

TERMS AND CONDITIONS OF SALE FOR EVALUATION (BETA) PRODUCT

These Terms and Conditions of Sale for Evaluation (Beta) Product (the “**Agreement**”) sets forth the terms under which FlightWave Aerospace Systems Inc. (“**FlightWave**”) will provide to the customer identified in the signature block of this Agreement (“**Customer**”) a pre-release version of the product described on Exhibit A hereto (the “**Product**”) for purposes of evaluation and feedback. FlightWave and Customer agree as follows:

PAYMENT AND DELIVERY

(a) The prices for the Product are set forth in a separate purchase agreement. All Prices are denominated and will be paid in United States dollars. FlightWave may invoice Customer for the Products, and Customer will pay such invoices within 30 days after the date of each such invoice.

(b) Prices do not include any applicable taxes, duties, tariffs, or other fees imposed by any government entity (“**Taxes**”), which FlightWave may invoice and Customer will pay as set forth in subsection (a) above. If Customer is exempt from any applicable Taxes, Customer must provide FlightWave with a valid exemption.

(c) Any shipment dates provided by FlightWave are estimates only. Because the Product is a pre-release version that is not mass-produced, production and shipment dates are inherently unpredictable.

PRE-RELEASE VERSION; EVALUATION; FEEDBACK

(a) The parties acknowledge that the Product is a pre-release version intended for testing and preliminary evaluation of a potential new product line, and that it may contain design and manufacturing flaws and other defects that would not be expected in a completed product released to the general public. Furthermore, there is no guarantee that such errors and defects will be corrected or that a commercial version of the Product will ever become available. FLIGHTWAVE ADVISES CUSTOMER TO CONSIDER THE LIKELIHOOD OF FLAWS AND DEFECTS IN THE PRODUCT AND TO TAKE CORRESPONDING SAFETY PRECAUTIONS WHEN TESTING AND EVALUATING THE PRODUCT.

(b) Customer agrees to provide FlightWave with information and feedback in connection with the Product including its performance, reliability, ease of use, flaws, defects, and commercial viability, along with suggestions for modifications and improvements to the Product and for development of future products of FlightWave (collectively, “**Feedback**”). Customer grants FlightWave a worldwide, transferrable, irrevocable, sublicensable license to use and exploit the Feedback in any manner, including to develop and improve the commercial products of FlightWave.

INDEMNITY

Customer is responsible for all use of the Product, and will defend and indemnify FlightWave and its officers, directors, employees, consultants, affiliates, subsidiaries and agents from and against every claim brought by a third party, and any related liability, damage, loss, and expense, including reasonable attorneys' fees and costs, arising out of or connected with: (a) Customer's use of, or misuse of, the Product, including failure to take safety precautions suitable to testing and evaluation of a pre-release product; (b) Customer's violation of any portion of this Agreement or any applicable law or regulation; or (c) any dispute or issue between Customer and any third party; but in each case, not including liabilities and costs to the extent arising from FlightWave's gross negligence or willful misconduct. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification hereunder (without limiting Customer's indemnification obligations with respect to that matter) and in that case, Customer will cooperate with our defense of those claims.

NO WARRANTY

BECAUSE THE PRODUCT IS A PRE-RELEASE VERSION FOR EVALUATION ONLY, THE PRODUCT IS PROVIDED “AS IS” AND USE OF THE PRODUCT IS ENTIRELY AT CUSTOMER'S OWN RISK.

FLIGHTWAVE MAKES NO WARRANTIES REGARDING THE PRODUCT OR ITS USABILITY, AND HEREBY DISCLAIMS TO THE MAXIMUM EXTENT PERMITTED BY LAW ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING THE WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE.

LIMITATION OF LIABILITY

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES ARISING IN CONNECTION WITH THIS AGREEMENT OR ANY PRODUCT, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY; AND UNDER NO CIRCUMSTANCES WILL FLIGHTWAVE'S LIABILITY TO CUSTOMER ARISING OUT OF THIS AGREEMENT OR RELATING TO ANY PRODUCT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO FLIGHTWAVE FOR SUCH PRODUCT. THE PARTIES AGREE THAT THE FOREGOING LIMITATIONS REPRESENT A REASONABLE ALLOCATION OF RISK FOR A PRE-RELEASE PRODUCT; THAT ABSENT SUCH LIMITATIONS, FLIGHTWAVE WOULD NOT HAVE PROVIDED THE PRODUCT TO CUSTOMER FOR EVALUATION; AND THAT SUCH LIMITATIONS WILL APPLY EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

GENERAL

(a) FlightWave retains ownership of all rights (including intellectual property rights) in and to the Product and associated prototypes, designs, and technical data, including any models, drawings, patterns, composites, molds, masks, fixtures, and tools used in making them.

(b) The Product may not be exported or reexported, directly or indirectly, contrary to applicable laws or the export controls promulgated by the United States government.

(c) This Agreement is not (and is not intended by the parties to be) terminable except upon the mutual written agreement of both parties.

(d) This Agreement is governed by the laws of the State of California, without reference to conflicts of law principles or the United Nations Convention on Contracts for the International Sale of Goods. Each party submits to personal jurisdiction in the state and federal courts located in Los Angeles County, California for the exclusive resolution of any and all disputes arising out of or in connection with this Agreement; and each party hereby waives any objections related to inconvenient forum or venue in such courts.

(e) This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter hereof. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless set forth in writing signed by both parties hereto. If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, then the remaining provisions will nevertheless remain in full force and effect. The failure of either party to enforce at any time any provision of the Agreement, or the failure to require at any time performance by the other party of any provision of this Agreement, will in no way be construed to be a present or future waiver of such provisions, nor in any way affect the validity of either party to enforce each and every such provision thereafter. The parties hereto are independent contractors, and neither party is an employee, agent, partner or joint venturer of the other.

IN WITNESS WHEREOF, the parties have executed this Agreement, effective as of the later date of signature below.

CUSTOMER: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

FLIGHTWAVE: FlightWave Aerospace Systems Inc.

Signature: _____

Printed Name: _____

Title: _____

Date: _____