# Terms of use

These terms and conditions (“**Terms**”) are a legally binding agreement between Alpha Omega Engineering Ltd. (“**Company**”, “**we**”, “**us**”, or “**our**”), and you, a user of our website (“**you**” and “**Website**”, respectively). When you access and use our website and Services (as defined below), these Terms will govern and apply. It is important and recommended that you take the time to read these Terms.

By accessing or using the Website or Services you acknowledge that you have read and understood these Terms. You agree to be bound and to fully comply with the Terms, you further agree to comply with all applicable laws and regulations regarding your use of the Services and the Products (as defined below) and you acknowledge that these Terms constitute a binding and enforceable legal electronic contract between you and us.

You further represent and warrant that: (i) you are eligible to enter into these Terms, or, where applicable, you have all proper authorization to enter into these Terms; (iii) You are not defined as a “child”, or other similar term, in your jurisdiction and specifically you are not under the age of 18.

Please review our Privacy Policy prior to using the Services or accessing the Website.

1. **THE WEBSITE AND SERVICE; PRODUCTS**

The Website includes information and resources about the Company’s business operation and any other content related thereto, including, inter alia, contact information, images, text, logos, button icons, links, videos, other specialized content, documentation, data, and related graphics and other features (collectively, the “**Content**”). In addition, the Website provides you with means of communications with the Company which you can use to contact us, e.g. if you have any question, if you wish to be provided with information or if you purchase Products or require services with respect to the Products (collectively with the Website and Content shall be referred to as “**Service(s)**”). In addition, the Website enables you to purchase certain products of ours (such as capital equipment and accessories; scientific disposables), as may be modified by us from time to time (the “**Products**”). **It is hereby clarified that Products purchased through the Website are intended for research purposes only and not for human use.** If you wish to purchase Products intended for human use please contact us.

If you wish to upgrade the specification of your current system, please contact your local sales representative.

If you are ordering Products, your engagement with the relevant Alpha Omega entity shall be determined per the location of shipment of the Products as filled out in your order, as follows:

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| --- | --- |
| **Use Location** | **Engaged Entity** |
| Europe | Alpha Omega GmbH. |
| United States | Alpha Omega Co. USA Inc. |
| China | Guangzhou Alpha Omega Medical Technology Ltd. |
| Rest of the World | Alpha Omega Engineering Ltd. |

WE EXPRESSLY DISCLAIM ALL LIABILITY IN RESPECT OF ACTIONS TAKEN OR NOT TAKEN BASED ON ANY CONTENT AVAILABLE ON THIS WEBSITE, WHICH ARE AT YOUR SOLE RESPONSIBILITY AND RISK.

1. **REPRESENTATION, WARRANTIES & RESTRICTION OF USE**

You hereby represent and warrant the following: (i) you will comply with all applicable federal, state and local laws, regulations, administrative guidelines, orders and ordinances, and the terms and conditions of all applicable third party; (ii) you shall not, nor agree, authorize or encourage any third party to: (1) use the Services in non-compliant, unlawful, illegal, fraudulent or inappropriate manner; (2) circumvent, disable or otherwise interfere with security-related features of the Website and Service or prevent others from using the Services; (3) modify, create a derivative work of, reverse engineer, disassemble the Service; (4) remove, deface, obscure, or alter the Website and Services or any Content therein including any copyright notices, trademarks, or other proprietary rights provided as part of the Service; (5) use the Website and Services for benchmarking purposes; (6) use the Services to promote, conduct, or contribute to fraudulent, illegal or otherwise inappropriate activities, including without limitation, deceptive impersonation; (7) assert any proprietary rights in or to the Content nor remove, obscure or alter any notices of proprietary rights or disclaimers appearing in or on the Website and Content; (8) sublicense, resell, rent, lease, assign, transfer any right, share or otherwise commercially exploit or make the Services or the Content; (9) use, access or attempt to access the Services with any automated means (including robots, scrapers, etc.); (10) use Company’s name, logo or trademarks without Company’s prior written consent; (11) otherwise use the Website, Services or the Content in any unlawful manner, in  a breach of third parties’ rights or our rights, including intellectual property rights and privacy rights, or in breach of these Terms;

1. **PURCHASE OF PRODUCTS**

PRICE AND PAYMENT

* 1. The price of the Products will be our quoted price, exclusive of value added, excise, import or other taxes, charges or duties payable as a result of the transaction. Prices payable are those currently in effect in our then current pricelist. Unless otherwise agreed in writing, extra charges will apply for delivery and packaging.
	2. Unless otherwise agreed in writing, payment in full shall be made to us in the currency invoiced, no later than thirty (30) days from the date of invoice.
	3. Risk shall pass to you upon delivery of the Products, title in the Products shall pass to you upon full payment for the Products.
	4. In the event of late payment, we reserve the right: (i) to suspend deliveries or cancel any of its outstanding obligations; and (ii) to charge you with interest at a rate of up to 1.5% per month (or the highest rate permitted by applicable laws, if lower) from the due date. You also agree to pay all collection costs, expenses and reasonable attorneys’ fees for collection of any amount due and unpaid.

