

ESSENTIUM, INC. TERMS AND CONDITIONS
FOR PARTS SUPPLIED BY ESSENTIUM, INC. PARTS ON-DEMAND

Essentium, Inc., ("**Essentium, Inc.**") has established the following terms and conditions (the "**Terms**"), which apply when a customer of Essentium, Inc. ("**Customer**") orders end use or rapid prototype parts ("**Parts**") and/or related services ("**Services**"). Sale or provision of any Parts or Services is expressly conditioned on Customer's assent to these Terms. If you are an individual ordering on behalf of an entity, you represent and warrant that you have the authority to enter into these Terms on behalf of such entity.

1. **Payment Terms.** All price quotes ("**Quotes**") are in U.S. dollars, are net of any Taxes and Shipping Costs (as such terms are defined below), are valid for 30 days from the time the Quote is issued by Essentium, Inc. (unless otherwise specified in writing), and are not severable – the terms of Quotes apply to the Quote in its entirety. Quotes are subject to review upon receipt of finalized Specs (defined below) or otherwise in the event of changes to quantity or materials. Customer may accept a Quote via submission of an online purchase order ("**PO**"). Any acceptance of a Quote is expressly limited to acceptance of these Terms and Essentium expressly objects to any additional or different terms proposed by Customer. Each PO must contain the Quote number and shall be deemed to incorporate these Terms. No PO shall add to, or be inconsistent with, these Terms, and such additions and inconsistencies shall not apply (unless specifically accepted by Essentium, Inc. in writing). All POs are subject to acceptance by Essentium, Inc. (in its sole discretion) and shall not bind Essentium, Inc. until it delivers its confirmation thereof to Customer ("**Acceptance**"). Quoted lead-times are not final until Acceptance, coupled with a written, confirmation such as a "Delivery Status/Update Notification". Quotes are not final until Acceptance. POs submitted by Customer are irrevocable. Customer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Customer shall reimburse Essentium, Inc. for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees and court costs. In addition to all other remedies available under these Terms and Conditions or at law (which Essentium, Inc. does not waive by the exercise of any rights hereunder), Essentium, Inc. shall be entitled to suspend the delivery of any Parts if Customer fails to pay any amounts when due hereunder and such failure continues for thirty (30) days following written notice thereof. Customer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Essentium, Inc., whether relating to a breach, bankruptcy or otherwise by Essentium, Inc. If Customer disputes any invoice or portion thereof, it shall notify Essentium, Inc. in writing within thirty (30) days of receipt of said invoice, detail the reason for the dispute, and pay all undisputed amounts. All charges not timely disputed in writing shall be deemed to be undisputed and shall be due and payable as set forth above.
2. **Delivery, Taxes and Shipping Costs.** The total fees in each PO shall include the amounts stated in the Quote, plus all applicable taxes (sales, use, occupation, excise, and other taxes upon the production, sale, or use of the Parts) similar governmental charges ("**Taxes**") and costs of handling, packaging, transportation, customs clearance, and insurance (collectively, "**Shipping Costs**"). The Taxes and Shipping Costs set forth in the PO shall be estimates only, and Customer agrees that it will be solely responsible for paying all Taxes and Shipping Costs that become due. To waive the collection of state sales and other such Taxes, Customer must provide all completed forms and/or certificates that Essentium, Inc. deems necessary. All shipments are EXW (Incoterms 2010), which may be any Essentium, Inc. designated location in the U.S. Risk of loss of, and damage to, the Parts shall pass to

Customer upon delivery by Essentium, Inc. to the designated EXW location. Pending full payment by Customer, Essentium, Inc. hereby reserves, and Customer hereby grants to Essentium, Inc., a first priority purchase money security interest in the Parts (as well as all proceeds resulting from any sale thereof). Essentium, Inc. shall have the right to file any and all documents and take any action it deems necessary to fully establish protection of its security interest in the Parts; however, the failure of Essentium, Inc. to file any such document shall not in any way act as a waiver of Essentium's right to such security interest.

