



STANDARD TERMS AND CONDITIONS OF SERVICE AND SALE

The following terms apply to all Testek Solutions proposals/contracts unless otherwise noted in the specific proposal/contract.

1. **ACCEPTANCE OF ORDER:**
All orders/proposals are subject to final written acknowledgement and acceptance by Testek Solutions ("Company") in Wixom, Michigan USA and are expressly limited to the terms and conditions set forth herein. Buyer must respond to any exceptions noted under Company's final written acknowledgement and acceptance within seven (7) days from the date thereof; failing which, Buyer shall be deemed to have fully accepted all of Company's terms and conditions without reserve, and all such terms and conditions shall be applicable to the order. Acceptance of any deposit made with an order or the cashing of any check or other instrument by Company shall not be deemed to be an acceptance by Company. If the order is not accepted, Company will promptly refund any deposit. Company reserves the right to reject any proposal accepted by Buyer and to correct any typographical or clerical errors in any proposal, order or acknowledgment.
2. **PRICES:**
Unless otherwise agreed in writing, prices are quoted in United States dollars EXW (Incoterms 2020) Company's plant, Wixom, Michigan USA and shall be as stated in Company's proposal. Prices are subject to change without notice after the expiration date set forth in the proposal or if none is stated, ninety (90) days after the date of the proposal. The prices include any federal, State of Michigan and/or Wixom city taxes applicable to the manufacture and sale by Company of the goods. The prices do not include, and Buyer is responsible for, any state or local taxes other than those for Michigan or the City of Wixom, all other expenses such as freight, insurance, customs, duties, landing charges, transportation costs from EXW Company's plant to Buyer's site and all other charges, including fees and taxes which may be imposed by any governmental authorities.
3. **PAYMENT TERMS:**
Payment terms are as indicated in the attached proposal. Amounts past due are subject to an additional late charge of 1.5% per month or fraction thereof. If the Buyer fails to fulfill the terms of payment of any invoice or if the financial or business condition of Buyer shall become impaired or unsatisfactory in the sole discretion of Company, Company may withhold delivery of all or part of the products subject hereto, without prejudice to any other legal or equitable remedy, until past due payments are made and satisfactory assurance of payment is received. If Company, in its judgment at any time deems that by reason of the financial condition of Buyer or otherwise the continuance of production or shipment on the terms specified herein is not justified, Company may require full or partial payment in advance. Certain orders may, in the judgment of Company because of their nature or the delivery involved, require progress payments. Such required payments shall become due as work on the order progresses and shipments are prepared or made. Until payment in full has been received by Company, all goods supplied by Company under this agreement shall remain the property of Company, and Buyer shall keep them separate from other goods of Buyer so as to be readily identifiable as Company's goods. Company or its authorized representative shall be entitled to enter Buyer's premises to recover such goods and to resell them. Buyer shall have no claim against Company for such entry or sale. Buyer shall not have the right to return goods supplied by Company or to refuse or delay any payment for goods received.
4. **PACKAGING AND SHIPMENT:**
For shipments within the continental United States to include Canada and Mexico, the goods will be packaged for delivery via road in an air-ride van. For ocean shipments, the goods will be loaded into ocean going enclosed containers for shipment via road and then ocean. There will be additional charge for goods prepared for air shipment. Company requires that the goods that are shipped via road be in an air-ride van and cannot be responsible for any damages or delays in repair caused in delivery if any other method of surface transportation is used. Transportation of any goods under the order via train shall not be acceptable, and shall in all instances void any related equipment warranty.
5. **SPARE PARTS:**
A quote for spare parts necessary to provide proper maintenance and servicing of this equipment will be provided by Company upon request. Buyer can purchase all or part of the recommended spare parts. Should Buyer purchase spare parts, they are sold in accordance with the part number for the spare part under contract and the applicable Company specifications. This part may or may not be interchangeable with an existing part and may require additional modification to be utilized. Company will assist in such adaptation; however, field service charges are not included in the price of the spare part, unless specifically included in the proposal. Spare parts cannot be returned.
6. **DELIVERY:**
"Delivery" herein shall mean shipment from the Company's plant. Neither Company or Buyer shall be held responsible or deemed to be in default of this contract or any part hereof because of delays in delivery of the goods, any service to be performed or act required to be performed hereunder by Buyer or Company due to an event or cause which is beyond the control of the party who was to perform the act, including, but not limited to, acts of God, war or warlike operations, rebellion or civil strikes, fires, floods, epidemics or quarantine, government regulations, lockout or labor trouble resulting in shutdowns or other unavoidable circumstances which prevents the performance of either party. Neither party shall be liable for incidental, consequential, punitive or special damages arising out of such delay or failure to perform. In the event of any such occurrence, Company may extend the delivery schedules or may at its option, cancel the order in whole or in part without liability other than to return any deposit or prepayment in the event that such order is canceled.

