allowed for filing claims against the estate, and Seller shall receive reimbursement for its reasonable and proper cancellation charges. The rights of Seller under this paragraph are cumulative and in addition to all rights available to Seller at law or in equity.

5. Shipment. Unless otherwise stated herein, shipment of Products shall be F.O.B. Seller's warehouse, Sandpoint, ID. Any and all destination demurrage, detention, or unloading charges are Buyer's responsibility. Seller will ship in accordance with instructions with instructions supplied by Buyer, and as specified on the face hereof. If Buyer fails to furnish such instructions, Seller will select what is, in its opinion, the most satisfactory routing for the shipment. If Buyer is to pick up Products and has not done so within seven (7) days after notification that they are ready for shipment, Seller may ship the Products by commercial carrier in any manner it deems to be commercially reasonable. The Products shall be packed and packaged in accordance with reasonable commercial practices for one-way shipment by air and/or surface transportation.

Shipping dates are approximate and are based upon conditions existing upon Seller's receipt of Buyer's firm order and full information. Seller will, in good faith, endeavor to ship by the estimated shipping date but shall not be responsible for any delay or any damage arising therefrom. It is agreed that time is not of the essence.

6. Acceptance. Acceptance shall occur, if not before, when Buyer fails to reject only within ten (10) days after delivery of the Products. Buyer may rightfully reject only where a reasonable inspection shows that the Products fail to substantially conform to the specifications of this agreement.

Buyer waives its right to revoke acceptance, it being the intent of the parties that Buyer's remedies for any nonconformity detected after acceptance be limited to those expressly provided herein for breach of warranty.

7. Force Majeure. Seller shall not be liable for any failure to perform its obligations under this Agreement resulting directly or indirectly from or contributed to by any acts of God, acts of Buyer, acts of government or other civil or military authorities, priorities, strikes, or other labor disputes, fires, accidents, floods, epidemics, war, riot, embargoes, delays in transportation, lack of or inability to obtain raw materials, components, labor, fuel or supplies, or other circumstances beyond Seller's reasonable control ("Force Majeure Event"). In the event of the occurrence of a Force Majeure Event, Seller's time for performance shall be extended by a period of time equal to the time lost because of any delays caused by reasons of a Force Majeure Event, if the delay lasts more than ninety (90) days, the parties shall immediately consult with one another for the purpose of agreeing upon the basis upon which Seller shall resume production at the end of the delay. If the parties do not agree upon a solution of the problems involved, including adjustments of the purchase price, within one hundred and fifty (150) days from the beginning of the delay, then either party may, by written notice, cancel the portion of the order which is delayed and, in such event, Buyer shall pay to Seller reasonable cancellation charges.



8. Limited Warranty. Seller warrants that Products manufactured by it are, at the time of delivery to Buyer, free from defects in material and workmanship, provided that no warranty is made with respect to: (a) any product that has been subject to negligence, accident, or improper storage; (b) any product that has been improperly installed or maintained; or (c) any product that has been operated beyond normal or recommended replacement intervals or wear limits. Seller's obligation under this warranty is limited to the replacement of, or at Seller's option, the return of the purchase price of any Product which is returned to Seller or its designated representative (at Buyer's expense) within one (1) year from the date of purchase and which, upon inspection by Seller, is found by Seller to be defective in material or workmanship. Seller shall not be responsible for the cost of labor for removing any defective product or installing any replacement product.

THE WARRANTIES, OBLIGATIONS AND LIABILITIES, EXPRESS OR IMPLIED, AND ALL OTHER RIGHTS, CLAIMS AND REMEDIES OF BUYER SET FORTH IN THESE TERMS ARE EXCLUSIVE AND IN SUBSTITUTION FOR, ALL OTHER WARRANTIES, OBLIGATIONS AND LIABILITIES ARISING BY LAW OR OTHERWISE, WITH RESPECT TO ANY NONCONFORMANCE OR DEFECT IN THE PRODUCTS OR SERVICES PROVIDED UNDER ANY ORDER, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS; ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE; ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY ARISING FROM THE NEGLIGENCE OF SELLER OR ANY MANUFACTURER OF AIRCRAFT INCORPORATING THE PRODUCTS; AND ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY FOR LOSS OR DAMAGE TO ANY AIRCRAFT.

9. Exclusivity of remedy: limitation of liability. If Seller breaches any of its obligations under this Agreement, whether the breach is one of warranty or for any cause whatsoever, whether in contract or in tort, including negligence, Seller may request the return of the products and tender to Buyer the purchase price theretofore paid by Buyer and, in such event, Seller shall have no further obligations to Buyer except to refund such purchase price upon redelivery of the products. If Seller so requests the return of the products, Buyer shall redeliver the products to Seller in accordance with Seller's instructions at Seller's expense.

THE REMEDIES PROVIDED HEREIN AND IN THE PRECEDING PARAGRAPH SHALL CONSTITUTE THE SOLE RECOURSE OF BUYER AGAINST SELLER FOR BREACH OF ANY OF SELLER'S OBLIGATIONS IN CONNECTION WITH THE SALE OF ANY PRODUCTS TO BUYER, WHETHER THE CLAIM IS MADE IN TORT OR IN CONTRACT, INCLUDING CLAIMS BASED ON WARRANTY, NEGLIGENCE, STRICT LIABILITY, DECEIT, FRAUD, MISREPRESENTATION OR OTHERWISE.