3. **Modification and Termination of PO.** Unless otherwise specified in a PO, Essentium, Inc. Parts On-Demand services under the PO will commence on Acceptance of such PO. Customer acknowledges and agrees that any changes to the Specs (including but not limited to dimensions, tolerances, materials, coatings, or markings) after Acceptance may result in additional charges payable by Customer and extended delivery times. An accepted PO may only be modified upon written consent of Essentium, Inc. Either party may terminate any PO that has been accepted under these Terms and Conditions at any time upon written notice to the other party, but all POs previously Accepted, and not explicitly terminated, will remain binding upon the parties. Any provision that by its nature ought to survive termination, shall so survive, as shall Sections 2, 3, 4, 6, and 10 through 17 (inclusive). Upon the effective date of termination, Customer shall immediately pay Essentium, Inc. any and all payment obligations outstanding as of such date. All payment terms are as agreed in the PO at the time of Acceptance. Essentium, Inc. reserves the right to deny credit for any reason and withhold shipment if payment terms are not honored. Essentium, Inc. reserves the right to: (a) cancel any Acceptance, as well as refuse, cancel or delay shipment to Customer, if Customer is delinquent in its payment obligations under these Terms; and/or (b) remove a PO from Essentium, Inc. work schedule if Essentium, Inc. determines that Customer hold orders or delays are causing undue loss of work from other Essentium, Inc. customers, in which case Essentium, Inc. will reschedule deliveries based on its work load at such time. If all or part of a PO is terminated by Customer or by Essentium, Inc. for Customer's breach, in the absence of contrary written agreement with Essentium, Inc., Customer shall pay actual direct costs of Essentium, Inc. for work provided up until the date of termination (in the event of cancellation by Customer, the date of receipt, by Essentium, Inc., of written notice of termination) and any unrecoverable costs reasonably incurred by Essentium, Inc. in consequence of Essentium's obligation to perform under the PO prior to any such termination, provided that such costs were incurred by Essentium, Inc. in good faith to fulfill the PO in accordance with its terms, not to exceed the total price under the PO. In the event of a Customer directed hold order or delay that exceeds 10 business days, Essentium, Inc. may invoice Customer for all work completed prior to the hold order or delay.
4. **Intellectual Property.** Customer shall retain all of its Intellectual Property Rights in and to the Specs and the Parts for which Customer has paid. Notwithstanding the foregoing, Essentium, Inc. and/or its Licensors shall own all Intellectual Property Rights in and to the techniques, know-how, technology, and methodologies used by Essentium, Inc. in manufacturing the Parts and providing services hereunder, or that otherwise relate to tooling, fixtures, molds, patterns, and other materials. No right or license in Intellectual Property is granted to Customer by implication, estoppel or otherwise. **"Intellectual Property Rights"** means all right, title, and interest in and to trade secrets, patents, copyrights, designs, know-how, utility models, databases, mask works, software, and other intellectual property, worldwide, and whether or not registered.

