

**North Wind Test LLC
Fluidyne Aerotest Lab
Standard Terms & Conditions
Revised: 6/25/2024**

1. **Acceptance:** These standard terms and conditions shall apply to a Contract or Purchase Order (“Agreement”) with North Wind Test LLC (“North Wind”). Customer’s acceptance of an Agreement is limited to these Terms and Conditions (“Terms”). Any subsequent Agreement shall consist of all the Terms set forth herein, unless North Wind agrees in a signed writing to other Terms. All stenographic and clerical errors, including those relating to price, may be corrected by North Wind.
2. **Scope of Services:** North Wind shall furnish the deliverables and/or services set forth in an Agreement during the term of the Agreement, for which these Terms shall govern.
3. **Changes:** Either the Customer or North Wind may request changes to an Agreement in the form, scope, quality, quantities or any part thereof, that may: (a) Increase or decrease the quantity of any work included in the Agreement; (b) Change the character or quality of any work included in the Agreement; (c) Change the levels, lines, position and dimensions of any part of the work scope; (d) Change the size, nature, or work scope of the Agreement; (e) Change the technical specifications; (f) Change the quality of materials used in the work scope; and/or (g) Require performance of additional work of any kind necessary for the completion of the work scope.

In the event that any change, as noted above, is requested by the Customer, North Wind shall be entitled to an extension of the time necessary to complete its work scope, an adjustment to the price, or both. Upon receipt of notice of any such change, or in the event that no such notice is given, upon becoming aware of the request therefore, North Wind shall notify the Customer of the extension of time and/or adjustment to the price that is necessary by reason of the requested change. After the Customer and North Wind agree upon a work scope change request and any adjustments to the delivery date and/or price, the Customer shall submit a written change order to North Wind that is signed by an authorized representative of the Customer. A written change order must be received and accepted by North Wind before any changes will be made to the present work scope. In the event that Customer does not agree to the extension of time or price adjustment, North Wind shall not have any obligation to proceed with the change.

4. **Delays:** In the event of any delay in the progress of the work scope that may result from any action or inaction of Customer, or its agents and/or contractors (other than North Wind), North Wind shall promptly notify Customer of the impact of any such delay to the extent that it effects a project schedule, price, or both. Customer shall make payment to North Wind of any amounts due to North Wind in respect of additional costs incurred by reason of such delay promptly upon the submission by North Wind of an invoice therefor and any additional documentation as Customer shall reasonably require.
5. **Delivery:** All domestic deliveries of deliverables shall be Ex-Works at North Wind’s facilities, St. Paul, Minnesota, U.S.A. All international deliveries of deliverables shall be FCA at North Wind’s facilities, St. Paul, Minnesota, U.S.A. Unless otherwise provided in any Agreement, the term “Ex-Works” or “FCA” shall be construed in accordance with INCOTERMS 2020 of the International Chamber of Commerce. Title to all deliverables shall pass to Customer after North Wind has been paid in full.

North Wind will use best efforts to ship deliverables by the date set forth in an Agreement, but **NORTH WIND SHALL NOT BE LIABLE FOR ANY DAMAGES, INCLUDING WITOUT LIMITATION DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES, OR ANTICIPATORY PROFITS, ARISING OUT OF DELAY IN DELIVERY.** Time is not of the essence with respect to North Wind’s delivery obligations hereunder. Without limiting the generality of the foregoing, if failure to deliver or delays in delivery are due to causes beyond the reasonable control and without the fault or negligence of North Wind, including, but not limited to, force majeure as set forth herein, the time

that North Wind shall have to complete the Agreement shall be extended for such period.

6. Warranty:

North Wind warrants that the deliverables shall be free from defects in materials and workmanship, in all material respects; provided that no repairs, substitutions, modifications or additions have been made to the deliverables except (i) by North Wind (ii) after delivery to the Customer the deliverables here not been subjected to accident, neglect or misuse and (iii) the deliverables have not been maintained in violation of any instructions supplied by North Wind. This warranty shall be effective until the earlier of the date that is (i) for fourteen (14) months after date of shipment or (ii) twelve (12) months after final acceptance of the deliverables. Notwithstanding the foregoing, North Wind shall not be liable for any damages attributable to improper or inadequate installation of the deliverables (or related equipment or site) by Customer or parties acting on behalf of the Customer.