Shipping dates given by Company are approximate and are based on prompt receipt of all necessary information, replies to Company's correspondence, and receipt of all required test parts and associated items, in connection with this order. This includes Buyer's timely response in providing approval with or without comments to the technical data package including the facility layout, assembly drawings, etc.



Company will use its best efforts to meet the scheduled delivery date but does not guarantee to do so. Failure to make shipments as scheduled within a reasonable time frame, does not constitute a cause for cancellation and/or for damages of any character. It is Buyer's responsibility to cooperate with Company at all times, in order that Company may perform its obligations in accordance with the order. In the event of any delay requested or caused by Buyer, including the lack of shipping instructions, and/or Buyer's non-responsiveness to the above stated requirements, Company will store all items ordered at Buyer's risk and expense at a rate of 1.5% of the value of stored items per month of delay or fraction thereof, and will invoice Buyer for the full contract price of the goods on or after the date on which the same is i) ready for delivery or ii) is scheduled for delivery, if such delay is caused by Buyer's failure to provide CFE in accordance with Section 7 herein. Notwithstanding, any delays by Buyer shall not impact the payment schedule under the order and Buyer shall make payment in accordance with the original payment dates. In the event that a Buyer-caused delay should impact the order pricing and delivery schedule, on written notification by Company, Buyer agrees to pay such cost increase and/or accepts such schedule adjustment. Company is not responsible for any risk of loss, damage or delay that may occur after the goods have been accepted for shipment by the carrier. Any such claim should be made to the carrier in accordance with applicable law.

The quoted delivery schedule shall begin on the last date which Company receives the acceptable written purchase order from Buyer and receipt of the first initial payment or acceptable letter of credit, whichever is applicable.

