

1. **GENERAL:** These terms and conditions ("Terms") shall be applicable to any accompanying purchase order received by you ("Supplier") from Advanced Engineering, Inc. ("Purchaser"). The term "Goods and Services" means anything provided hereunder to Purchaser by the Supplier. All specifications, drawings, and data submitted to Supplier relating to the purchase order and these purchase order Terms (collectively, the "Purchase Order") are hereby incorporated herein. Additional terms, conditions, specifications, drawings, data, or instructions specified by Purchaser in the body of the Purchase Order, or in an exhibit thereto, are incorporated herein by reference, and, in the event of a conflict, shall take precedence over these Terms.
2. **ACCEPTANCE:** Acceptance of any Purchase Order issued by Purchaser is expressly limited to these Terms and the applicable Purchase Order. Purchaser shall not be bound by any additional, different, or inconsistent terms contained in any proposal, quotation, acceptance, invoice, or any other document or communication from Supplier unless the parties specifically agree in writing to incorporate such terms in the Purchase Order or otherwise agreed to in writing by Purchaser. Supplier's shipment of Goods or commencement of work in response to Purchaser's Order shall constitute acceptance of these Terms, and any additional, different, or inconsistent terms contained in any document or communication submitted by Supplier shall not be binding on Purchaser, shall be considered waived, and shall not constitute any part of the contract of sale resulting from Supplier's acceptance.
3. **MODIFICATIONS OR AMENDMENTS:** (a) **Purchase Order:** No modification, variation, or amendment of a Purchase Order, the Terms of such Purchase Order, or the contract of sale resulting from the acceptance of a Purchase Order shall be valid or binding on Purchaser unless agreed to in writing by a duly authorized representative of Purchaser. Despite anything to the contrary contained in these Terms, if Supplier and Purchaser have executed an agreement which governs the purchase and sale of the applicable Goods or performance of a Service, the terms of such agreement shall be controlling and shall take precedence over these Terms and any additional or different terms contained in any document generated by Supplier; (b) **Scope of Purchase Order by Purchaser:** Purchaser shall have the right by written Purchase Order issued at any time prior to delivery of the Goods or performance of the service, to make changes in the work to be performed on the Goods or Service. If such changes cause an increase or decrease in the amount due under the Purchase Order or in the time required for its performance, an equitable adjustment shall be made and the Purchase Order shall be modified in writing accordingly. Any claim for adjustment must be asserted by Supplier in writing within ten (10) business days from the date the change is ordered. If such changes render any items not yet delivered to Purchaser nonconforming or obsolete, Purchaser shall have the right to prescribe the manner of disposition of such items. Nothing contained in this clause shall relieve Supplier from proceeding without delay in the performance of the Purchase Order as changed; (c) **Terms and Conditions contained in incorporated documents located on line or in websites:** terms and provisions contained in documents located on line or in websites which are referred to or incorporated in this Purchase Order may be changed and amended from time to time by the Purchaser and shall be those terms and conditions contained in such documents as of the date of this Purchase Order.
4. **PRICE:** Supplier shall invoice Purchaser at prices set out in the Purchase Order, which prices shall be complete and without any addition. If no price is stated on the Purchase Order, Goods

must not be furnished at a price higher than last price paid by Purchaser to Supplier for comparable Goods without written acceptance by Purchaser of such increased price. Supplier represents that the price charged for the Goods is the lowest price charged by Supplier to other Purchasers of a class similar to Purchaser's under similar circumstances. Supplier agrees that any general price reduction in Goods or Service covered by the Purchase Order at any time prior to the shipment of the same will be applied to the Purchase Order. Purchaser shall have the right to off-set any payment or other obligation owed by Purchaser to Supplier, in whole or in part, against any payment or other obligation owed by Supplier to Purchaser.