5. Indemnification. Customer alone is responsible and liable for (a) objects submitted for 3D scanning services, including those associated with third party Intellectual Property Rights, and Essentium, Inc. reserves the right, in its sole discretion, to refuse scanning services; and (b) providing all design and engineering specifications and requirements relating to the Parts (such specifications and requirements, collectively, "**Specs**"), which Specs shall be provided to Essentium, Inc. using 256-bit encryption or another method directed by Essentium, Inc. Notwithstanding any advice, feedback, design participation, technical information or other assistance that Essentium, Inc. may provide to Customer in connection with the Specs (collectively, "**Assistance**"), Customer shall be solely responsible and liable for all aspects of the design of the ordered Parts, and Customer shall not rely upon any such Assistance whatsoever. Customer acknowledges and agrees that its (i) design responsibility includes, but is not limited to, CAD conversions from 2D or 3D wireframe to solids/surfaces, selecting or adding draft to CAD data, material selections, and design changes intended to improve product manufacturability or performance; and (ii) informing Essentium, Inc. of a product's final use does not constitute an agreement that Parts will be fit for such use or transfer any design responsibility from Customer to Essentium, Inc. Specs can consist of one or more of the following materials: engineering drawings; CAD files; and written instructions. If multiple formats are provided to define Specs, Essentium, Inc. may use any of the provided formats for tooling and/or manufacturing and is not responsible for identifying discrepancies between such formats.
6. Customer, at its own expense, shall defend Essentium, Inc., its affiliates and their respective directors, officers, employees and agents (each, an "**Indemnitee**") against any claim, suit, action or demand, by any third party, arising out of or related to (a) any claim that any Specs, Parts, Designs or other materials provided to Essentium, Inc. in connection with a PO, infringe or misappropriate the rights (including, without limitation, Intellectual Property Rights) of any third party or are otherwise unlawful; and/or (b) any use or sale of a Part by Customer, its employees, agents, resellers, or customers (each of (a) and (b), a "**Claim**"). Customer agrees (i) not to settle any Claim without the prior express written consent of Essentium, Inc.; and (ii) to pay any amounts awarded under a Claim, as well as indemnify and hold harmless the Indemnitee for any other liabilities, losses, costs, and expenses (including, but not limited to, reasonable attorneys' fees) incurred as a result of the Claim.
7. Professional and/or consulting services provided hereunder, including but not limited to design work, consulting or otherwise may be subject to additional terms and conditions. Customer is responsible for confirming the design, engineering, and data – including fit, form, function, accuracy, and text – in final documentation (the "**Designs**"). Documentation or artwork released for parts fabrication, tooling production, or printing at the Customer's verbal or written request with or without a signature will be the sole responsibility of the Customer. Essentium, Inc. cannot guarantee that a solution, Designs, or other work will fully satisfy the objectives of the project. In any case, the Customer agrees to indemnify and hold harmless Essentium, Inc. for any and all losses, damages or claims resulting from errors, omissions or flaws in Designs, solution, or documentation.
8. Compliance with Laws. Customer shall comply with all applicable laws, regulations, rules and orders, including without limitation those pertaining to U.S. export controls set forth in the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 774 (as may be revised from time to time), and, without limiting the generality of the foregoing, Customer shall not transfer, export or re-export any Part, a component thereof, or any related technology to anyone on the U.S. Treasury Department's list of Specially Designated Nationals, the U.S. Commerce Department's Denied Persons List or Entity List, or

any lists maintained by the U.S. Office of Foreign Assets Control and the U.S. Department of Homeland Security, or to any individual or entity in Cuba, Iran, Iraq, Lebanon, North Korea, Sudan or Syria (as may be revised from time to time), or for use in chemical or biological weapons, sensitive nuclear end uses, or missiles. Customer represents it is not located in, under control of, or a national or resident of any such country or on any such list. Customer is solely responsible for determining compliance and obtaining all required licenses to facilitate the transfer, export and re-export of any products, data, or technologies, including outside of the U.S. In the absence of available license exemptions or exceptions, Customer must obtain the appropriate licenses or other approvals, if required, for the transfer, export, or re-export of such items, or for the provision of technical assistance. Customer must obtain export licenses, if required, before using a foreign person hereunder, where the foreign person will have access to export-controlled items. Customer is solely responsible for all regulatory record-keeping requirements associated with the use of licenses and license exemptions and exceptions.