North Wind represents and warrants that all services shall be completed in a professional, workmanlike manner, with the degree of skill and care that is required by current, good, and sound professional procedures. Further, North Wind represents and warrants that all services shall be completed in accordance with applicable specifications. North Wind represents and warrants that the performance of all services under an Agreement will not conflict with, or be prohibited in any way by, any other agreement or statutory restriction to which North Wind is bound.

Customer shall notify North Wind in writing within five (5) days after the discovery of any warranty claim during the warranty period and will provide detailed information related to such claim as requested by North Wind. Customer's sole and exclusive remedy with respect to the warranty set forth above, shall be, at North Wind's option, to repair, reperform or replace free of charge any or all deliverables and or services subject to a valid warranty claim.

In the event of a valid breach of warranty claim, solely upon written approval of North Wind, Customer may carry out the repair of the defective part, at its own facility, at North Wind's and expense (based on an hourly labor rate mutually agreed by both parties in advance), The Customer must provide North Wind full details of the fault or failure that occurred, together with a complete technical report of the problem. Further, the Customer must inform North Wind of the anticipated cost to repair such defect.

THE LIMITED WARRANTY SET FORTH ABOVE IS THE ONLY WARRANTY BEING MADE BY NORTH WIND WITH RESPECT TO THE DELIVERABLES AND/OR SERVICES. ALL OTHER WARRANTIES, WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED, CONTRACTUAL OR STATUTORY, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, ARE SPECIFICALLY EXCLUDED AND DISCLAIMED.

7. Seller's Liability: Notwithstanding any other provisions to the contrary, North Wind shall not be liable for any indirect, consequential, special, punitive or incidental damages, or anticipatory profits arising out of or in connection with an Agreement, individual purchase order(s) or any other contractual document, whether North Wind at the time of contracting or later had reason to know of any such requirements or needs. North Wind shall not be liable for any injury to any property (unless resulting from a breach of the Warranty set forth above) or any person resulting directly or indirectly from any breach of an Agreement. Furthermore, in no event and under no circumstances shall North Wind's aggregate liability exceed an Agreement, individual purchase order(s) or any other contractual document price.

The sole and exclusive remedies for any breach of any Agreement by North Wind governed by these Terms and all other performance obligations of North Wind under or pursuant to these Terms, shall be the remedies expressly provided herein.

8. Intellectual Property Rights: North Wind is the sole and exclusive owner of all right, title and interest in and to (i) any and all intellectual property developed by North Wind prior to the date of an

Agreement or outside of the scope of an Agreement, (ii) any and all technical data, research and engineering data and designs, engineering and manufacturing drawings, specifications, standards, process information, manuals, technical reports, computer software (including but not limited to flow charts, listings, object code, source code, programmer notes, user manuals and related documentation), program materials or information, or other work product made, created, conceived of, or developed in connection with the performance of an Agreement, and (iii) any improvements thereto (collectively, "Background I.P."). For the sake of clarity, source code, fabrication drawings, engineering calculations, process drawings and sub-assembly drawings shall be deemed to be Background I.P. North Wind will have the sole right to determine the treatment of any Background I.P., including the right to keep it as trade secret, execute and file patent applications on it, to use and disclose it without prior patent application, to file registrations for copyright or trademark in its own name, or to follow any other procedure that North Wind deems appropriate.

Notwithstanding the foregoing, Customer shall own all right, title and interest in and to all major assembly drawings, major system level schematics, and configurable application data (exclusive of any source code) developed by North Wind in the performance of its obligations under an Agreement, solely to the extent an Agreement explicitly states that such major assembly drawings, major system-level schematics and configurable application data are required deliverables ("Foreground I.P.")

Subject to full payment of all amounts due hereunder by Customer, North Wind grants to Customer a non-exclusive, non-transferable, non-sublicensable, perpetual, fully paid-up license to use North Wind's Background I.P. solely to the extent that such Background I.P. is incorporated into or necessary to use the Foreground I.P. delivered hereunder. Customer shall not use North Wind's Background I.P. for any other purposes without North Wind's prior written authorization. With respect to North Wind's Background I.P., Customer is not authorized to and agrees that it will not: (i) reverse engineer, decompile, decrypt, disassemble or otherwise attempt to derive the source code, ideas, technology or algorithms; or (ii) remove or alter any proprietary markings or notices. Should customer modify or create derivative works of North Wind's Background IP, North Wind shall have no liability related to such modifications or derivative works.