5. **TAX:** Unless otherwise agreed in writing and in advance by Purchaser, Supplier shall be responsible for payment of any and all taxes, customs duties, or other charges imposed by any governmental entity that are, under applicable foreign, federal, state or local laws, imposed on the manufacture, provision or sale of the Goods or Services delivered or provided pursuant to this Purchase Order or related payment therefore. Purchase price is exclusive of VAT. VAT shall be added to the purchase price by supplier if and to the extent applicable mandatory laws so require.
6. **SELLER REPRESENTATIONS:** Seller shall (i) provide to Purchaser the Goods and Services ordered in accordance with the terms stipulated in the Purchase Order; (ii) keep Purchaser advised of the status of the Purchase Order; (iii) permit duly authorized representatives of Purchaser reasonable access to Seller's facilities from time to time upon reasonable notice to inspect the Goods and Services and review and observe the manufacture and processing of Goods and Services and/or examine all records related thereto; (iv) provide Purchaser with such reports as are appropriate to the nature of the Goods and Services ordered and as may be reasonably requested by Purchaser from time to time; (v) retain records and other documentation regarding the manufacture process; and (vi) keep, for orders requiring payment based on hours worked, cost of materials used and/or expenses incurred, records of hours worked, cost of materials used, and reasonable out-of-pocket expenses incurred in filling the Purchase Order, which records Purchaser's duly authorized representatives may examine from time to time upon reasonable notice. Further, if the Purchase Order includes Services, Supplier represents and warrants that (i) such Services will be performed or provided by qualified individuals skilled and trained in the performance of such Services; (ii) such services will be performed or provided in a workmanlike, professional manner in accordance with applicable industry standards; (iii) its providing of the Services will not violate or breach any obligation of Seller to a third party; and (iv) providing or performing the Services will not violate any third party patents, copyrights, trade secret, trademark or intellectual property rights. The above warranties are in addition to any other express, implied or statutory warranties of Seller and shall survive acceptance and use of, and payment for, the Goods or performance of the Services.
7. **CHANGES IN MATERIALS OR PROCESS BY SUPPLIER:** Supplier acknowledges that certain Goods purchased hereunder may be incorporated into medical devices regulated under the U.S. Federal Food, Drug and Cosmetic Act. Supplier agrees that it will make no changes or modifications in the manufacture or in any raw material, facilities, suppliers/subcontractors, inspection/test plans, process, or packaging methods and materials involving or affecting the Goods ("Changes") without the prior written approval of Purchaser. The foregoing Changes includes, without limitation, changes to equipment, fluids used in processing or manufacture, and any other fluids, adhesives, or lubricants which may intentionally or inadvertently come in contact

with the Goods. Supplier's notification of Changes must be made in sufficient detail to allow Purchaser to determine the impact of such Change(s), if any, upon the completed medical device prior to Supplier effectuating such Change. In the event Supplier proposes a Change, Supplier shall cease performance on all outstanding Purchase Orders and those partially completed pending written acceptance of such Change(s) by Purchaser. Supplier shall not modify, alter or Change the performance or delivery of Services specified on this Purchase Order (or associated documentation) without the advance written consent of Purchaser.

8. **CANCELLATION: (1) Convenience:** Purchaser shall have the right upon written notice to Supplier to cancel the Purchase Order on any unfilled portion, and Purchaser's liability therefore shall be limited to Supplier's non-cancellable cost for materials and services and labor incurred for such undelivered Goods and Services up to the date of cancellation of the Purchase Order. (2) **For late delivery:** Purchaser shall have no liability for any cancellation of a Purchase Order for Goods and Services that have not been delivered within thirty (30) days after the delivery date. (3) **For default/bankruptcy:** Purchaser may cancel the Purchase Order in whole or in part at any time by written notice if Supplier defaults in performance of its obligations hereunder or fails to make progress in the work so as to endanger its performance, in the event of any proceedings, voluntary or involuntary, in bankruptcy or solvency, by or against Supplier, or in the event of the appointment with or without Supplier's consent of an assignee for the benefit of creditors or of a receiver. Upon any such cancellation, Purchaser shall have no liability under the Purchase Order and may hold Supplier accountable for any additional damages incurred by Purchaser as a result of its cancellation.
9. **WORK ON PREMISES:** If Supplier's obligations under the Purchase Order involve operations by Supplier on Purchaser's premises, Supplier agrees to comply with, and require its employees and contractors performing such Services to comply with, all plant safety rules and regulations. Supplier shall also perform all work in a safe manner, keeping premises free of safety hazards at all times, and conform to federal and state laws and safety regulations while on Purchaser's premises. A certificate of insurance covering Supplier's employees and property damage liability is required prior to the start of any work. All such operations shall be conducted as an independent contractor and neither Supplier nor any of its employees shall be considered employees of Purchaser. Supplier agrees to remove and replace any of Supplier's employees and/or contractors to whom Purchaser has a reasonable objection.
10. **PACKAGING:** Supplier shall be responsible for safe packing, which must conform to the requirements of carrier's tariffs. Supplier shall separately number all cases, packages, etc. showing the corresponding numbers on the invoices. All itemized packing slips, bearing the Purchase Order Number, must be placed in each container. No extra charge shall be made for packaging materials unless authorized by Purchaser in the Purchase Order.
11. **MATERIAL SAFETY DATA SHEETS:** If required by law, an applicable Material Safety Data Sheet ("MSDS") and labeling will precede or accompany each shipment of Supplier. Supplier shall further provide Purchaser with updated MSDS's and labeling as required by law.

