



McTurbine Inc.

an Affiliate of Bell Helicopter Textron Inc.

MCTURBINE SALES TERMS AND CONDITIONS

THESE TERMS AND CONDITIONS OF SALE STRICTLY APPLY TO SELLER'S EQUIPMENT AND SERVICES. SELLER'S ACCEPTANCE OF ANY ORDER FOR ITS EQUIPMENT OR SERVICES IS EXPRESSLY MADE CONDITIONAL UPON PURCHASER'S ACCEPTANCE OF THESE TERMS AND CONDITIONS, AND SELLER OBJECTS TO ANY ADDITIONAL OR DIFFERENT TERMS AND CONDITIONS, WHETHER CONTAINED IN PURCHASER'S FORMS OR OTHERWISE. SELLER WILL NOT BE DEEMED TO HAVE WAIVED THESE TERMS AND CONDITIONS OF SALE IF IT FAILS TO OBJECT TO PROVISIONS CONTAINED IN PURCHASER'S FORMS OR OTHERWISE.

- 1. AGREEMENT/ACCEPTANCE/MODIFICATIONS:** Any order placed by Purchaser is an offer to Seller and acceptance is expressly limited to the terms herein without additions, deletions, or other modifications. Seller's written acknowledgment of the order will conclusively evidence such acceptance. NO CHANGE OR MODIFICATION TO THE ORDER INCORPORATING THE TERMS HEREIN WILL BE BINDING ON EITHER PARTY UNLESS SIGNED (OR AUTHENTICATED IF THIS IS AN ELECTRONIC ORDER) BY BOTH PARTIES.
- 2. CHANGES:** Changes in the terms and conditions of this contract may be made only by written agreement of the parties. Any changes requested by Purchaser to an order may be subject to an equitable price and/or delivery adjustment as determined by Seller.
- 3. PRICE:** Unless otherwise agreed to in writing by the parties, pricing and charges will be established at the time of Seller acceptance of Purchaser's order for equipment or services. Such price or charges do not include any sales, use, personal property, value-added, excise or similar tax or assessments which may be imposed by any governmental authority upon this sales transaction, the equipment or the use of the equipment by Purchaser. Purchaser agrees to pay and indemnify Seller against such taxes or assessments (including interest or penalties that may arise from nonpayment), as well as any withholding taxes, customs, duties or other assessments by any governmental authority so that in all instances Seller receives payment (after any taxes or assessments) equal to the sales price. Purchaser agrees to execute any documentation necessary to avoid the imposition of or receive exemption from applicable taxes. A minimum order of \$250.00 is required. Quoted prices are based on standard lead times. Some factory stock parts can be delivered inside standard lead time but may incur additional charges; such charges will be determined on a case by case basis. Seller reserves the right to deliver parts early without penalty. Any resulting order over \$50,000 will require an advance deposit. Any parts received from Honeywell or Goodrich purchased exclusively for the Purchaser and refused delivery by Purchaser will incur a restocking fee of 15%.
- 4. PAYMENT:** Unless stated in the order, payment terms are net 30 days from the date of Seller's invoice for Purchasers with established credit terms. Payment arrangements for an order for domestic and export shipments may be accomplished either by establishment of an irrevocable letter of credit, confirmed by a U.S. bank, by forwarding your remittance prior to release of the shipment, or shipped C.O.D. Requests for open account or other credit terms should be addressed to: Division Controller, McTurbine Inc., 401 Junior Beck Drive, Corpus Christi, Texas 78405. Credit application must be provided and appropriate documentation submitted for credit approval. In the event that Purchaser fails to pay Seller's invoice when due, Purchaser agrees to pay a late payment charge at the rate of one and one-half percent (1½%) per month, eighteen percent (18%) per annum, or the highest rate legally permissible, whichever is less, on each delinquent invoice balance, commencing on the thirty-first (31st) day after the Seller's invoice date. Such

interest will be due and payable without demand or protest by Purchaser. In the event of overdue payment, Seller may at its sole discretion, after providing notice to Purchaser, stop production or services, and/or suspend shipment or services hereunder until such time that any such overdue payment has been made. Purchaser shall not, under any circumstances, exercise set-off against outstanding or subsequent invoices of Seller without Seller's prior written consent.