7. CUSTOMER FURNISHED EQUIPMENT AND DATA:

- 7.1. If applicable and in furtherance of Company's obligations under the order, Buyer shall provide the free loan of data, aircraft components, test parts and ancillary items in flight worthy condition (hereinafter "CFE") to Company for the purpose of performing testing related to the ordered goods. Buyer acknowledges that provision of CFE is critical to completion of the goods, and delays in the provision of CFE may result in both cost and schedule impacts to the order. Company reserves the right to pass to Buyer any and all liabilities resulting from increased costs and delivery delays caused by Buyer's failure to provide CFE to Company, without prejudice to the storage fee provided in Section 6 above. Buyer shall provide any required CFE to Company in a timely manner. All CFE is required to be provided to Testek's Wixom, MI USA facility in accordance with the schedule defined in the proposal and/or resulting program plan. Should for any reason the Buyer be unable to meet the proposed schedule for supply of the CFE, the Buyer shall honor all invoice and payment schedules in accordance with the original planned timing.
- 7.2. While in its possession, Company will utilize the CFE within prescribed operating parameters as contained in the respective Component Maintenance Manual (CMM) and maintain the CFE in the same condition as it was received, except for reasonable wear and tear. Buyer acknowledges that there is an inherent risk of loss of CFE due to the nature of testing, and Company shall only be liable for damages caused by its sole and exclusive gross negligence or willful misconduct in the testing and handling of CFE. In no event shall Company be liable to Buyer for incidental, punitive, special or consequential damages (including loss of profits or loss of use) related to or arising out of loss or damage to CFE.
- 7.3. Company may request Buyer to provide data necessary for the design, build, modification and/or testing of any purchased equipment or software, including but not limited to CMMs. Buyer agrees to comply with such request and provide only data which Buyer is legally authorized to supply to Company for the purposes contemplated under this contract and any associated purchase order. Buyer agrees to certify to its legal supply of any such data, on request of Company.
- 7.4. Buyer shall defend, indemnify, and hold harmless Company and Company's affiliates, agents, and customers from any and all damages, liabilities, claims, losses, suits, legal actions, investigations, or any threat of the same ("Claims"), arising out of or related to the receipt and use by Company of any data received from Buyer under or pursuant to this contract and any associated purchase order, or any Claims that the sale to Buyer of any good incorporating such data constitutes an infringement of any patent, trade secret, trademark, service mark, copyright, or related application, or other intellectual property or proprietary information infringement. Should Buyer be unable to legally provide such data to Company, Company shall have the right to cancel this contract and any associated purchase order.

8. WARRANTY AND GUARANTEE:

- 8.1. Company Warranty. Company warrants the material and workmanship on new equipment and Testek Solutions spare parts for a period of one (1) year from final acceptance date or fifteen (15) months from shipment (i.e., "Warranty Period"), whichever occurs first.
- 8.2. Remedies. If a defect in material or workmanship is discovered in any of the goods or part thereof within the Warranty Period, Company will replace or repair such part which is proven to the satisfaction of Company to be defective.
- 8.3. Warranty Conditions. This warranty is contingent upon the goods being promptly and properly installed, maintained and operated within the limits of related and normal usage under recommended conditions as specified by Company and upon final payment for each phase. Warranty is contingent on all parts (especially replacement parts) being the correct Testek Solutions part number per Company's drawings. If Company determines, after examination of the defective part, that the defect is due to misuse, improper maintenance or unauthorized alteration or repair, Company will be entitled to deny the warranty claim and charge Buyer for the repair or replacement of that part. The warranty provided herein applies only if Buyer complies with all other terms and provisions of this warranty.
- 8.4. Warranty of Replaced or Repaired Parts. Replacement or repair of parts by Company will be accomplished diligently. In no event will the total system warranty be extended due to warranty issues regarding repaired or replaced parts of the system.
- 8.5. Labor Allowance. Company shall have the sole right to specify the manner in which and the party by whom repair of the product is to be carried out. In the event of a warranty claim requiring labor to affect repair, Company will have the option to carry out such repair by replacement of defective parts to the user location, or by return of the defective part to Company's plant for repair. Buyer shall be responsible



for transportation and insurance of such equipment to and from Company's plant. Disassembly and reassembly shall be the responsibility of Buyer. In the event of replacement, defective parts will become the property of Company. Company reserves the right to determine the location and the personnel necessary to effect any corrective action during the warranty period.