9. Confidentiality: Customer acknowledges that all information provided by North Wind, other than any such information that is in the public domain through no fault of Customer, is confidential and proprietary to North Wind. Customer agrees it will not, without prior written consent from North Wind, use such North Wind Information except as expressly permitted herein. Without limiting the generality of the foregoing sentence, Customer shall not copy, modify, reverse engineer, or compile all or part of any software incorporated into the deliverables. Customer agrees that it will not disclose, or permit the disclosure of, any such North Wind Information to any person or entity other than officers, director, and employees of Customer who are under equivalent obligations of confidentiality to North Wind and who have a need to have access to such North Wind Information for the purposes permitted under an Agreement. Customer will clearly identify all contractual documentation and other North Wind information in its possession as "North Wind Confidential" and will take all measures necessary to ensure the protection of such information.

10. Indemnification: Customer shall indemnify, defend, and hold North Wind, its affiliates, and their respective officers, directors, customers, agents and employees harmless from and against any and all claims, losses, damages, liabilities, or expenses (including reasonable attorneys' fees) asserted by any third party against North Wind, arising out of or related to any act or omission of Customer, or of any agent of Customer (other than North Wind) or to any failure of Customer to perform any obligation under an Agreement. In the event any claim arises out of: (1) the negligent or careless use or intentional misuse of the drawings and documents supplied pursuant to an Agreement by the Customer or the Customer's customer(s) in maintaining or supporting the deliverable(s); or (2) any use of these drawings and documents, other than in maintaining or supporting the deliverable(s), by the Customer, the Customer's employees, or anyone else other than North Wind, the Customer hereby agrees to defend, indemnify and hold North Wind, its affiliates, and their respective officers, directors, customers, agents and employees harmless from all liability or expense, including payment of damage awards, settlements,

costs and legal fees, incurred by North Wind in the defense of said claim. In the event of an indemnifiable claim, North Wind, at North Wind's sole option, may permit the Customer to treat said claim as if it had been brought directly against the Customer and to settle or defend said claim at the Customer's expense and as the Customer sees fit.

11. Force Majeure: For purposes of this clause, Force Majeure shall mean any event or condition, that is not reasonably foreseeable as of the date of an Agreement and is not reasonably within the control of North Wind, which prevents or delays in whole or in material part the performance by North Wind of its obligations hereunder or which renders the performance of such obligations so difficult or costly as to make such performance commercially unreasonable. Without limiting the foregoing, the following shall constitute events or conditions of Force Majeure: acts of State or Governmental action, riots, pandemics, epidemics, strikes, lockouts, slowdowns, war, acts of terrorism, prolonged shortage of energy supplies, fire, flood, hurricane, typhoon, earthquake, tornado, lightning and explosion. It is expressly agreed that any refusal or failure of any governmental authority to grant any export license legally required for the fulfillment by North Wind of its obligations hereunder shall constitute an event of Force Majeure.

Upon North Wind giving notice to the Customer that its performance is affected by a Force Majeure event, North Wind shall be released without any liability on its part from the performance of its obligations under an Agreement, except for obligation to pay amounts due and owing hereunder, but only to the extent and only for the period that such performance is so affected by the event of Force Majeure. Such notice shall include a description of the nature of the event of Force Majeure, its cause, and possible consequences. North Wind shall promptly notify the Customer of the termination of such event.

12. Termination: In the event of a breach by the Customer of its obligations under an Agreement, North Wind may give written notice of its intention to terminate an Agreement. The Customer shall have a thirty (30) day period from receipt of such notice to cure such breach, provided that the period in respect of any failure of Customer to make any payment to North Wind when due shall be five (5) days. If the Customer shall fail to cure the breach within the period, North Wind shall have the right to terminate the Agreement by further written notice given at any time, without prejudice to any other rights and remedies of either party in respect of such breach.

In the event of the filing of a petition in bankruptcy by or in respect of either party or for its winding up, the appointment or a receiver for the assets of either party, the entry by either party into a composition with creditors, the filing by either party or a petition for temporary protection against creditors or the inability of either party to pay its debts as and when due, the other party may by written notice to the opposite party terminate an Agreement with immediate effect and without prejudice to any other rights and remedies it may have.