5. **SHIPMENT/DELIVERY/INSURANCE:** All delivery or shipping dates are estimates only. Seller will deliver the equipment EX Works (EXW) Seller's dock - INCOTERMS 2000. Thereafter, Purchaser shall be responsible for all freight and ferry charges, disassembly, crating, reassembly and insurance as applicable. Purchaser is required to provide transportation for any delivered equipment within ten (10) calendar days of acceptance.
6. **TRANSFER OF TITLE:** Upon receipt of the full purchase price of the equipment, Seller shall transfer title to the equipment to Purchaser free and clear of any and all liens, privileges, encumbrances, charges and rights of others.
7. **SUBSTITUTES:** Seller reserves the right to supply substitute parts interchangeable with the part ordered or during overhaul/repair requested when design changes, later specifications, conditions of supply or product improvement make such substitution necessary. Prices on substituted material may be adjusted accordingly.
8. **INSPECTION/ACCEPTANCE:** Unless otherwise specified in this agreement, inspection and acceptance of any equipment or services acquired under this agreement shall be performed by the Seller at Seller's location in accordance with established procedures. If requested, Purchaser shall have the right to witness the inspection/acceptance of the equipment, and the Seller shall accommodate any such reasonable request; the absence of the Purchaser shall not however delay the Seller from conducting the inspection/acceptance when scheduled. Once the equipment and/or services have been accepted, such acceptance shall be final and constitute Purchaser's agreement that the equipment or services conform to the requirements of this agreement. Purchaser may request Seller to hold the equipment temporarily after acceptance has occurred; however, after 10 calendar days, Purchaser agrees to pay any additional costs incurred by Seller for storage, maintenance or other related activities while under Seller's care and control for the extended period.
9. **SHORTAGE / DAMAGE CLAIMS:** All claims for shortage or damage to equipment delivered must be initiated by formal written notice from Purchaser to Seller within ten (10) days after receipt of the shipment.
10. **ASSIGNMENT:** No right, title or interest under this agreement or portion thereof may be assigned by Purchaser without the review, approval and written consent of Seller. In that regard, the sale of Purchaser or any material change in ownership or management of Purchaser (particularly when Purchaser is a special purpose entity set up for the purpose of purchasing the equipment) shall be considered an assignment of this agreement and subject to Seller's approval. Seller shall have absolute discretion as to whether it will grant such consent and in the event that such consent is given, Purchaser acknowledges that it may result in delivery delay and additional costs to Purchaser. Seller may assign its rights hereunder in its sole discretion for any purpose including without limitation, for financing purposes. In the event that financing is desired under this agreement, Purchaser may be required at the request of Seller or a financial institution to assign its interests herein to the financing bank or entity.
11. **INTELLECTUAL PROPERTY AND CONFIDENTIALITY:** No right, title, or interest in and to any development, invention, or work of authorship, conceived or developed by Seller during the course of performance hereunder, is conveyed to the Purchaser. Seller does not grant to Purchaser, and nothing contained herein will obligate or be construed to obligate the Seller to grant to Purchaser, any license under any patents or other intellectual property owned by the Seller. Unless otherwise agreed to in a writing signed by Seller, Seller will not be bound by any obligations of confidentiality or non-disclosure.

12. WARRANTY AND REMEDY:

- A. **New Parts:** Seller warrants each new part to be free from defect in material or workmanship under normal use and service. Defective parts must be reported in writing to the Seller within 90 days of being found defective. The written notice must set forth with particularity the nature and extent of the defect or nonconformity. Failure to furnish a written notice within the notice period shall negate all warranty liability of Seller. Seller must be given the opportunity upon written notice to inspect parts claimed to be defective or nonconforming. Purchaser shall return the parts that do not conform to Seller upon receipt of Seller's authorization to do so. Purchaser must demonstrate to the reasonable satisfaction of Seller that any alleged defective or nonconformity of the parts was solely caused by a breach by Seller of Seller's Warranty. Seller's sole obligation under this warranty is limited to replacement, repair of parts, or credit/refund equal to the cost to the Purchaser which are determined to Seller's reasonable satisfaction to have been defective within 1000 hours of operation or two (2) years after delivery, whichever occurs first, and reimbursement of reasonable freight charges.
- B. **Repaired / Overhauled / Converted Units:** Seller warrants to the Purchaser that each engine, accessory, or component, repaired / overhauled/ converted and installed by Seller will at the time of delivery be free from defects in material or workmanship with respect to the replaced parts and / or repair services performed by Seller. Seller's sole obligation under this warranty is limited to replacement, repair of part(s), or credit/refund equal to the cost to the Purchaser which are determined to Seller's reasonable satisfaction to have been defective within 1000 hours of operation or two (2) years after delivery, whichever occurs first, and reimbursement of reasonable freight charges. Purchaser must maintain records that accurately document operating time and maintenance performed. Failure to comply with any of the warranty terms may, at Seller's sole option, void this warranty.

