

CONTRACT

1. Terms and Conditions of Sale The terms and conditions set out in this selling policy apply to all purchases. Any modifications to these terms and conditions are **expressly objected to by Nuttall Gear LLC** and will not be accepted. Nuttall Gear LLC hereby gives notice of its objection to any different or additional terms and conditions except for any such terms and conditions as may be expressly accepted by Nuttall Gear LLC in writing and signed by an officer of Nuttall Gear LLC.

Unless different or additional terms and conditions are stated or referred to in a Nuttall Gear LLC proposal, in which event such different or additional terms and conditions shall be exclusive as to the particular subject covered, the terms and conditions supersede and/or modify any prior or contemporaneous agreements or correspondence between the parties.

2. Orders and Contracts

All orders are subject to these terms and conditions and must show definite prices, delivery dates, exact quantities, complete product description, and when accepted by Nuttall Gear LLC are considered full commitments.

3. Quotations

Nuttall Gear LLC written quotations are valid for thirty (30) days from date issued unless otherwise stated in the quotation. Verbal quotations expire at the end of the working day.

SHIPPING SCHEDULE

Time of shipment of units subject to this selling policy are set forth in the appropriate shipping schedule. In the event no such shipping schedule is shown please refer to office. In the absence of delivery schedules submitted with the order, acceptance and credit approval by Nuttall Gear LLC will constitute authorization for Nuttall Gear LLC to proceed with the manufacture of the total quantity of units on order unless specifically stated to the contrary. Delivery in whole or in part shall occur at Nuttall Gear LLC's convenience.

PRICES/TAXES

1. Price Policy

Prices are firm on all sales of Nuttall Gear LLC products with quoted shipment within six months from date of order. For shipments made after six months from date of order, price in effect at time of shipment, unless otherwise negotiated. Prices are subject to change without notice. Prices may not include items such as transportation charges, special packaging, etc. Refer to appropriate sections of this selling policy.

2. Taxes

Price does not include Federal, state, local property, license, privilege, sales, use, excise, gross receipts, value-added, or other like taxes which may now or hereafter be applicable to, measure by, imposed upon, or with respect to the transaction, property, its sale, its value, its use, or any services performed in connection therewith. Such taxes are for the account of purchaser and the purchaser agrees to pay or reimburse any such taxes which Nuttall Gear LLC, its contractors, or suppliers are required to pay.

BILLINGS/PAYMENTS

1. Minimum Billing

The minimum billing charge per order shall be \$100.00 plus transportation charges as indicated under delivery.

2. Terms of Payment

- a. C.O.D. orders will not be accepted
- b. All payments are to be in United States Dollars. Special payment arrangements i.e. letter of credit must be arranged through Nuttall Gear LLC.
- c. Standard products and normal shipments: Terms of payment are net within thirty (30) days from date of invoice.
- d. Non-standard products and/or abnormal shipments: Orders for products that have unusual specifications, requirements, descriptions and/or delivery schedules beyond normal, are subject to progressive payments as quoted in a Nuttall Gear LLC quotation or proposal.
- e. U.S. Government: Terms of payment for U.S. Government purchasers for delivery within the Continental United States are payment upon receipt of invoice.
- f. Delayed Payments: If payments are not made in accordance with these terms, a service charge will, without prejudice to the right of Nuttall Gear LLC to immediate payment be added to the account of purchaser in an amount equal to the lower 2 percent per month of fraction thereof or the highest legal rate allowed on the unpaid balance.
- g. Accelerated Payments: If, in the judgment of Nuttall Gear LLC the financial condition of the purchaser, at any time during the period of the agreement does not justify the terms of payment specified, Nuttall Gear LLC may require full or partial payment in advance.

Should purchaser be adjudged bankrupt or insolvent in any legal proceeding, Nuttall Gear LLC shall have the right at its election and throughout the period allowed in such proceeding for filing claim against the purchaser's estate, to cancel the order, and to recover its proper cancellation charges from purchaser's estate.