9. Representations and Warrants. Customer hereby represents and warrants: (a) it has, and will have, the right to disclose the Specs (in whole and in part) and all other information and materials, to Essentium, Inc.; (b) use by Essentium, Inc. of such Specs and other information and materials, when used to perform Essentium, Inc. obligations under these Terms or any associated PO, will not infringe or misappropriate any third party proprietary rights (including, without limitation, Intellectual Property Rights); (c) Parts manufactured from Customer's Specs will not be unlawful, contain unlawful content, or be used by Customer in an unlawful manner; and (d) any software or files delivered to Essentium, Inc. will be free from any viruses, time bombs, and other harmful programming routines.
10. Warranty. Parts manufactured by Essentium, Inc. are warranted, for a period of ten (10) business days after delivery (the "**Warranty Period**"), to materially conform to the applicable Specs and to be free from material defects in materials and workmanship (collectively, the "**Warranty**"). Parts are sampled to exceed ANSI/ASQ Z1.4-2003 standard at General Inspection Level II. Typical inspection of non-injection molded Parts is performed on a sampling of parts produced: 100% inspection up to 5 parts, 5 pieces inspected up to 50 parts, 7 pieces up to 90 parts, 11 pieces up to 150 parts, and at least 5% for greater part quantities. In the event of a breach of the Warranty, Customer must notify Essentium, Inc. of the breach in writing, within the Warranty Period. Essentium, Inc., at its sole discretion and expense, shall repair or replace the defective component(s) of the Part in question. All Warranty replacements or repairs (i) will be limited to non-'s solemnities or defects (as the case may be) that, in the reasonable opinion of Essentium, Inc., are due and traceable to non-conformities or defects in original materials and workmanship; (ii) shall constitute Essentium, Inc. sole obligation and liability, and Customer's sole and exclusive remedy, for a breach of Warranty. For repaired or replacement Parts (or components thereof) the Warranty Period will be the remainder (if any) of the initial Warranty Period. In the event of a replacement, replaced Parts (or components thereof) will be owned by Essentium, Inc. All returns of Parts (or components thereof) by Customer for a breach of the Warranty, must be in accordance with Essentium, Inc. written instructions (which may include an NCR/RMA number), and Customer shall be responsible and pay for all costs and expenses (such as Taxes and Shipping Costs) associated with such return. Except for the Warranty: (a) Essentium, Inc. makes no representations, warranties, guarantees or conditions as to materials, strength, tolerances, or other Part characteristics; and (b) all Parts are delivered and accepted in "AS IS" condition. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, Essentium, Inc. HEREBY DISCLAIMS ALL STATUTORY, EXPRESS, AND IMPLIED REPRESENTATIONS, WARRANTIES, GUARANTEES, AND CONDITIONS OF ANY KIND, WITH RESPECT TO THE PARTS OR THE SERVICES PROVIDED HEREUNDER,

INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, QUALITY OF SERVICE, OR OTHERWISE ARISING OUT OF A COURSE OF PERFORMANCE, DEALING, OR TRADE USAGE. Without limiting any of the foregoing exclusions, Customer further acknowledges and agrees that Parts are not intended for use in, and the foregoing warranty does not apply to and shall be void if any Part fails, malfunctions or is damaged as a result of use in the operation of nuclear facilities, aircraft navigation or air traffic control systems, communication systems in which a failure thereof could cause death or serious injury or tangible property damage (e.g., emergency or 911 communication systems), medical systems, life support systems, or potentially life critical uses.

11. Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL ESSENTIUM, INC. OR ITS AFFILIATES BE LIABLE UNDER OR IN CONNECTION WITH THESE TERMS, UNDER ANY LEGAL OR EQUITABLE THEORY (INCLUDING, BUT NOT LIMITED TO, CONTRACT, NEGLIGENCE, OR STRICT LIABILITY) FOR ANY (A) CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES; (B) LOSS OF PROFITS, BUSINESS, OR SAVINGS; (C) LOSS OF, OR DAMAGE TO, DATA, REPUTATION OR GOODWILL; AND/OR (D) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES. THE AGGREGATE LIABILITY OF ESSENTIUM, INC. AND ITS AFFILIATES ARISING UNDER OR IN CONNECTION WITH THESE TERMS SHALL NOT EXCEED THE FEES PAID BY CUSTOMER FOR THE APPLICABLE PART OR SERVICE ALLEGED TO HAVE CAUSED SUCH DAMAGE. THE FOREGOING LIMITATIONS IN THIS SECTION 9 SHALL APPLY EVEN IF THE REMEDIES PROVIDED FOR IN THESE TERMS FAIL OF THEIR ESSENTIAL PURPOSE, AND EVEN IF ESSENTIUM, INC. OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF DAMAGES OR LOSSES. CUSTOMER AGREES THAT THE DISCLAIMERS, EXCLUSIONS, AND LIMITATIONS OF LIABILITY SET FORTH HEREIN ARE MATERIAL CONDITIONS OF THESE TERMS AND THAT THE SERVICES AND THE PARTS WOULD NOT BE MADE OR PROVIDED TO CUSTOMER OTHERWISE.
12. Governing Law. These Terms and all POs shall be governed by, and construed in accordance with, the laws of the State of Texas, without giving effect to its conflicts of law rules and principles. The Parties agree that any claim or dispute under or in connection with these Terms shall be resolved finally and exclusively by, binding, individual arbitration in Travis County, Texas, pursuant to the then-current Commercial Arbitration Rules of the American Arbitration Association (AAA). The arbitration proceeding shall be conducted in the English language before a single arbitrator appointed by the parties (or by the AAA if the arbitrator is not appointed by the parties within 30 days of notice to arbitrate), and subject to these Terms. CUSTOMER HEREBY WAIVES ANY RIGHT TO PARTICIPATE IN ANY CLASS ACTION LAWSUIT, CLASS-WIDE ARBITRATION, COLLECTIVE ACTION, CONSOLIDATION OF INDIVIDUAL ARBITRATIONS, OR OTHERWISE IN ANY CLAIM BROUGHT IN A PRIVATE ATTORNEY GENERAL OR REPRESENTATIVE CAPACITY. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. This dispute resolution provision will be governed by the Federal Arbitration Act and not by any state law concerning arbitration. CUSTOMER AGREES THAT ANY CLAIM OR DISPUTE WITH RESPECT TO A PART DELIVERED HEREUNDER, MUST BE BROUGHT BY CUSTOMER WITHIN TWELVE (12) MONTHS OF THE DATE SUCH PART WAS FIRST DELIVERED BY ESSENTIUM, INC. TO CUSTOMER. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to these Terms.
13. Miscellaneous. For any PO accepted hereunder, these Terms, along with such accepted PO, constitute the entire agreement of the parties regarding the subject matter hereof and supersede all prior and contemporaneous statements (written or oral) regarding such subject matter; however, Essentium, Inc.

