



EDGE PRECISION TERMS & CONDITIONS

1. CONTRACT TERMS

EDGE PRECISION MANUFACTURING (henceforth referred to as "EDGE") agrees to sell to the Customer the services, parts, or products (collectively referred to as the "Products") as set forth on a purchase order (the "PO") between the parties. EDGE hereby expressly rejects any terms or conditions different from or in addition to the terms and conditions contained herein. Neither EDGE's delivery of the Products nor any other action, conduct, or performance shall constitute acceptance of terms or conditions different from or in addition to the terms and conditions herein. Customer shall be deemed to have accepted the terms herein by written acknowledgment in the space provided on the PO or by other statement or email, act or course of conduct, dealing or performance constituting acceptance under applicable law, including failure to object in writing to the terms and conditions herein within a reasonable time or by acceptance of the Products.

2. PURCHASE PRICE AND PAYMENT TERMS

- A. *Prices and Adjustments*: Unless otherwise indicated on the PO, the prices for the Products stated on the PO ("Purchase Price") are effective only for Products scheduled for shipment within sixty (60) days after the date of this document on the PO.
- B. *Terms of Payment*: Except as otherwise provided on the PO, payment of the Purchase Price is due in full thirty (30) days from the invoice date. Except as provided below for "hold orders," invoices shall be issued after the delivery of Product to Customer or Customer's agent. Customer agrees to pay invoices issued by EDGE, regardless of disputes relating to other invoices.
- C. *Credit Terms and Credit Information*: EDGE reserves the right to alter or revoke credit terms to Customer at any time and withhold shipment of Products to Customer or ship on a C.O.D. basis. Customer agrees to promptly furnish credit standing information and credit references to EDGE from time to time upon EDGE's request. Customer hereby represents to EDGE that it is not insolvent (as that term is defined in § 1-201(23) of the Uniform Commercial Code). Customer agrees to notify EDGE in writing if Customer becomes insolvent prior to payment of the Purchase Price. Customer's acceptance of the Products shall constitute a written reaffirmation of Customer's solvency at the time of delivery.
- D. *Late Payment Fee*: Any amounts not paid when due will be subject to a service charge of one and one-half percent (1.5%) of the amount due per month or the highest rate permitted under applicable law, whichever is less.
- E. *Sales and Similar Taxes; Shipping Costs; Insurance*: Unless otherwise mutually agreed to in writing by the parties, Customer shall pay all sales, use, excise or similar taxes and any shipping, delivery and related insurance costs applicable to the Products. In lieu of certain tax payments, Customer may provide EDGE with a tax exemption certificate

acceptable to the taxing authorities. Customer agrees to reimburse EDGE for any such amounts which EDGE incurs on behalf of Customer.

- F. *Hold Orders*: If Customer requests EDGE to hold delivery of any Products, EDGE may at its option, invoice Customer on the original date the Products were to be delivered, or invoice Customer on the date such Products are actually shipped.
- G. *Cancellation*: Customer may cancel its order of the Products, in whole or part, only if Customer pays EDGE at full price for all finished Products and also pays for any costs and expenses incurred by EDGE (e.g., raw materials, work in progress, finished goods inventory, un-amortized tooling, labor, handling, and overhead), as reasonably determined by EDGE, plus a cancellation fee of fifteen percent (15%) of the canceled PO amount.
- H. *Change orders*: In the event any Customer-initiated design or material change results in obsolete or unusable inventory, Customer shall be responsible for any obsolete/unusable raw materials, work-in-progress, components, packaging, and finished Products (whether in inventory or on order) resulting from such change.

3. SECURITY FOR PAYMENT OF PURCHASE PRICE

Customer hereby grants EDGE a security interest in the Products and tooling (as described in Section 5 below), if any, and proceeds thereof to secure the due payment and performance of all of Customer's obligations to EDGE. Upon request, Customer shall deliver to EDGE financing statements covering this security interest suitable for filing. EDGE is authorized to file all financing statements deemed appropriate by EDGE.