- h. If shipments are delayed by purchaser, payments shall become due from the date Nuttall Gear LLC is prepared to make shipment. If manufacture is delayed by purchaser, payment shall be based on the contract price, as adjusted for price in effect at time of shipment and percent of completion, and the purchaser shall reimburse Nuttall Gear LLC for any additional costs resulting from such delay.

SECURITY AGREEMENT – TITLE/RISK OF LOSS

The product sold shall remain the property of Nuttall Gear LLC and shall remain personal property until fully paid for in cash. The purchaser agrees to perform all acts necessary to protect and assure retention of title to such product by Nuttall Gear LLC and to perform all acts necessary to provide a fully perfected security interest in the property in favor of Nuttall Gear LLC. Risk of loss of product or any part of the same shall pass to purchaser at the designated delivery F.O. B. point.

TRANSPORTATION / SHIPPING

1. Delivery Charges

F.O.B. – P/S-Frt./Ppd. and Not Allowed

Gearing products which are on any single release are delivered F.O.B. point of shipment, freight prepaid and a delivery charge will be added to the invoice.

F.O.B. Destination – Frt./Ppd. and not Allowed

Nuttall Gear LLC will, subject to prior agreement in writing, deliver this product F.O.B. accessible common carrier point nearest first destination for a 2% addition to the net price. Freight will be prepaid and a delivery charge will be added to the invoice.

A single release is defined as a single order with a single destination for shipment at one time and from one location.

Renewal Parts Orders will have a delivery charge of 2% of the sales value, or a minimum of \$5.00 per shipment, whichever is greater.

Freight prepaid is defined as:

Area A – Shipment to destination within the United States except Alaska and Hawaii:

To the accessible common carrier point nearest to the first destination, but within the confines of the United States, except Alaska and Hawaiian Islands.

Area B – Shipments to Alaska and Hawaii:

To the accessible common carrier point nearest to the point of departure from Area A as defined above. The purchaser will be responsible for shipment and transportation charges from such point to destinations in Alaska and Hawaii.

2. Cartage to (Store to Door Delivery)

Transportation charges incurred from the nearest accessible common carrier point to final destination or to shipside (in case shipments outside Area A) are the responsibility of the purchaser unless the common carrier furnishes store to door delivery at no extra charge.

3. Origin, Method of Shipment, and Routing

Nuttall Gear LLC will determine the point of origin of shipment, method of transportation, and routing of shipment. Purchasers requiring shipment by a method or routing other than that of Nuttall Gear LLC selection will be billed any excess or premium in transportation charges.

Any charges for special services such as special trains, lighterage, construction, or repair of transportation facilities will be paid or reimbursed by the purchaser. If shipment is specified by purchaser to one destination and reforwarded at his request, re-forwarding is entirely at the purchaser's expense.

4. Purchaser Pick-Up

Nuttall Gear LLC must be contacted 48 hours before any purchaser pickup will be authorized. Delivery charges will apply to purchaser pick-ups other than at the factory.

5. U.S. Government

When U.S. Government specifications require a government bill of lading, quotation will be F.O.B. point of shipment, freight not allowed.

6. Export Packing

a. Standard (Underdeck) Export Packing

When Standard (Underdeck) Export Packing is specified as a requirement by purchaser Nuttall Gear LLC will quote price to supply export crate for below deck shipment.

b. Special Export Packing

When Nuttall Gear LLC standard underdeck export packing will not meet contract requirements covering preparation of product for overseas shipment, etc., special packing specifications involved must be referred to Nuttall Gear LLC during negotiation for examination and acceptance. The charge made for such packing will be based on costs to Nuttall Gear LLC and will be shown as a separate item on invoice.

7. Damage/Risk of Loss

Risk of loss and responsibility for the product is transferred to the purchaser upon departure from the factory. As such the customer is responsible for damage or loss of goods in transition. Nuttall Gear LLC will not participate in any settlement of claims for loss and damage.