- 8.6. Claim Procedure. In all cases involving a warranty claim, within ten (10) days of discovering the defect, Buyer will submit a completed warranty claim form to Company's warranty administrator. Upon request from Company, Buyer will return the defective part, freight prepaid, for confirmation that the part is defective. Company may repair and return the defective part or replace it at Company's option. Company will make its best effort to repair or replace the defective part within thirty (30) days from the date it receives the warranty claim.
- 8.7. Limitation of Warranty. COMPANY, OTHER THAN FOR SUCH REPAIR OR REPLACEMENT OF DEFECTIVE PARTS, SHALL HAVE NO OTHER LIABILITY, DIRECT OR INDIRECT OF ANY KIND, INCLUDING LIABILITY FOR SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES.
- 8.8. Service Representative. If during the warranty period, there are technical difficulties with the goods or installation, Company will have a field service representative available to communicate with Buyer by telephone or email to try to resolve the problem. If, after a reasonable period of trying to resolve the problem in this manner, the fault or difficulty is still unresolved, Company may offer to send its service representative to the user site; all such expense shall be for the account of Buyer, at Company's prevailing field service rates.
- 8.9. Shipping Costs. Buyer will be responsible for any government taxes, duties or fees on account of the import or export of any defective part, its return of the repaired part or replacement part. Company will ship any repaired part or replacement part to customer F.O.B. Company's plant, Wixom, Michigan USA.
- 8.10. Resale or Lease of Equipment. This warranty is non-transferable without the express written consent of Company's authorized representative and Buyer shall notify Company and purchaser/lessee of same. Company's only liability with respect to said equipment is as set forth in this warranty. In the event that Buyer fails to notify Company and purchaser/lessee, Buyer agrees to indemnify Company against any claims, demands, judgments, suits, costs, liabilities and expenses (including reasonable attorney's fees) incurred by Company as a result of such failure.
- 8.11. Unauthorized Repairs. Unless otherwise agreed in writing signed by a duly authorized representative of Company, if Buyer has repairs or modifications made to equipment covered by this warranty by a person other than an authorized Testek Solutions service representative, Company shall not be liable for any expense incurred in connection therewith and the warranty provided herein shall automatically be terminated.
- 8.12. Exceptions and Conditions. Company has no obligation to repair or replace a test stand or any parts thereof that exhibits a warranted characteristic that results exclusively from the following:
- Foreign object damage (unless ingested at Company's facility)
 - Battle damage or combat damage
 - Act of God
 - Improper or negligent installation, operation or maintenance of the test stand (unless such actions were the result of Company's activity)
 - Installation or use of a part not identified as Company's documented part number for that application
 - Experimental tests applied to the test stand or parts thereof
 - Facility input (i.e., air, water, electricity) induced failures

The warranty provided herein specifically excludes equipment and components that Company purchases and resells as part of a system, product or spare part order. The warranties provided to Company by the manufacturers of the foregoing equipment and components will, to the extent possible, be passed on to the Buyer. Consumable and maintenance items including, but not limited to, lamps, filters, fuses, motor brushes, minor leaks, and loosened electrical connections are excluded from all warranties. Other items or components may be excluded from this warranty if so noted in the governing purchase order or contract.

- 8.13. DISCLAIMER OF ALL OTHER WARRANTIES/LIMITATION OF LIABILITY. THIS WARRANTY COMPRISES COMPANY'S SOLE AND ENTIRE WARRANTY OBLIGATION TO BUYER, ITS CUSTOMERS AND ASSIGNS IN CONNECTION THE EQUIPMENT SOLD, ASSIGNED, LEASED OR OTHERWISE DEALT WITH BY COMPANY. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE, ARE EXPRESSLY EXCLUDED. IN NO EVENT SHALL COMPANY BE LIABLE IN CONTRACT, IN TORT, OR OTHERWISE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUES, LOSS OF USE OF THE EQUIPMENT OR DAMAGE TO ASSOCIATED EQUIPMENT, DAMAGE OR INJURY TO PERSONS OR PROPERTY, COST OF CAPITAL, COST OF SUBSTITUTE, OR TEMPORARY EQUIPMENT, DOWNTIME OR CLAIMS OF CUSTOMERS) ARISING OUT OF OR AS A RESULT OF BREACH OF WARRANTY, DEFECT IN MATERIAL OR WORKMANSHIP, OR ANY OTHER OBLIGATION OF COMPANY HEREUNDER.
9. TERMINATION:
No order or any part thereof may be terminated by Buyer at any time except with the written approval of an authorized representative of Company at its main office in Wixom, Michigan USA. If Buyer fails to make payments to Company in accordance with the terms hereof, Company may, at its option, terminate all undelivered parts of any order by written notice to Buyer. In the event of any termination of this order by either party, Buyer shall pay to Company reasonable costs and expenses (including engineering expenses and all commitments by Company to its subcontractors) incurred by Company prior to receipt of notice of such termination plus Company's usual rate of profit for similar work.