4. SHIPMENT, DELIVERY, TITLE AND ACCEPTANCE

- A. *Shipment*: Unless otherwise mutually agreed to in writing by the parties, all sales and deliveries are FOB EDGE. EDGE will package the Products for bulk shipment in accordance with standard commercial practices unless the Customer has provided EDGE with packaging and shipping specifications that were part of the Customer's request for quote and these specifications are agreed to by EDGE in writing. If EDGE is to arrange shipping, unless otherwise indicated on the PO,
 - i. EDGE may exercise its discretion in choosing a carrier;
 - ii. EDGE may, at its option, obtain insurance on the Products shipped;
 - iii. shipment, insurance (if acquired), and related charges will be at Customer's expense;
 - iv. the carrier shall be deemed to be Customer's agent and Customer shall make all claims with respect to damage in transit against the responsible carrier; and
 - v. title and risk of loss to the Products shall pass to Customer as provided in Paragraph 4.C.
- B. *Delivery Quantity*: Unless otherwise agreed to in writing by the parties, a two percent (2%) overage or underage of Product delivered shall be accepted by the Customer. POs requiring exact quantities may be filled at a higher price.
- C. *Delivery Schedule*: The delivery schedule specified in all quotation or budgetary quotation documents issued by EDGE is an estimate only based on prevailing conditions. EDGE's failure to meet the delivery schedule shall not be a breach of this Agreement or give rise to any cause of action in favor of Customer. All delivery dates

and tool completion dates are subject to timely receipt of all Customer-provided information, all third party orders, down payment, and complete information and are our best estimate.

- D. *Title and Products, Risk of Loss:* Title to and all risk of loss or damage concerning the Products shall pass to Customer immediately upon the sooner of delivery of the Products to Customer, to a common carrier or to any private carrier designated by Customer or EDGE for shipment to Customer's designated point of delivery. Customer's rejection of any Products purchased hereunder shall not shift any risk for those Products until they are returned to and received by EDGE, freight prepaid, pursuant to EDGE's written instructions.
- E. *Inspection and Acceptance:* Customer shall inspect all of the Products upon receipt. Customer shall be deemed to have accepted all of the Products and to have waived and released all claims for shortages or other failure of the Products to conform to those ordered, unless Customer provides written notice to EDGE itemizing any nonconformance, including, but not limited to, notification with respect to shortages, incorrect parts or inconsistencies between the shipment and the enclosed packing list or invoice, within thirty (30) days after delivery of the Products to Customer or Customer's agent. Acceptance shall be irrevocable and no attempted revocation shall have any effect whatsoever.
- F. *Cure of Imperfect Tender:* Customer hereby grants EDGE the right to cure any imperfect tender of the Products within thirty (30) days from the date Customer delivers written notice of such imperfect tender to EDGE. This right to cure shall be in addition to any other right to cure available to EDGE in law or equity.
- G. *Force Majeure:* EDGE shall not be liable for any delay or nondelivery of any of the Products or other nonperformance caused in whole or part by any contingency or event beyond EDGE's reasonable control, including, without limitation, any act of God; acts of any government or any agency or subdivision thereof; fire; strikes; war; machinery breakage; failure of a communications or internet provider; transportation delays; shortage of or inability to secure labor, fuel, energy, materials or supplies at reasonable prices or from regular sources; riots or acts of a public enemy; terrorist acts; and any existing or future laws or regulations with which EDGE, in its judgment and discretion, deems it advisable to comply as its legal duty. In the event of the occurrence of any of the foregoing, EDGE may distribute its available Products among its customers on such a basis as it deems reasonable, without liability to Customer.

5. TOOLING

- A. *EDGE Owned Tooling:* Unless covered by Paragraph 5 B all tooling, including fixtures, jigs, patterns, and molds shall be the property of EDGE.
- B. *CUSTOMER OWNED TOOLING:* Tooling, including fixtures, jigs, patterns, and molds, that is produced by EDGE, specifically itemized, and paid for by Customer; is the property of Customer. The molds will be maintained at EDGE's expense for the normal life of the mold as defined by the tooling quotation. All tooling owned by the Customer will be used only on Customer authorized runs. Insurance coverage will be furnished by Customer. Tooling located at EDGE that has not run in production for a period of one (1) year (as measured from the date of the last production run) will incur a \$250.00 per year storage and maintenance fee. After three years without use, EDGE may request that the tooling be destroyed. Upon such request, Customer has thirty (30) days to respond.

Customer may opt to furnish payment for a \$1000.00 storage fee, covering a period of one (1) year from date of EDGE's request, or for tooling to be destroyed. If the customer does not respond to EDGE's request within thirty (30) days, tooling will be destroyed. Destruction will be conducted by EDGE, in sufficient rigor to render unrecognizable all designs, Customer name, and identifying markings. Customer-owned tooling must remain in EDGE possession at all times, until destroyed. Because EDGE tooling contains proprietary EDGE technology, Customer-owned tooling is not viewable by the Customer, nor transferrable to the Customer, nor transferrable to any third party at the request of Customer, or on behalf of, the Customer.