In the event of F.O. B. destination shipments agreed to in writing by Nuttall Gear LLC, the purchaser must unpack immediately, inspect the product and, if damage is discovered:

- a. Not move the product from the point of examination.
- b. Retain shipping container and packing material.
- c. Notify the carrier's agent to make an inspection.
- d. Notify Nuttall Gear LLC immediately.
- e. Send Nuttall Gear LLC a copy of the carrier's inspection report and all other carrier documentation in the possession of purchaser.
- f. Cooperate fully with Nuttall Gear LLC in a claim against the carrier for damages.

WARRANTIES / REMEDY

1. Standard Warranty

- a. Nuttall Gear LLC warrants that products furnished will be the kind and quality described in the proposal or contract and will be free of defect in workmanship and material. Should any failure to conform to this warranty appear within a period of 18 months from date of shipment to the purchaser, or within 12 months from date of installation, whichever occurs first, Nuttall Gear LLC shall, upon prompt written notification thereof, correct such nonconformity, by repair or replacement F.O.B factory of the defective part or parts.
- b. Apparatus built to purchaser's design: Gearing Products built to the purchaser's design, specification, and application are warranted against defective workmanship and materials for a period of three (3) months from date of shipment from Nuttall Gear LLC. Nuttall Gear LLC will in no event be liable for any defects caused by purchaser's application of the product. Should any failure to conform to this warranty appear within the specified period, Nuttall Gear LLC shall upon prompt written notification thereof, correct such nonconformity by repair or replacement F.O.B. factory of the defective part or parts.
- c. Nuttall Gear LLC warrants that parts and equipment supplied will be delivered free of any and all rightful claims, demands, liens, or encumbrances. In the event of breach of this warranty, purchaser shall promptly notify Nuttall Gear LLC and Nuttall Gear LLC, at its expense, will defend the title to any such material or part, and if unsuccessful will promptly provide to purchaser at no cost, replacement parts, or equipment which complies with this warranty.

2. Warranty Qualifications

- a. The industrial motors and gearing upon shipment, are free from serious critical speeds, torsional vibration, and electrical transients. When they become part of a motor gear driven equipment system, the calculations required to check all parts of the complete system and the success of operation based on such calculations are the responsibility of purchaser.
- b. Purchaser applications may require installation of safety features. Purchaser is responsible for furnishing and installing guards or other safety equipment needed to protect operating personnel even though such equipment may not have been furnished by Nuttall Gear LLC with the equipment purchased.
- c. Products furnished must be stored, installed, operated, and maintained in accordance with Nuttall Gear LLC recommendation's and industry standard practices.
- d. Equipment supplied by Nuttall Gear LLC but manufactured by others is warranted only to the extent of the original manufacturer's warranty.

3. Deferred Warranty

The standard warranty, including warranty qualifications, shall apply subject to the following modification:

For a 5% addition to the net price of unit, the warranty period on unit will be for a period of one year from date of initial operation, but not in excess of 60 months from date of shipment subject to the following conditions.

- a. That within thirty days prior to initial operation an authorized Service Engineer be hired by customer to thoroughly inspect unit to ascertain that unit is in "as shipped" condition. This inspection will include but not be limited to:
 - (1) Inspect gears and bearings to ensure they are free from damage.
 - (2) Megger test and internal inspection of motor windings.
 - (3) External inspection to determine that no damage has been done.
- b. Make any corrections which this inspection shows to be needed because the unit has been in storage or standing idle.
- c. An affidavit certifying that unit has successfully passed inspection and is in "as shipped" condition be supplied to Nuttall Gear LLC by purchaser. Failure to provide Nuttall Gear LLC with the affidavit certifying that unit has passed inspection and is in "as shipped" condition will result in voiding the warranty.

All corrections to unit will be made at customer's expense if corrections are required due to storage conditions.