SHIPMENTS, DELIVERY AND ACCEPTANCE

* 1. Freight charges (including shipment insurance) will be prepaid by you. Orders will be shipped via a transportation mode, carrier and shipment insurance selected by us. Shipment of the Products will be made CPT (Incoterms 2020).
	2. The estimated delivery time of the Products, upon placement of an order approved by us, is (i) 10-12 weeks for capital and accessories; and (ii) 2-3 weeks for scientific disposables.
	3. You shall inspect all Products immediately upon delivery and shall, within seven days from such inspection, give notice in writing to us of any matter or thing by reason whereof it is alleged that the Products do not comply with their specifications. Notwithstanding, a notice with respect to alleged failure to meet the specifications with respect to non-disposable Products, which could not have been detected before the first use of such Products may be made in writing within seven days from the first use of such Product, provided that such use will be made within 45 days as of the delivery thereof. All claims made with respect to non-complying Products will be subject to the terms of the warranty set forth below, provided however that claims resulting from damages cause during transit will be subject to the terms of the applicable shipment insurance. If you do not to give the above notice within such period, the Products shall be deemed to comply in all respects with their specifications and any applicable contract.
	4. If a package arrives with visible damages, do not open the package. You are required to contact us immediately and comply with our instructions.

CANCELATION AND RETURNS

* 1. Any order you make may be cancelled or changed only with our consent at our sole discretion. Prior written consent from us is required before a return will be accepted. If a Product is returned with such consent, title in such Product shall pass to us. Disposable items and sterile items cannot be returned. All Products must be returned in saleable condition. We will accept Products for return only if they are not damaged or used. Returned Product must be sent freight prepaid to the appropriate address indicated by us. No credit will be issued for unauthorized returns.
	2. When we authorize Products to be returned for any reason other than for breach of Warranty, the amount of credit will be subject to a minimum restocking charge of 30%, provided however, that if the Products were customized per your request, additional charge will be added.

YOUR RESPONSIBILITY

* 1. You shall ensure that the Products will be operated by trained and competent operators only. You shall purchase the Products for your own use only, and shall not resell the Products to any other party. You may not change, adulterate, obscure, remove or deface trademarks, tradenames or labels appearing on any Product.
	2. You shall ensure that Products are operated in a safe and competent manner in strict compliance with established safety operating procedures (including our user's manual as revised from time to time) and applicable laws and regulations.
	3. You shall notify us promptly if any unusual operating peculiarity appears.
	4. You shall notify us if the Products are moved from their present location. If you choose to move Products to a new location, the packing, unpacking and actual movement of the Products shall be at your sole responsibility, cost and expense.

WARRANTY

* 1. We warrant that the Products substantiality meet our specifications at the time of delivery and shall be substantially free from material defects in material and workmanship when used in accordance with the written instructions for use in the User Manual issued by us on the date the Products were delivered to you (the "**Warranty**"). The Warranty is conditioned upon proper storage, installation, use and maintenance in accordance with our applicable written recommendations. Warranties for the Products shall expire 12 months from the date of delivery to you. Replacement parts shall substantially meet our specifications at the time of delivery and shall be substantially free from material defects in material and workmanship for a period of three months from the date of delivery to you.
	2. Our Warranty hereunder shall not apply: (i) if a Product is not used in accordance with its instructions or if it is used for a purpose not indicated in the specifications; (ii) if any maintenance, repairs, modifications, alterations or other work has been performed by you or others, other than work performed by us or with our prior authorization and according to its approved procedures; (iii) if Products have been subject to abuse, misuse, negligence, accident, improper installation, maintenance or use; (iv) if Products have been combined with or installed on or in combination with your products or equipment or any third party, and such installation or combination has not been authorized in advance and in writing by us; (v) for wear and tear damage, damages due to liquids, moisture, freezing, computer viruses or other damage incurred by the acts or omissions of you or your employees or agents or due to abnormal working conditions at your premises; (vi) have been damaged by causes beyond our reasonable control (including without limitation, shipping and conveying damages and damages caused as a result of a Force Majeure Event (as defined below)) (the "**Warranty Exclusions**"). The Warranty furnished hereunder does not extend to damages to Products which were caused, in whole or in part, from the use of components, accessories, parts or supplies not furnished by us. No warranty is provided on disposable items.
	3. We will not be responsible for damages incurred to the Products’ attachments caused by sterilization of the attachments by you using techniques other than those recommended by us.
	4. All warranty claims related to the Products must be submitted to us in writing within the warranty period for the applicable Product and not later than seven days after you first became aware of the defect, provided however, that claims with respect to damages, defects or non-compliance with the specifications which could have been observed or detected by you within the applicable notice period will be subject to such shorter notice period. You shall provide us a detailed explanation in writing of any warranty claim on the Products.
	5. Our sole obligation and your exclusive remedy for a breach of the Warranty shall be to repair, replace or refund, at our discretion, any malfunctioning component or item, provided that we are reasonably satisfied that claimed breach of Warranty actually exists and was not caused by the Warranty Exclusions. We further reserve the right to substitute and use, at our option, new, improved or remanufactured parts, which are capable of performing a function similar to that of the replaced parts. You shall provide, at your expense, labor for the removal of the defective component or item and installation of its replacement, at no charge to us. You shall bear all risk of loss or damage to returned Products while in transit. In the event no defect or breach of Warranty is discovered by us upon receipt of any returned Product, the Product will be returned to you, at your expense, and you will reimburse us for the transportation charges, labor and associated charges incurred in testing the allegedly defective item.
	6. We will not be responsible for replenishing your supply of items consumed or damaged during the use of the Products. This includes but is not limited to: Microelectrodes, Deep Brain Stimulation (DBS) Electrodes, EMG Contact Electrodes, Guiding Cannula, flexible shafts, compact disks, electrode cables, electrode holders and any other item consumed in the course of using the Products.
	7. We shall not be under any obligation to provide a Warranty for Products which were removed from the originally identified location without our prior written consent.
	8. With respect to Services - we warrant that all Services to be provided by us under an applicable services agreement or under the Warranty obligation hereunder will be carried out with reasonable care and skill (the "**Services Warranty**"). Our sole liability for breach of the Services Warranty will be to re perform the Services in question. The Services Warranty shall only extend for a period of 30 days after the completion of the applicable Services, and any claim shall be submitted in writing within such period.
	9. Products provided but not manufactured by us are not covered by the Warranty and you must instead rely on the representations and warranties, if any, provided to you by the manufacturer of such products.
	10. We reserve the right, from time to time and at our own discretion, to substitute a Product with a product that materially has the same function as such Product, or to discontinue the sale of a Product.
1. **INTELLECTUAL PROPERTY**