- C. CUSTOMER OWNED COMPONENTS, including silicon or glass wafers, machined master structures, 3D printed master structures, or plastic master structures that are provided by Customer will remain property of Customer. Customer acknowledges that EDGE may irreversibly alter any provided component for the purpose of creating completed mold masters or tooling. Such altered components may not be returnable to, or viewable by, Customer due to inclusion of confidential EDGE technology. EDGE has sole discretion in determining whether such components are returnable to Customer. Upon request from Customer, EDGE will destroy such altered components and provide proof of destruction.

6. CUSTOMER SUPPLIED RAW OR SEMI-FINISHED MATERIALS

If EDGE is to perform work on raw or semi-finished materials supplied by Customer, then Customer shall supply adequate excess to allow for processing losses. If EDGE scraps any such materials, it shall not be liable to Customer for such scrapped materials. Customer warrants that any raw or semi-finished materials shall be suitable for the operations intended to be performed by EDGE, free of defects in workmanship and material. If found defective during processing, Customer shall promptly deliver suitable replacements at no charge to EDGE. Customer shall pay EDGE for all work performed on the defective materials at the time when the defect is discovered. Customer agrees to indemnify, defend, and hold EDGE, its officers, directors, employees, representatives, agents and the like, harmless for any loss, liability, damage, debt, cost or expense (including legal and accounting fees and disbursements) arising out of, or as a result of or relating to any such materials supplied by Customer, whether arising out of tort, contract or otherwise. All indemnification obligations of Customer hereunder shall survive delivery of the Products, payment of the Purchase Price therefore and termination of any agreement.

7. CUSTOMER WARRANTIES

Customer has furnished the design and/or specifications for the Products. Any aspects of the design, including but not limited to work, advice, guidance, and creation, as well as any material choice options provided by EDGE to Customer are suggestions; Customer assumes full and sole responsibility for the design and material selection with regards to all terms of Section 7. Customer represents and warrants that

- A. it has all intellectual property rights necessary or appropriate for the contemplated use of all designs, materials, parts, and components that Customer supplies to EDGE, and
- B. that it has conducted such testing as it has felt necessary and prudent to ensure that the Products to be produced from the design, plans and specifications will fulfill their

intended purposes. Customer agrees to indemnify, defend, and hold EDGE, its officers, directors, employees, representatives, agents and the like, harmless for

- i. any alleged or actual infringement of any third party's intellectual property rights and for any loss, liability, damage, debt, cost or expense (including legal and accounting fees and disbursements) arising out of, or as a result of or relating to any infringement claim, and
- ii. misuse of any design, materials, part, component or Product (collectively, the "Components") or the Components failure to perform as intended, including any Components that do not meet the specification therefore, either by notification from EDGE or from any other source, and the Customer decides to use them as is. Except for EDGE's liability under this Agreement for matters covered under EDGE's warranty in Section 8.A., the Customer shall be fully and solely responsible for the Product, its plans and specifications, and its design, and the consequences of any implementation, sale, or use by the Customer or others of the Product, its plans and Specifications, and its design, including without limitation, compliance with applicable laws and regulations and claims of third parties arising from such implementation, sale or use. All indemnification obligations of Customer hereunder shall survive delivery of the Products, payment of the Purchase Price therefore and termination of this Agreement.

8. EDGE LIMITED WARRANTY, DISCLAIMER OF WARRANTY AND LIMITATION OF DAMAGES FOR BREACH OF WARRANTY

- A. *Limited Warranty to Customer:* EDGE warrants to the Customer that each Product shall comply as of the date of manufacture with plans and specifications agreed to by EDGE and the Customer ("Specifications"), provided that this warranty shall not apply in instances where the failure of Products to meet Specifications is not due to the acts or omissions of EDGE. By way of examples but without limitation, the warranty shall not apply to problems caused in whole or in part by:
- i. use, handling, shipment, operation, alteration, maintenance, assembly, or storage by any party other than EDGE;
 - ii. negligence by any party other than EDGE;
 - iii. repair or modifications performed by anyone other than EDGE or a party authorized in writing by EDGE;
 - iv. use in any manner or procedure other than that for which the Product is labeled;
 - v. sterilization services performed on the Product by a third party.

An alleged breach of this limited warranty must be promptly reported to EDGE consistent with the requirements of Section 12(a) or shall be forever waived.