4. Exclusive Warranty and Remedy

- a. THE WARRANTIES SENT FORTH ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES WHETHER STATUTORY, EXPRESS OR IMPLIED (INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE), EXCEPT PATENT INFRINGEMENT.
- b. The remedies provided above are the purchaser's sole remedies for any failure of Nuttall Gear LLC to comply with its obligations. Correction of any nonconformity in the manner and for the period of time provided above shall constitute complete fulfillment of all liabilities of Nuttall Gear LLC whether claims of the purchase are based in contract, in tort (including negligence or strict liability), or otherwise with respect to or arising out of the product furnished hereunder.

PATENT INFRINGEMENT

Subject to the following provisions, Nuttall Gear LLC shall, at its own expense, defend or at its option settle any claim, suit or proceeding brought against the purchaser and/or its vendees mediate any immediate so far as based on an allegation that any goods, material, equipment, device or article (hereinafter referred to as product) or any part thereof furnished hereunder constitutes a defect or a contributory infringement of any claim of any patent of the United States. This obligation shall be effective only if purchaser shall have made all payments when due hereunder, and if Nuttall Gear LLC is notified promptly in writing and given authority, information and assistance for the defense of said claim or suit or proceeding. Nuttall Gear LLC shall pay all damages and costs awarded in such suit or proceeding so defended in case the product or part thereof furnished hereunder becomes the subject of any claim, suit or proceeding for infringement of any United States patent or in the event of any adjudication that such product or part infringes any United States patent, or if the use or sale of such product or part is enjoined. Nuttall Gear LLC shall at its option and its own expense, either:

- a. procure for the purchaser the right to continue using said product or part thereof, or
- b. replace it with a non-infringing product, or
- c. modify it so it becomes non-infringing, or
- d. as a last resort, remove it and refund the purchase price and the transportation and installation costs thereof.

The foregoing indemnity does not apply to the following:

1. Patented processes performed by the product or another product produced thereof.
2. Product supplied according to a design other than that of Nuttall Gear LLC and which is required by the purchaser.
3. Combination of the product with another product not furnished hereunder unless Nuttall Gear LLC is a contributory infringer.
4. Any settlements of a suit or proceeding made without Nuttall Gear LLC's written consent.

The foregoing states the entire liability of Nuttall Gear LLC with respect of patent infringement by said product or any part thereof. If a suit or proceeding is brought against Nuttall Gear LLC solely on account of activities enumerated in paragraphs 1, 2, or 3 above, the purchaser agrees to indemnify Nuttall Gear LLC in the manner and to the extent Nuttall Gear LLC indemnified purchaser in the first paragraph of this provision insofar as the terms hereof are appropriate.

LIMITATION OF LIABILITY/ EXCLUSIVITY OF REMEDY

1. Limitation of Liability

Nuttall Gear LLC, its contractors and suppliers of any tier, shall not be liable in contract, in tort (including strict liability or negligence), or otherwise for damage or loss of other property or equipment, loss of profits or revenue, loss of use of equipment or power system, cost of capital, cost of purchased or replacement power, temporary equipment (including additional expenses incurred in using existing facilities), claims of customers of the purchaser, or for any special, indirect, incidental or consequential damages whatsoever.

2. Exclusive Remedies

The remedies of the purchaser set forth herein are exclusive and the liability of Nuttall Gear LLC, its contractors and suppliers of any tier, with respect to any contract, or anything done in connection therewith such as the performance or breach thereof, or from the manufacture, sale, delivery, resale, or use of any equipment covered by or furnished under the contract, whether in contract, in tort (including strict liability or negligence) or otherwise, shall not exceed the price of the equipment or part on which such liability is based.