10. **INDEMNITY:**
Buyer shall comply with and require its agents and employees to comply with all directions, safety notices, warnings and other instructions furnished by Company, and shall use and require its agents and employees to use reasonable care in the use of the products. Buyer hereby agrees to defend, indemnify and hold Company, its successors, assigns and agents, harmless from and against loss, damage or liability, including costs and expenses which may be incurred on account of any suit, claim, judgment or demand involving infringement or alleged infringement of any patents, trademarks, copyrights, trade secrets, licenses or other rights of third parties as a result of the manufacture of goods by Company pursuant to Buyer's specifications, designs, drawings or other specifications.
11. **ASSIGNMENT:**
Neither this order nor any rights or obligations created herein may be assigned by Buyer without Company's prior written consent. The terms and conditions of this order shall bind any permitted successors and assigns of Buyer.
12. **PROPRIETARY RIGHTS:**
All engineering data, specifications, designs, drawings, proposal details, proposal prices, software source code or any other information or know-how used in connection with Company's obligations herein are the property of Company. Buyer shall not sell, reproduce in any form, use or disclose such information.
13. **PATENT INFRINGEMENT:**
Company warrants that the products to be supplied hereunder (except products made by Company to drawings or specifications of the Buyer) will not in themselves infringe any United States patent. Company assumes no obligation in regard to patent infringement resulting from the use of products in combination with any products not furnished by Company. Liability under this warranty is limited to the aggregate amount (exclusive of taxes and transportation) to be paid hereunder and is conditioned upon Buyer giving Company prompt written notice of any claim of patent infringement and granting Company exclusive control of its settlement and/or litigation.
14. **APPROVAL OF DRAWINGS/TEST PARTS:**
When approval of drawings is required and such approval is not received by Company within sixty (60) days after their submittal, Company reserves the right to increase its selling price to cover any anticipated manufacturing cost increases as a result of such delay.

Special test parts and test adaptors and tools with original equipment manufacturer part numbers that are available from the component or engine manufacturer will be supplied by Buyer in accordance with the agreed upon project schedule. All others will be supplied by Company for mounting and connecting test parts to the test stand. Mating electrical connectors to the test parts sent to Company for testing will be supplied by Company with the test harness. All other mating connectors required for testing of the test parts, which were not sent to Company, will be supplied by Buyer. All test parts (unit under test), are to be supplied by Buyer.

Company will supply the mounting adaptors and demonstrate or provide training at its plant to the personnel using Buyer supplied test parts. In the event the test parts are not supplied to Company for testing at Company's plant, only the mounting adaptor drawings will be furnished by Company for Buyer's use for these test parts.

All transportation costs, customs clearance charges, freight forwarders charges, transportation insurance, etc. for test parts are to be paid by Buyer. Company will invoice these charges to Buyer in the event these charges are paid by Company in order to facilitate delivery.