12. **INSPECTIONS:** All Goods delivered shall be subject to inspection, test, and audit by Purchaser or its agent(s) at reasonable times and places. Neither the inspection, testing, nor audit of the Goods, nor the failure to do so shall constitute acceptance of the Goods or relieve Supplier from its responsibility for furnishing Goods in strict compliance with its obligations hereunder. Acceptance of all or part of the Goods, use thereof and/or payment therefore or failure to notify Supplier promptly shall not waive or affect Purchaser's right to reject, cancel, or return all or part of the Goods, to recover damages or to recover upon Supplier's warranties or agreements of indemnity. Purchaser may reject any Goods that do not strictly comply with this Purchase Order, including any applicable specifications. Payment for or acceptance of any part of a shipment shall not bind Purchaser to accept future shipments of nonconforming Goods or negate Purchaser's right to return nonconforming Goods already accepted. All Goods rejected by Purchaser shall be returned at Supplier's expense for both delivery and return transportation. No replacement or substitution of the rejected Goods or any part thereof shall be made without Purchaser's prior written authorization. Supplier shall submit a certification of conformance with shipment to Purchaser.
13. **INVOICES AND PAYMENT TERMS: 1) Invoices:** A separate invoice shall be issued for each shipment. Unless otherwise specified in the Purchase Order, no invoice shall be issued prior to the shipment of Goods or provision of Services and no payment will be due prior to receipt of Goods and/or Services and applicable invoice. Only undisputed amounts due will be payable by the due date. On disputed invoices no late charges or collection costs will be assessed. **2) Payment terms:** Purchaser will pay for the Goods and Services within thirty (30) days of receipt of the invoice. The payment date will be the date Purchaser's check is mailed or payment is otherwise transmitted to Supplier.
14. **Warranty:** Seller represents and warrants that the Goods furnished and the Services provided hereunder will (a) be of merchantable quality and fit for the purposes intended; (b) be free from defects in material, workmanship and fabrication; (c) fully conform with the Order, Purchaser's quality requirements and any standards, specifications, plans, designs, drawings, instructions or samples furnished or specified by Purchaser; (d) be of quality, quantity, size, description and dimension specified by Purchaser; (e) be delivered free and clear of any liens, claims or encumbrances of any kind and (f) be delivered and produced and/or performed in a safe, proper and workmanlike manner in compliance with all applicable laws, rules, regulations and codes by duly trained and qualified employees or contractors. These warranties shall survive acceptance and payment and shall run to Purchaser, its affiliates, successors and assigns, Purchaser's customers and all users of the Goods or the Services or any products into which the Goods or Services are incorporated. Such warranties are in addition to any other express, implied or statutory warranties of Seller and shall survive acceptance and use of, and payment for, the Goods and/or Services.
15. **QUALITY MATTERS: 1) Audits:** Purchaser may, at reasonable intervals, audit Supplier's quality program for conformance to the applicable requirements of the Quality System Regulation contained at 21 C.F.R. Part 820 (QSR) and to the intent of ISO 9001 Quality Management System Standards or the Purchaser's quality assurance specifications for suppliers. Supplier shall