- B. *Customer's Limited Warranty Remedy:* If EDGE determines, in its sole discretion, that any Product does not conform to the warranty stated in Section 8A above, pursuant to EDGE's Return Policy set forth in Section 12A, Customer's sole and exclusive remedy shall be to ship such defective Products to EDGE, at EDGE's cost, and EDGE shall, at EDGE's option, repair or replace such Product at EDGE's own expense, and ship such repaired or replacement Product back to either the Customer or the applicable customer of the Customer at EDGE's own expense, or to credit the Customer the purchase price or the Product. Customer shall be responsible for all costs associated with de-installment and re-installment of Products. Customer shall return such

Product pursuant to EDGE's Return Policy and shall not return any Product prior to obtaining return authorization from EDGE.

- C. *DISCLAIMER OF WARRANTIES*: OTHER THAN AS EXPRESSLY SET FORTH IN SECTION 8A ABOVE, EDGE MAKES AND GIVES NO OTHER REPRESENTATIONS OR WARRANTIES WHATSOEVER, AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WARRANTIES OF NONINFRINGEMENT AND WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.

9. DEFAULT

Customer will be in default of these terms and conditions if Customer

- i. fails to pay any amount when due or EDGE becomes aware of any fact or event which gives EDGE reasonable grounds to doubt Customer's financial ability to satisfy its obligations hereunder,
- ii. fails to observe any of its obligations hereunder, or
- iii. institutes voluntary proceedings or if any proceedings are instituted against Customer under any bankruptcy, insolvency or receivership laws.

Upon any default by Customer, EDGE may exercise any of the following remedies, in addition to other rights and remedies provided hereunder or by law or equity: (a) suspend or stop in transit any shipments, whether or not pursuant to this agreement; (b) exercise all rights of a secured party; or (c) declare all amounts owed by Customer to be due and payable immediately. If EDGE elects to repossess the Products, Customer shall permit EDGE to enter all premises where the Products are located with or without legal process to remove and take possession of the same. Ten (10) days advance notice of any intended disposition of repossessed Products shall be deemed reasonable. All remedies of EDGE hereunder are cumulative and nonexclusive. In addition, Customer shall reimburse EDGE for all costs incurred as a result of Customer's default, including reasonable attorneys' fees and other legal expenses.

10. LIMITATION OF REMEDIES

IN NO EVENT SHALL EDGE BE LIABLE TO ANY PERSON FOR PUNITIVE, INCIDENTAL, CONSEQUENTIAL OR OTHER SPECIAL DAMAGES OF ANY DESCRIPTION INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY AND PROPERTY DAMAGE, EQUIPMENT DAMAGE, LOSS OF PROFITS OR REVENUES OR BUSINESS, COST OF CAPITAL, COST OF PURCHASE, COST OF RECALL, OR COST OF REPLACEMENT GOODS, WHETHER ARISING OUT OF WARRANTY OR OTHER CONTRACT, NEGLIGENCE OR OTHER TORT, OR OTHERWISE. FURTHER, IN NO EVENT SHALL EDGE BE LIABLE FOR ANY AMOUNT IN EXCESS OF THE PRICE OF PARTICULAR PRODUCT SPECIFIED ON AN ORDER THAT IS THE SUBJECT MATTER OF A DISPUTE. CUSTOMER EXPRESSLY WAIVES ANY SECURITY INTEREST IN OR OTHER LIEN ON REJECTED PRODUCTS.

11. INTELLECTUAL PROPERTY

- A. *EDGE Intellectual Property*: Customer acknowledges that EDGE Intellectual Property (as defined below) shall be the sole and exclusive property of EDGE and all right, title

and interest in and to the EDGE Intellectual Property shall vest solely with EDGE. Notwithstanding anything contained in these terms and conditions to the contrary, Customer acknowledges and agrees that EDGE is in the business of designing, developing, manufacturing, prototyping and assembling plastic components for specialized medical devices, and that EDGE may develop products, devices, instruments or other items for other persons which are identical or similar in functionality to the Products. EDGE retains the right and Customer agrees that EDGE, its employees and agents shall be free to use and employ their general skills, know-how, and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques, processes or skills gained or learned during the course of performing the services for the Customer. Customer understands and agrees that EDGE may perform similar services for third parties using the same personnel that EDGE may utilize for rendering services for Customer hereunder. For the purposes of these terms and conditions, the term "EDGE Intellectual Property" means inventions, improvements, developments, or innovations (including all rights to patents, copyrights, trademarks, and trade secrets and know-how inherent therein and pertinent thereto) and other creative works (whether or not patentable or copyrightable, conceived or made or reduced to practice), know-how, technical information, pending patent applications, registrations, divisions and continuations thereof, registered and unregistered copyrights, and all associated goodwill, designs, drawings, specifications, vendor lists, manufacturing methods and processes, and all other information pertinent to these terms and conditions, which is proprietary to EDGE or is developed by EDGE during the term of these terms and conditions.