REMOVAL OR TRANSFER

Prior to the removal of any equipment, material, or product furnished hereunder from the project site (except temporarily for repair work or permanently for disposal), or the transfer of any interest therein, the purchaser shall at its option, either:

(I) obtain for Nuttall Gear LLC written assurance from the transferee that Nuttall Gear LLC and its subcontractors and suppliers protection against liability following the transfer is equal to that provided by this contract, or

(II) Indemnify Nuttall Gear LLC against any liability it may incur in excess of that which would have been incurred by it had purchaser obtained the above assurance from the transferee.

FORCE MAJEURE

Nuttall Gear LLC shall not be liable for failure to perform or for delay in performance due to fire, flood, strike or other labor difficulty, act of God, act of any governmental authority, or of purchaser, riot, embargo, fuel or energy shortage, car shortage, faulty castings or forgings, wrecks or delay in transportation, inability to obtain necessary labor, materials, or manufacturing facilities from usual sources, or due to any cause beyond its reasonable control.

In the event of delay in performance due to any such cause, the date of delivery or time for completion will be extended by a period of time reasonably necessary to overcome the effect of such delay.

CONTRACT ORDER VARIATIONS

1. Termination/Cancellation

Any order or contract may be terminated by the purchaser only on written notice to Nuttall Gear LLC and upon payment of reasonable and proper termination charges.

Termination charges shall include:

- a. The price provided in the order for all products completed prior to termination.
- b. Actual costs incurred by Nuttall Gear LLC in connection with the uncompleted portion of the order.
- c. Reasonable profits as estimated by Nuttall Gear LLC on the incomplete portion of the order.

Nuttall Gear LLC shall have the right to cancel any order or contract at any time by written notice for any material breach of the order or contract by the purchaser.

2. Held Orders

a. After order entry but prior to completion of manufacture, orders and contracts may not be held subject to customer rescheduling. Such orders must be cancelled and new orders placed. A cancellation charge will be assessed pursuant to the termination provisions set forth above. A new order or contract will be required to begin delayed manufacture and such reorder shall be subject to all terms and conditions, including pricing, in effect at the time of entry.

b. When shipping holds are placed on units completed in manufacture or when a product is ready for shipment and shipment cannot be made because of reasons beyond Nuttall Gear LLC control, Nuttall Gear LLC shall submit an invoice for such product payable under terms and conditions of payment set forth, and upon written notice to purchaser, store such products in the event of storage, the following conditions apply:

(I) Risk of loss of the product shall pass to purchaser upon moving such product to storage whether or not such storage is at Nuttall Gear LLC facilities.

(II) All expenses incurred by Nuttall Gear LLC in connection with storage of product, including transportation, demurrage, cost of preparation for storage, storage charges, insurance if placed, and handling charges shall be payable by purchaser upon submission of invoices thereof by Nuttall Gear LLC.

3. Additions/Changes to Orders

Any addition to a previously entered order will be accepted only at prices, conditions of sale, etc. which prevail on the date the addition is made.

Changes in specifications of orders released for manufacturing or engineering will be subject to charges in line with processing, engineering, or manufacture completed at the time the change is specified.

4. Returning Products

Authorization and shipping instructions for the return of any product must be obtained by purchaser from Nuttall Gear LLC before returning any product.

The product must be returned with complete identification in accordance with Nuttall Gear LLC instructions or it will not be accepted. Where purchaser requests authorization to return product for reasons on his own, charges will be assessed for placing returned goods in a salable condition (restocking charge) and for outgoing and incoming transportation paid by Nuttall Gear LLC. In no event will Nuttall Gear LLC be responsible for product returned without proper authorization or identification.

5. Inspection

Purchaser inspection of completed units and purchaser witness of factory tests can be provided for additional costs to purchaser. The purchaser will make inspection or witness personnel available upon forty-eight (48) hours notice by Nuttall Gear LLC. If purchaser personnel cannot be made available within this period of time Nuttall Gear LLC reserves the right to reschedule at our earliest convenience. A charge for additional costs incurred due to purchaser delay will be borne by purchaser.