D. **Disclaimers:**

THIS WARRANTY IS GIVEN AND ACCEPTED IN PLACE OF (i) ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND (ii) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY IN CONTRACT OR IN TORT (DELICT), INCLUDING PRODUCT LIABILITIES BASED UPON STRICT LIABILITY, NEGLIGENCE, OR IMPLIED WARRANTY IN LAW.

This warranty is the only warranty made by Seller. The Purchaser's sole remedy for a breach of this warranty or any defect in a part is the repair or replacement of the part and reimbursement of reasonable freight charges as provided herein. Seller's warranty expressly excludes liability, whether as a result of a breach of contract or warranty, negligence or strict product liability, for incidental, special, or consequential damages, including without limitation, damage to the helicopter or other property, costs and expenses resulting from required changes or modifications to helicopter components and assemblies, changes in retirement lives and overhaul periods, local customs fees and taxes, and costs or expenses for commercial losses or lost profits due to loss of use or grounding of helicopters or otherwise.

Seller makes no warranty and disclaims all liability in contract or in tort (delict), including, without limitation, negligence and strict tort (delictual) liability, with respect to work performed by third parties at Purchaser's request and with respect to Purchaser-furnished equipment or equipment manufactured by others and installed at Purchaser's request, except Seller assigns each manufacturer's warranty to Purchaser to the extent such manufacturer's warranty exists and is assignable.

Seller makes no warranty and disclaims all liability with respect to components or parts damaged by, or worn due to, corrosion. Seller makes no warranty and disclaims all liability for consumables (wear items) which are defined as items required for normal and routine maintenance or replaced at scheduled intervals shorter than the warranty period. Consumables include but are not limited to engine and hydraulic oil, oil filters, packings and o-rings, anti-corrosion and/or sealing compounds, brush plating material, nuts, bolts, washers, screws, fluids, compounds, and standard aircraft hardware that is readily available to aircraft operators from sources other than Seller.

Seller shall not be liable when the article or parts furnished under this warranty: (i) has been subjected to tampering, abuse, neglect, or to improve use, handling, storage, transportation, installation, application or operation, (ii) malfunctions or fails due to accident or non-compliance with Seller's operating, maintenance or other written instructions pertinent thereto; (iii) are repaired or altered and use or incorporate parts and components other than genuine Seller parts or parts approved by Seller for direct acquisition from sources other than Seller itself; or (iv) has been repaired, serviced or altered in any way outside of Seller's facilities, unless authorized in advance in writing by Seller, or unless such repair, service or alteration is performed by Seller. In no event shall Seller be responsible for claims resulting in whole or in part, directly or indirectly, from the use, abuse or mishandling of new, serviced, or defective or nonconforming equipment or for the costs of labor and/or materials expended on any such equipment. Seller's obligations hereunder are also conditional upon Purchaser giving Seller reasonable access to its facilities and records as deemed reasonably necessary by Purchaser to investigate the cause of the alleged defect.

NO PERSON, CORPORATION OR ORGANIZATION IS AUTHORIZED BY SELLER TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE SALE OF ITS PARTS, NOR TO MAKE ANY WARRANTIES BEYOND THE FOREGOING WARRANTY NOR TO CHANGE ANY OF THE TERMS HEREOF. NO PROMISE OR AFFIRMATION OF FACT, WHETHER WRITTEN OR ORAL, MADE BY ANY EMPLOYEE, AGENT, OR REPRESENTATIVE OF SELLER, NOR ANY SAMPLE PROVIDED, SHALL CONSTITUTE ANY ADDITIONAL WARRANTY OR GIVE RISE TO ANY LIABILITY OR OBLIGATION. UNLESS OTHERWISE AGREED BY SELLER IN WRITING.