- B. *Non-Infringement*: EDGE represents and warrants that the manufacturing process used to produce the Product(s) by EDGE, will not infringe or violate the patent, copyright, or other property or proprietary rights of any third party, except that the warranty in this subsection does not apply to any infringement or violation resulting from specifications and other products or components provided or directed for use by Customer.
- C. *Indemnity*: EDGE shall give Customer notice of any claim or allegation that would implicate the warranty under this Section 11B as soon as possible but in no event more than thirty (30) days after receipt of such claim or allegation. Within the provisions of Section 11B, EDGE shall defend, indemnify and save harmless Customer from all damages, costs, and expenses (including attorney fees) related to the manufacturing processes utilized by EDGE to produce Products if such processes infringe a patent or other intellectual property right of any third party. Customer shall provide notice to EDGE of such claim no more than thirty (30) days after receipt of such claim, provided, that, if Customer fails to notify EDGE within thirty (30) days, EDGE's obligation to defend, indemnify and save harmless Customer shall be reduced only to the extent EDGE is prejudiced by the delay beyond thirty (30) days. If the use of any Products is enjoined due to an alleged patent infringement by EDGE's use of patented manufacturing processes, at Customer's option, EDGE shall at its expense and as a priority, work to either substitute a fully functionally equivalent process (as applicable) not subject to such injunction, modify such process (as applicable) so that it is no longer subject to such injunction, or obtain the right to continue using such process (as applicable) so long as such process meets all Customer and regulatory requirements.

12. GENERAL PROVISIONS

- A. *Return Policy:* Within 30 days of receiving the Products, if any of the Products do not meet the limited warranty specified in Section 8A of these Terms and Conditions, Customer may return the Products to EDGE for, at EDGE's option, repair, replacement ,or a full credit of the Purchase Price. In addition, subject to the conditions specified herein, EDGE will provide free shipping for the return of the Products to EDGE. To qualify for the refund, the return or repair of the Products, all Products which do not meet the limited warranty in Section 8A must be (1) returned in their original condition, (2) within 30 days of receipt of the Products from EDGE, and (3) include an RMA number. To initiate a return, Customer should contact EDGE to obtain an RMA number to authorize the return. By way of clarification, this return policy is not intended to vary any of the terms of the warranty specified Section 8A and all limited remedies specified in Section 8B shall apply.
- B. *Records:* EDGE will maintain its records with respect to the manufacture of the Products for ten (10) years after the date of manufacture of the last Product under this PO, after which EDGE will notify Customer and Customer shall have an opportunity to ask for the return of such records, at Customer's expense. If Customer fails to respond within ten (10) days of EDGE's notice to Customer, such records may be destroyed by EDGE. Records may be redacted to protect confidential information related to EDGE's manufacturing processes.
- C. *Conformance to FARs:* While EDGE endeavors to adhere to and comply with all federal regulations, EDGE does not maintain current copies of the FARs. Therefore no certification of conformance is made by EDGE.
- D. *Modification and Waiver:* No addition to or modification of any provision of this document shall be binding upon EDGE unless set forth in a written document signed by all parties (in the case of amendments or modifications) or by the party to be charged thereby (in the case of waivers). Any waiver shall be limited to the circumstance or event specifically referenced in the written waiver document and shall not be deemed a waiver of any other term of this document or of the same circumstance or event upon any recurrence thereof. EDGE shall not be deemed to have waived any provision hereof or any remedy available to it, except pursuant to a written document signed by a duly authorized officer of EDGE.
- E. *Governing Law and Forum:* The validity, performance and construction of this agreement shall be governed by the laws of the State of Massachusetts, and no other jurisdiction. If any dispute, controversy or claim arises out of or relates to this agreement or the breach, termination or validity thereof, each party agrees to personal jurisdiction in the State of Massachusetts and to bring suit or initiate other dispute resolution proceedings only in the State of Massachusetts.
- F. *Severability:* If any provision hereof is held to be unenforceable by final order of any court of competent jurisdiction, such provision shall be severed herefrom and shall not affect the interpretation or enforceability of the remaining provisions hereof.