reserves the right to modify these Terms at any time by posting the modified terms online, which shall be effective as to any PO submitted thereafter. Except for payment obligations, neither party shall be liable for a breach of its obligations hereunder to the extent that such breach is caused by factors outside its reasonable ability to foresee and avoid (provided that such party makes diligent good faith efforts to remedy the breach as soon as possible), including, without limitation, war, acts of God, terrorism, natural disaster, third party communications or encryption failure, and delays by third party suppliers of materials. If any provision in these Terms shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the provision shall be amended and interpreted to accomplish the objectives of such provision to the greatest extent possible, and the remaining provisions of these Terms shall continue in full force and effect. The waiver by either party of any breach of these Terms will not constitute a waiver of any other or subsequent breach. Any waiver granted hereunder must be in writing and signed by the party waiving the breach. No failure by a party in exercising any right, power or remedy hereunder shall operate as a waiver thereof. The relationship of the parties hereunder is solely that of independent contractors. Nothing contained in these Terms shall create any agency, employment, partnership, fiduciary or joint venture relationship between the parties, and neither party has any authority of any kind to bind the other in any respect. Neither party may assign these Terms (in whole or in part) to any third party (whether directly, by operation of law, or otherwise), without the express prior written consent of the other party, except that Essentium, Inc. may assign these Terms (in whole or in part) to an affiliate. Any unauthorized assignment shall be null and void. Subject to the foregoing, these Terms bind and benefit each party and its permitted successors and assigns.

14. Confidential Information. All non-public, confidential or proprietary information of a party, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, provided by or for a Party (the “**Disclosing Party**”) to the other Party (the “**Receiving Party**”), for the purpose of fulfilling these Terms and Conditions and any PO accepted hereunder shall be “Confidential Information”, provided such information is (i) in written or other tangible form (including digital medium) and (ii) marked to identify it as the Discloser’s Confidential Information. Information that is disclosed orally or visually will be considered Confidential Information if it is identified as confidential at the time of disclosure, summarized with particularity in writing, marked as confidential or its equivalent, and delivered to the Receiving Party within fifteen (15) days. Confidential Information shall be used solely for the performance of the terms of any PO issued hereunder and may not be disclosed or copied unless authorized in advance by the Disclosing Party in writing. Upon request, all documents and other materials received by the Receiving Party shall be returned to the Disclosing Party. Confidential Information does not include information that is: (a) in the public domain; (b) known to a Receiving Party at the time of disclosure; or (c) rightfully obtained by a Receiving Party on a non-confidential basis from a third party.