SELLER'S WARRANTY RUNS ONLY TO THE PURCHASER DESIGNATED IN ANY ORDER AND IS NON-TRANSFERABLE AND NON-ASSIGNABLE EITHER DIRECTLY, INDIRECTLY, OR BY OPERATION OF LAW. ANY PURPORTED OR ATTEMPTED TRANSFER OR ASSIGNMENT OF SELLER'S WARRANTY HEREUNDER SHALL BE DEEMED NULL AND VOID, AND PURCHASER AGREES TO INDEMNIFY DEFEND AND HOLD SELLER HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS AND ACTIONS OF THIRD PARTIES WITH RESPECT TO SELLER'S WARRANTY.

13. FORCE MAJEURE/DELAYS:

- A. If Seller shall be unable to perform its obligations under this agreement because of intervention of a Force Majeure event, which term shall include but not be limited to strikes, lockouts or other labor disturbances, riots, epidemics, war, governmental actions, inactions or regulations (including, but not limited to, preemptive priority allocation rights of the U.S. Government), fire, weather, difficulty in obtaining qualified parts or materials, failure of performance by subcontractors or other causes beyond its control, Seller shall not be responsible for delays in acceptance, delivery or performance under this agreement. Seller shall give reasonable notice to Purchaser upon the occurrence of an event of Force Majeure. If a delay in delivery or performance extends beyond 180 days from the scheduled completion date, either party may terminate this agreement, whereupon the sole liability of Seller shall be to return any payments made by Purchaser for equipment not delivered.
- B. In the event Seller cannot proceed with the services due to delay in Purchaser furnishing required materials such as furnished parts, materials, tooling, documentation, etc. per the agreement, Purchaser may be charged for labor associated with the delay unless the affected personnel can be utilized on other program tasks. This delay will come into effect after two days of delay and Seller will

not be liable for any late deliveries relative to the days of delay and startup affecting such deliveries. Such delay shall be at a specified rate for affected personnel, based upon the hours of down time, not to exceed 8 hours per day per affected personnel. If such rate is not stipulated in the contract or has not been agreed to prior to such delay, then Seller may invoice Purchaser at Seller's loaded standard rates. All claims for delay will be submitted to Purchaser, along with the anticipated cost impact, within a reasonable time, but in any event, no later than 30 days from the start of such delay. Seller will make reasonable efforts to mitigate the expense to Purchaser. All such actions must be mutually agreed upon prior to delivery of any parts or services affected by the delay. This delay clause shall hold precedence over any existing delay, disruption or change clause.

14. EXPORT REGULATIONS/COMPLIANCE WITH LAWS:

- A. The parties acknowledge and agree that Seller's obligation to provide any equipment, services or information under this agreement are subject to specific laws, rules and regulations of the United States (U.S.), Canada and all such jurisdictions where equipment will be shipped and/or operated. Purchaser hereby agrees to comply with all such applicable laws, rules and regulations arising in connection with this agreement, including but not limited to Customs (import/export) laws and regulations, the U.S. International Traffic in Arms Regulations (ITAR), the Export Administration Regulations (EAR) and the U.S. Foreign Corrupt Practices Act (FCPA).
- B. Purchaser understands that the export/import of such items by Seller may be prohibited, limited, or delayed without a proper license. If required, Purchaser agrees to cooperate fully with Seller to obtain such a license, including, but not limited to, providing a signed non-transfer and use certificate (Form DSP-83). Purchaser will not use, distribute, transfer, or transmit any equipment, information or services provided under this agreement except in compliance with the applicable export/import laws, specifically including but not limited to U.S. and Canadian laws and regulations prohibiting re-export of such items to certain prohibited jurisdictions and restricted parties. In no event shall Seller be obligated under this agreement to provide access to or furnish any equipment, information, or services to any person except in compliance with applicable export/import laws, policies and license conditions. In the event that Seller is unable to secure such authorization or has determined in its sole discretion that the U.S. Government will not issue such authorization, Seller shall be entitled to terminate this agreement. In the event of such termination, Seller shall be excused from the obligation to deliver the equipment and shall not be liable to Purchaser for any loss, cost or expense arising from such non-delivery or termination (including any actual, consequential or other damages of any kind whatsoever). The sole liability of Seller shall be to return any payments made by Purchaser for equipment not delivered.