fully cooperate with Purchaser in handling third party complaints arising from the Goods and Services. Supplier shall permit representatives of Purchaser to access Supplier's facilities from time to time upon reasonable notice to inspect the Goods and Services and review and observe the manufacture and processing of Goods and Services and/or examine all records related thereto. **2) FDA Inspections:** Supplier acknowledges that Goods and Services purchased hereunder may be incorporated into products which will be purchased by an agency or branch of the federal government. In the event the federal government requests an inspection by the FDA of the manufacturing facilities and records relative to the Good purchased hereunder, Supplier hereby agrees that said inspection shall be permitted. Supplier shall immediately notify Purchaser when it learns such an inspection is scheduled or is occurring, shall notify Purchaser of the results of any such inspection and, if any deficiency is noted, shall provide Purchaser with its corrective action plan. **3) Complaints:** Supplier shall provide, in a timely manner, such assistance and information as Purchaser reasonably requests to fulfill its reporting obligations for the Goods and Services and each product into which the Goods and Services may be incorporated. Supplier's quality management procedures, device history records and all batch and validation records related to the Goods and Services shall be maintained by Supplier in accordance with the requirements of applicable laws and shall be made available for inspection by Purchaser, its representatives and/or any relevant regulatory authorities. **4) Recall of Goods and Services:** If at any time after acceptance of the Purchase Order by Supplier or delivery and/or acceptance of the Goods and Services by Purchaser, all or any part of the Goods and Services become subject to a voluntary or involuntary recall by any government agency or corrective action by Supplier, Supplier shall assume responsibility and costs for implementing and complying with such recall according to applicable laws, regulations, and government orders, including costs arising from the return and/or replacement of such Goods and Services, to the extent that the Goods and Services do not conform to Purchaser specifications or contain latent defects that resulted in the recall. Supplier shall be responsible for all communications necessary to such recall. Any communications to Purchaser's customers regarding the recall or corrective action shall have the prior approval of Purchaser. Supplier shall credit or reimburse Purchaser for the costs of recalled Goods and Services and any costs or losses incurred by Purchaser as a result of the recall. Supplier shall further promptly inform Purchaser regarding recalls and other safety concerns regarding products similar to the items supplied by Supplier to customers other than Purchaser,

16. **REGULATORY SUPPORT:** Supplier shall, at Purchaser's written request, provide to Purchaser any necessary regulatory support in all countries in which Purchaser sells any product that includes the Goods and Services under the Purchase Order, including but not limited to, the following: (1) any available biocompatibility and mechanical testing data in raw and summary form, and updates on such data, in relation to the Goods and Services; (ii) other information related to the general performance and/or other general physical characteristics of the Goods and Services; (iii) additional information necessary for regulatory approval by any country's regulatory authority where Purchaser sells its products which include the Goods and Services; and (iv) if the Goods and Services are licensed or registered or approved for use in any country in which Purchaser sells its products, Supplier will provide Purchaser notice of such registration, license or approval.
17. **PROPERTY AND DESIGNS FURNISHED SUPPLIER:** Unless otherwise agreed in writing, title to all designs, sketches, drawings, specifications, programs, blueprints, patterns, dies, models,

molds, tools, gauges, plates, cuts, special appliances, materials and all improvements thereto, furnished to Supplier by Purchaser and/or created or developed by Supplier for Purchaser in connection with or as a result of this Purchase Order, are and remain the property of Purchaser. Such property shall be recorded and identified as property of Purchaser and retained by Supplier on consignment. All Purchaser property, while in Supplier's custody or control, will be held at Supplier's risk, free of all liens, encumbrances or security interests of Supplier or third parties, and will be kept insured by Supplier at Supplier's expense in an amount equal to replacement cost with loss payable to Purchaser. Such Property shall not be disclosed to or used by or on for the benefit of any third party and will be used solely for Purchaser. While in Supplier's custody or control, Supplier shall maintain and repair such Property at Supplier's expense. Supplier shall be responsible for calibration of all such Property requiring calibration and shall maintain all records related to such calibration. Supplier shall provide Purchaser with original documentation and/or copies thereof when requested by Purchaser. Supplier will indemnify, protect, defend and hold harmless Purchaser, its successors and assigns from and against all loss or damage to such property occurring while in Supplier's custody or control. Such property shall be appropriately segregated from Supplier's property and shall be prominently identified as belonging to Purchaser. All property of Purchaser is subject to removal by Purchaser at any time, and to return upon Purchaser's request.