Buyer is requested to send a copy of the air waybill and the shipping documents with the declared value of the test parts whenever Buyer customer has shipped any item to Company. This is to minimize the time spent through the U.S. customs/freight forwarder.
15. **INSTALLATION:**
Unless specifically stated otherwise, installation of the equipment under this contract/proposal is performed by Buyer. Buyer will provide all necessary facility utility services such as cooling water, shop air, air handling, ventilation, indoor atmosphere, room illumination. Buyer will also provide all necessary materials and installation labor to install this test stand into the facility. When specifically included as part of the contract/proposal, Company will provide installation supervision and startup of the test stand. The installation supervision is only intended to guide Buyer's personnel for the necessary installation. The actual installation is by Buyer.
16. **TRANSPORTATION:**
Unless otherwise specifically included in the contract, all shipments from Company are F.O.B. Company's plant, Wixom, Michigan USA. Buyer will pay for transportation charges, custom clearance charges, freight forwarders charges, etc. for any items shipped by Buyer to Company. An example of such items is Buyer supplied test parts, test fixtures, warranty parts returned to Company, etc. Any warranty return parts must have Company's authority and carry a return material authorization (RMA) number to be issued by Company. Wherever possible and specifically for parts below fifty (50) pound weight, parts must be sent via commercial carriers such as UPS, Federal Express, DHL, etc. with all charges paid by Buyer. When the items are sent by other methods, they go through the freight forwarder at the U.S. customs office. The freight forwarder typically charges a minimum of \$250 for each shipment coming in to Company. Company will invoice the customer for the freight forwarder charges. In order to minimize these charges, Company recommends grouping shipments together when the regular method such as UPS, Federal Express, DHL, etc. cannot be used. The regular methods (UPS, Federal Express, DHL, etc.) have much lower handling charges.
17. **APPLICABLE TEST PROCEDURES AND SPECIFICATIONS:**
Note that prices, terms and delivery in this proposal are for CMMs or Specifications in effect on the date of this proposal. Subsequent changes to those CMMs or Specifications may result in additional charges.



18. EXPORT CONTROL:

The Parties each acknowledge and agree that all or part of the goods supplied by Company under the order may be subject to the export control laws and regulations of the United States, including but not limited to the Export Administration Act of 1979 and the Export Administration Regulations promulgated thereunder, the Arms Export Control Act, the International Traffic in Arms Regulations and the sanctions laws administered by the Office of Foreign Assets Control ("U.S. Export Control Laws"). The Parties acknowledge that these U.S. Export Control Laws impose restrictions on import, export and transfer to third countries of certain categories of commodities, software, technical data and services; that licenses from the U.S. Department of State, U.S. Department of Commerce or other empowered U.S. government agency may be required before such items can be exported, re-exported or transferred; and that such licenses may impose further restrictions on use, disclosure, export, re-export or transfer of such items. Each Party agrees to comply with all applicable U.S. Export Control Laws, and to indemnify the other Party for its own violation(s) of such laws. Buyer shall not export, re-export, or transfer any commodity, software, technical data or service provided by Company under the order, to any third party, without a valid license issued by a respective U.S. government agency.

19. GENERAL:

Any and all representations, promises, warranties or statements made by Company's agent or agents that differ in any way from the terms of this written contract shall be given no force or effect. None of the terms of this contract shall be subject to change except by written authorization by a properly authorized representative of Company at its main office in Wixom, Michigan USA. The failure of Company to object to any provision in conflict herewith, whether contained on Buyer's offer to purchase or otherwise, shall not be construed as a waiver of the terms of this contract nor as an acceptance thereof.

Should any term of this contract be invalid under applicable law, the contract shall not fail by reason thereof but shall be construed in the same manner as if such term had not appeared herein. Any action by Buyer under or relating to this contract must be commenced within one (1) year after such cause of action has accrued. The rights and remedies provided in this contract shall be cumulative and shall not be exclusive of, but shall be in addition to, any other rights, remedies and benefits provided herein or allowed by applicable law. Waiver by Company of a breach of any provision of this contract shall not be deemed a waiver of future compliance therewith, and such provisions shall remain in full force and effect.

The terms and conditions of sale herein, if any, and all drawings, specifications, descriptions and other documents as provided with Company's technical proposal constitute the final written expression of all of the terms of this contract and are a complete and exclusive statement of those terms, and supersede all prior and contemporaneous communications, whether written or oral, between Company and Buyer. Any terms and conditions in conflict with these on Buyer's order form are specifically rejected. This contract shall be governed by and construed according to the laws of the State of Michigan USA.

Digital location: [Testek's Standard Terms and Conditions of Service and Sale](#)