If an Agreement shall be terminated for any reason whatsoever, then North Wind shall be entitled to be paid for: (a) all work performed or executed prior to the date of termination at the rates and prices (including mark-up and profit) provided in an Agreement; (b) amounts payable in respect of any preliminary items, so far as the work or service that has been partially carried out or performed; (c) costs and mark-up and profit of materials and / or services ordered for by an Agreement; (d) costs of removing material and returning such materials to North Wind's facilities at St. Paul, Minnesota, United States of America; (e) any other costs, expenses, charges, and/or damages not set forth above, including profit/fee, that North Wind incurs as a result of the termination of an Agreement; and (f) costs of returning all of North Wind's staff employed under an Agreement back to St. Paul, Minnesota, United States of America.

Upon termination of an Agreement for any reason: (a) Customer shall return to North Wind all copies of any North Wind information that was provided during the course of an Agreement; and (b) any licenses granted to Customer by North Wind shall automatically terminate.

13. Resolution of Disputes: Any controversy, claim or dispute arising out of or relating to an Agreement, or to the alleged breach of any element of an Agreement either by North Wind or Customer, shall be settled as follows: Both parties will first attempt in good faith to promptly resolve the controversy,

claim or dispute by negotiations between senior executives of the parties who have authority to settle the matter (and who do not have direct responsibility for administration of the Agreement). If the controversy, claim or dispute has not been resolved by such negotiations within sixty (60) days after written request by either party, the matter shall upon written request of either party then be settled by binding arbitration before three (3) arbitrators in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "AAA"), and judgment on the award rendered by the Arbitrators may be entered in any court having jurisdiction thereof. The parties agree that any arbitration hearing shall be held in Saint Paul, Minnesota. Customer hereby waives any claim in connection with an Agreement not made within ninety (90) days after delivery of the deliverables and/or services.

Other than those matters involving injunctive or other extraordinary relief or any action necessary to enforce the award of the arbitrator, the parties agree that the provisions of this Section 13 are a complete defense to any suit, action or other proceeding instituted in any court or before any administrative tribunal with respect to a dispute which an Agreement mandates be submitted to arbitration.

14. Taxes, Tariffs, and Duties: Any and all taxes (including local and national income taxes, property taxes, excise taxes, performing business taxes) and dues, import duties, stamps, or other duties and charges applicable under or with respect to the laws of the United States of America arising from or imposed as a result of an Agreement shall be paid by North Wind, or North Wind shall arrange for the exclusion from any and all such taxes, dues, import duties, stamps, or other duties, and charges.

Any and all taxes (including local and national income taxes, property taxes, excise taxes, performing business taxes) and dues, import duties, stamps, or other duties and charges applicable under or with respect to the laws of any country other than the United States of America arising from or imposed as a result of an Agreement shall be paid by Customer, or Customer shall arrange for the exclusion from any and all such taxes, dues, import duties, stamps, or other duties, and charges.

15. Assignment: Neither an Agreement nor any interest herein may be assigned or otherwise transferred by Customer, in whole or in part, without the prior written consent of North Wind. Any assignment or transfer without such written consent shall be null and void.

16. Severability: The terms and provisions of an Agreement shall be considered separate and severable, and the invalidity or unenforceability of any item shall not affect the validity or enforceability of the other remaining items.

17. Governing Law, Jurisdiction and Venue: An Agreement will be governed by and construed in accordance with the substantive laws of the State of Minnesota, without giving effect to any choice-of-law rules that may require the application of the laws of another jurisdiction. Customer (i) consents to the personal jurisdiction of the state and federal courts located in the State of Minnesota in connection with any controversy related in any way to an Agreement or any other controversy between North Wind and Customer, (ii) waives any argument that venue and such forum is not convenient, and (iii) agrees that any litigation initiated by Customer against North Wind in connection with an Agreement or otherwise, shall be venued in either the District Court of Ramsey County, Minnesota, or the United States District Court, District of Minnesota Third or Fourth Division.

18. Survival of Obligations: Any obligations and duties which by their nature extend beyond expiration or termination of an Agreement shall survive the expiration or termination of an Agreement.

19. Waiver: Failure to exercise any of these Terms under an Agreement in one or more instances shall not be deemed a waiver of such rights of North Wind in any other instance.

20. Captions: Captions or headings herein are for convenience only and in no way limit the scope or intent of any of the provisions or sections of an Agreement.