18. **INDEMNIFICATION:** Supplier agrees to defend, indemnify and hold harmless Purchaser, its affiliates, and their respective directors, officers, employees, agents, distributors, sales representatives, customers and end users of the Goods and Services, from and against any and all claims, suits, actions, demands, judgments, settlements, losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees and litigation expenses) directly or indirectly arising from or related to: (a) Supplier's breach of any provision of these Terms or the Purchase Order; (b) the negligent or more culpable act or omission of Supplier or its employees, consultants or subcontractors; (c) the production, manufacture or delivery of, or any defect in, the Goods and Services; (d) Supplier's failure to comply with applicable laws in the performance of its obligations under the Purchase Order; (e) actual or alleged infringement of any patent, copyright, trademark, trade dress, trade secret or other intellectual property right of any third party arising from Purchaser's purchase, use or sale of Goods and Services; (f) the assessment by any third party of liquidated damages or proven actual damages assessed related to the failure of Supplier to timely deliver the Goods and/or provide the Services; and (g) actions and proceedings brought by any foreign, federal, state or local government or any agency or instrumentality thereof related to the Goods. All such obligations of Supplier will survive acceptance and use of, and payment for, the Goods and Services, and completion, termination or cancellation of the Purchase Order.
19. **LIMITATION OF LIABILITY:** In the event of breach by Purchaser, Purchaser will be liable to Supplier only for actual direct monetary damages. IN NO EVENT SHALL (A) THE LIABILITY OF PURCHASER ON ALL CLAIMS OF ANY KIND, WHETHER IN CONTRACT, WARRANTY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, ARISING OUT OF THE PERFORMANCE, NON-PERFORMANCE OR BREACH OF THE PURCHASE ORDER EXCEED THE GREATER OF (A) THE TOTAL COMPENSATION PAID BY PURCHASER TO SUPPLIER UNDER THE PURCHASE ORDER OR (B) THE PRICE ALLOCABLE TO THE AFFECTED GOODS AND SERVICES. IN NO EVENT SHALL PURCHASER BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY,

PUNITIVE, CONSEQUENTIAL OR SIMILAR DAMAGES. Any action by Supplier arising out of the Purchase Order must be commenced within one (1) year after the cause of action accrues or Supplier will be deemed to have waived any right to bring such action.

20. **CONFIDENTIALITY/PUBLICITY/DATA PRIVACY:** Seller agrees to treat as strictly secret and confidential all specifications, programs, drawings, blueprints, nomenclature, samples, models data, designs and other belonging to or supplied by Purchaser ("Purchaser's Information") in connection with the Purchase Order as confidential. Seller shall not use or disclose same to any third party except to the extent necessary to perform the terms of the Purchase Order or other Purchase Orders for Purchaser. Seller shall return all Purchaser's Information and any copies thereof to Purchaser on Purchaser's request. Seller shall not, without Purchaser's prior written consent, issue or release any public announcement, press release or other statement in any form of media, including the Internet, regarding the Purchase Order, the provisions hereof, or any of the transactions contemplated hereunder, including denial or confirmation of the fact that Seller has contracted to furnish to Purchaser the materials herein ordered. Seller shall not use Purchaser's name, or the names of any of Purchaser's affiliates, Purchaser's trademarks or other information regarding Purchaser in any advertisement or for any promotional purpose without Purchaser's prior written consent. To the extent Seller receives any protected health information (including, but not limited to, any patient medical records) pertaining or relating to any patient or customer ("PHI"), Seller represents and warrants that it will comply with any and all applicable laws, rules and regulations and upon request of Purchaser, immediately enter into Purchaser's then-current form of Business Associate Agreement or other agreement as may be required by applicable law. Seller further represents and warrants that it will keep the PHI confidential and not disclose such information to any third party without the express written consent of Purchaser. In the event Seller discloses such information without the express written consent of Purchaser, it agrees to immediately notify Purchaser of such disclosure.
21. **NOTICES:** All communications and notices between the parties relating to this Purchase Order and these terms and conditions shall be in writing and addressed to the receiving party at the address provided on this Purchase Order or as otherwise provided by the party. All such notices and communications shall include the Purchase Order Number.
22. **CODE OF SUPPLIER CONDUCT:** Supplier represents and warrants that Supplier has read and will abide by the Purchaser's Code of Supplier Conduct located at to [www.aeinc1.net/suppliers.html](http://www.aeinc1.net/suppliers.html) as amended from time to time by Purchaser for as long as Supplier provides Goods or Services to the Purchaser.