15. LIMITATION OF LIABILITY:

- A. THE LIABILITY OF SELLER, INCLUDING ITS SUBCONTRACTORS, SUPPLIERS OR CO-PRODUCERS, TO PURCHASER ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM THE DESIGN, MANUFACTURE, SALE, DELIVERY, REPAIR, REPLACEMENT, SUPPORT, OPERATION, USE OR HANDLING OF THE PARTS, OR THE PERFORMANCE OF SERVICES HEREUNDER, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE OF ANY DEGREE) OR OTHERWISE, SHALL BE AS SET FORTH IN THE APPLICABLE WARRANTY CONTAINED HEREIN. THE FOREGOING SHALL CONSTITUTE THE SOLE AND EXCLUSIVE REMEDY OF PURCHASER AND THE SOLE AND EXCLUSIVE LIABILITY OF SELLER. PURCHASER HEREBY WAIVES, RELEASES, AND RENOUNCES ALL OTHER RIGHTS, CLAIMS, AND REMEDIES AGAINST SELLER. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY NATURE WHATSOEVER, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF THE PURCHASER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

- B. IN NO EVENT SHALL THE LIABILITY OF SELLER, HOWEVER FOUNDED, EXCEED THE PRICE ALLOCABLE TO THE PART OR SERVICE (AS APPLICABLE TO THE AGREEMENT) THAT INITIALLY GIVES RISE TO THE CLAIM.
- C. Purchaser shall release Seller from, and shall indemnify and hold Seller harmless from and against any and all claims, liabilities and losses whatsoever of any nature or kind, including, but not limited to injury to or death of any employee or representative of Purchaser or third party, or loss of or damage to the property of Purchaser, its employees, representatives or any third party, arising out of, in connection with or resulting from performance hereunder, whether in contract, warranty, tort (including negligence of any degree), patent infringement or otherwise.
- D. If Seller furnishes Purchaser with advice or other assistance which concerns any part or services supplied hereunder or any equipment in which any such work may be installed and which is not required by the terms of the accepted purchase order or any other agreement to which these terms and conditions apply, the furnishing of such advice or assistance shall not subject Seller to any liability, whether in contract, warranty, tort (including negligence of any degree), strict liability patent infringement, or otherwise.
16. **DISPUTES:** In the event of a dispute arising between Purchaser and Seller, which is not disposed of by agreement and if the parties can't agree on a dispute resolution process or otherwise resolve the dispute, the said dispute may be filed in the proper court for disposition pursuant to the Choice of Law and Jurisdiction clause hereof.
17. **CHOICE OF LAW AND JURISDICTION:** If the sale of parts or services under this agreement or the terms and conditions herein is pursuant to a U.S. Government prime contract, these terms and conditions will be construed and applied in accordance with the Federal common law of Government contracts. To the extent that the Federal common law of Government contracts is not dispositive or this agreement is not issued pursuant to a U.S. Government contract, this agreement including these terms and conditions are governed by and construed exclusively under the laws of the State of Texas, USA, excluding its choice of laws rules. Both Purchaser and Seller hereby submit to the exclusive jurisdiction and venue of:
- (i) The Courts of General Jurisdiction of the State of Texas in the County of Tarrant, or
- (ii) The Federal District Court for the Northern District of Texas, Fort Worth Division, in any lawsuit involving this agreement. Purchaser and Seller hereby agree that the above sets forth the sole and exclusive jurisdiction and venue in which any lawsuit involving this agreement may be filed.
18. **SEVERABILITY AND WAIVER:** If any provision of this agreement is or becomes null or unenforceable by force of law, the other provisions shall remain valid and enforceable. Waiver of one provision by either party shall not act as waiver of any other provision. No provision hereof and no breach of any provision will be deemed waived by reason of any previous waiver of such provision or of any breach thereof.
19. **NOTICES:** Any notice to be given under this agreement shall be delivered by facsimile, courier or by registered or first class mail. All notices delivered hereunder shall be deemed given on the date they are transmitted or placed in the hands of the post or courier for delivery, as appropriate. All notices shall be given to the addresses set forth in this agreement unless otherwise specified by the parties in writing.
20. **ENTIRE AGREEMENT:** This agreement, together with the Appendices attached hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, representations, negotiations, proposals or discussions between the parties with respect to the subject matter hereof. No modification or supplement hereto shall be effective unless in writing and signed by both parties.