21. Use of North Wind's Name or Logo: In connection with an Agreement or any relationships

arising out of, by or through an Agreement or any report, study, or document produced in connection therewith, the Customer shall not, without the prior written consent of North Wind, use the name of North Wind, its parent, affiliates, agents or assignees, or any member of the staff of any of the foregoing or any trademark or logo of North Wind, or any of the foregoing, in any form of publicity, advertising, or other publicity available material.

22. Relationship of the Parties: The Parties are conducting transactions arising out of an Agreement as independent contractors, and do not intend to create any of the following relationships for any purpose: (i) employer and employee; (ii) partnership or joint venture; (iii) an agency; (iv) trust or other fiduciary relationship; or (v) any other legal entity. Neither Party will enter into any agreements, make any warranties or representations, nor assume or create any other obligations on the other Party's behalf.

23. Access: The Customer shall provide access to North Wind and its subcontractors to the Customer's site or facilities, as may be necessary for North Wind to perform its contractual obligations.

24. Licenses: Customer shall be responsible for obtaining all licenses, authorizations, permits, and consents of its National and Local Governmental authorities that may be requested in order to enable North Wind to perform its contractual obligations. Notwithstanding the foregoing, North Wind will be responsible for all United States export license(s).

25. Counterparts: An Agreement may be executed simultaneously in two or more separate counterparts; any one which need not contain the signatures of more than one party, each of which shall be an original, and all of which together shall constitute one and the same agreement, binding on all parties hereto.

26. Cancellation and Postponement Liability:

A. If the Customer Cancels or Postpones all or any part of the Firm Scope of a Test Program prior to the Facility Setup Activity Date, then the Customer shall pay to North Wind a fee equal to 30% of the price of the Firm Scope of the Test Program.

B. If the Customer Cancels or Postpones all or any part of the Firm Scope of a Test Program on or after the Facility Setup Activity Date, then the Customer shall pay to North Wind a fee equal to 50% of the price for the Firm Scope of the Test Program that has been Cancelled or Postponed.

C. If a Customer Cancels or Postpones all or any part of the TBD Scope after the Data Acquisition Activity Date, then (i) the Customer shall pay for 100% of the TBD Scope in accordance with the purchase order or fully-signed contract related to the Test Program pursuant to an invoice from North Wind, and (ii) the Customer shall receive a credit in the amount of such payment, which may be used to pay for services from North Wind within one (1) year from the date of such invoice.

D. Liability for Customer-Directed Short-Term Suspension of Testing. If the Customer directs North Wind to temporarily suspend or stop working on a Test Program on or after the Data Acquisition Activity Date for more than eight (8) hours in any one calendar day, then the Customer shall pay to North Wind a daily stand down charge, as set forth in North Wind's price proposal for the Test Program, for each such day. The Customer agrees that after five (5) daily stand down charges have been incurred with respect to a Test Program, the remainder of the Test program shall be deemed to be Postponed and the Customer shall pay the applicable fees as set forth in paragraphs A., B., or C. above.

E. Rights and remedies of North Wind under this clause, the Terms and Conditions and any Agreement related to the Test Program shall be cumulative, and the exercise or partial exercise of any such right or remedy by North Wind shall not preclude the exercise of any other right or remedy.

F. For purposes of this clause, the following capitalized terms are defined as follows:



1. *Cancel*: to cancel, terminate, rescind or revoke a Test Program, or to Postpone a Test Program for more than one (1) year from the original Facility Setup Activity Date.
2. *Data Acquisition Activity Date*: the first day when data is acquired in North Wind's aerodynamic test facility in connection with Customer's Test Program.
3. *Facility Setup Activity Date*: the first day of activity in physical modifications to the test facility in connection with a Test Program, as agreed in writing (email shall suffice) by Customer and North Wind.
4. *Firm Scope*: the portion of a Test Program that is denominated as "Firm Work Scope" in North Wind's price proposal for such Test Program.
5. *Postpone*: to unilaterally delay the Test Program. Rescheduling by mutual agreement is not a postponement.
6. *TBD Scope*: the portion of a Test Program that is denominated as "TBD Work Scope" in North Wind's price proposal for such Test Program.
7. *Test Program*: research and/or testing program to be conducted in an aerodynamic test facility, based on receipt and acceptance of Customer's purchase order and/or a fully-signed contract between Customer and North Wind.