IN NO EVENT SHALL SELLER OR ANY MANUFACTURER OF AIRCRAFT BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE, INCLUDING NEGLIGENCE) NOR LOSS OF USE, REVENUE OR PROFITS, NOR SHALL SELLER'S OR ANY MANUFACTURER OF AIRCRAFT'S LIABILITY FOR ANY CLAIMS OR DAMAGE ARISING OUT OF OR CONNECTED WITH THE MANUFACTURE, SALE, DELIVERY, OR USE OF ANY PRODUCTS EXCEED THE PURCHASE PRICE OF THE PRODUCTS. THIS CLAUSE SHALL SURVIVE FAILURE OF AN EXCLUSIVE REMEDY.

The foregoing limitation of liability will not apply to the payment of costs and damages referred to in the paragraph entitled "Patent Indemnity."



10. Patent Indemnity. If any Product manufactured by Seller and furnished under this Agreement is to be made in accordance with drawings, samples or manufacturing specifications designated by Buyer, Buyer agrees to indemnify and hold Seller harmless from any and all damages, costs and expenses (including attorney's fees) relating to any claim arising from the design, distribution, manufacture or use of the Product or arising from a claim that such Product furnished to Buyer by Seller, or the use thereof, infringes any letters patent, foreign or domestic, and Buyer agrees at its own expense to undertake the defense of any suit against Seller brought upon such claim or claims.

In the event any Product to be furnished under this Agreement is not to be made in accordance with drawings, samples, or manufacturing specifications designated by Buyer, but rather is the design of Seller, and Product has not been modified by Buyer or its customers. Seller agrees to hold Buyer and its customers harmless against any damages awarded by a court of final jurisdiction in any suit or suits for the infringement of any United States letters patent by reason of the sale or use of such Product furnished by Seller under this Agreement, provided that Seller is notified promptly in writing of any claim or suit and is permitted to assume the full direction and control of the defense against such a claim and of any suit brought thereon and is given authority, information and assistance by Buyer (at Seller's expense) for such defense and authority to settle. In case any judgment rendered in such suit shall become final (beyond right of appeal), and where Buyer has complied with the foregoing provisions of this paragraph to Seller's satisfaction, Seller agrees to pay all damages and costs thereby awarded against Buyer. If, subject to the above limitations, said Products, or any part thereof, should be finally held in suit to constitute an infringement, Seller shall have the right at its own expense either (I) to procure for Buyer rights to the patent, or (II) to modify or replace said Product with a non-infringing Product accomplishing the same purposes as the replaced Product, or (III) to withdraw such Product and refund to Buyer the purchase price thereof. Seller shall have the right to settle any claim at its own expense (I) by procuring for Buyer the right to continue using said Product without liability for infringement of such patent, or (II) by modifying or replacing said Product with a non-infringing Product accomplishing the same purposes as the replaced Product, or (III) by removing said Product and refunding to Buyer the purchase price thereof. Buyer's remedies for damages resulting from the infringement or claimed infringement of any patent by the Products are exclusively limited to the provisions of this paragraph.

11. Cancellation. Under no circumstances may buyer cancel any order.

12. Assignment. Buyer shall not assign this Agreement, or any rights therein, without the prior written consent of Seller.

13. Waiver. The waiver by Seller of any term, provision, or condition hereof shall not constitute a waiver of any other term, provision, or condition hereof, nor shall such waiver be deemed a waiver of a subsequent breach of the same term or condition.

14. Other Laws. Any clause required to be included in a contract of this type by any applicable law or administrative regulation having the effect of law shall be deemed to be incorporated herein. Seller represents that with respect to the production of the Products, it has fully complied with Section 12(A) of the Fair Labor Standards Act of 1938, as amended. Acceptance and execution of order accepted by reason of any law or administrative regulation having the effect of law, or in order to carry out the intent or purpose of any such law or regulation or to acquiesce in a request by a government agency of official thereof, or contingent upon the continuance in effect of such law, regulation or request, may be canceled



by Seller upon the expiration or withdrawal of such law, regulation or request, provided, however, that Seller, at its option may complete such order.

15. Severability. If any provision or provisions of this Agreement, or parts thereof, shall be held to be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

16. Governing Law; Limitation of Actions. All matters relating to the interpretation and effect of these Terms and Condition of Sale shall be governed by the Laws of the State of Idaho. No action for breach of this Agreement or any covenant or warranty arising therefrom shall be brought more than one (1) year after the cause of action accrued.

17. Intellectual Property. Notwithstanding any assertions by Purchaser to the contrary, unless Buyer and Timberline Helicopters have otherwise expressly agreed in writing signed by both parties, all intellectual property relating to the Products is owned by Timberline Helicopters, Inc. and Timberline Helicopters shall not, in any way, be restricted from selling any Products to any third party.

18. Complete Agreement. The complete agreement between Seller and Buyer is contained herein, and no additional or different terms or conditions stated by Buyer shall be binding upon Seller unless agreed to in writing. No course of dealing or usage of trade shall be relevant to supplement or explain any terms used in this Agreement.