The intellectual property right in any Service, Products, and Content are owned by the Company, including, but not limited to, any trade names, trademarks etc. Except as explicitly provided herein, no license, right, title or interest to the intellectual property rights in any Service, Products and Content, and we or our licensors reserve any and all rights, title and ownership of the intellectual property rights in any Service, Products, Content and Website. You shall not use Company’s copyrights, trademarks, trade names, or other Intellectual Property in any way except to the limited extent as may be expressly agreed in these Terms.

1. **DISCLAIMER OF WARRANTIES**

We are not a medical organization and this Website is not designed to provide diagnosis or medical advice. The content and the medical information are provided for general information, education use and as an overview of intended use of our Products and should not be regarded as medical advice, a diagnosis or substitute for professional advice.

EXCEPT AS PROVIDED HEREIN, THE CONTENT, THE PRODUCTS, ANY PARTS OF THE PRODUCTS AND SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, REPRESENTATIONS, WARRANTIES AND CONDITIONS OF MERCHANTABILITY, QUALITY, ACCURACY, COMPLETENESS, OPERABILITY, USE, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, AND THOSE ARISING BY STATUTE OR FROM A COURSE OF DEALING OR USAGE OF TRADE, MARKETABILITY, SUITABILITY, INCOMPLETENESS, APPLICABILITY OR RELEVANCE OF THE CONTENT. THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF ANY WARRANTY IS LIMITED TO THE REMEDIES PROVIDED HEREIN. WE SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED TO YOU DUE TO YOUR INABILITY TO USE THE PRODUCTS, OR DUE TO FAILURE OF THE PRODUCTS TO PERFORM PROPERLY. YOU AGREE THAT WE WILL NOT BE HELD RESPONSIBLE FOR ANY DECISION MADE OR ACTION TAKEN OR NOT TAKEN IN RELIANCE ON THE CONTENT NOR DO WE ASSUME ANY RESPONSIBILITY FOR ANY LOSS, INJURY OR DAMAGES INCURRED AS A RESULT OR IN CONNECTION WITH SUCH ACTIONS. WE MAKE NO REPRESENTATION OR WARRANTIES THAT THE SERVICES AND CONTENT ARE OR WILL BE AVAILABLE FOR USE IN ANY PARTICULAR LOCATION OR AT SPECIFIC TIME. EXCEPT AS EXPRESSLY STATED HEREIN, THE COMPANY DOES NOT MAKE ANY REPRESENTATIONS, WARRANTIES OR CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE SECURITY OF ANY INFORMATION YOU MAY PROVIDE OR ACTIVITIES YOU ENGAGE IN DURING THE COURSE OF YOUR USE OF THE SERVICES AND PRODUCTS. YOUR USE OF THE SERVICES AND PRODUCTS IS AT YOUR OWN RISK AND RESPONSIBILITY. APPLICABLE LAW MAY NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SO TO THAT EXTENT CERTAIN EXCLUSIONS SET FORTH HEREIN MAY NOT APPLY.

1. **LIMITATION OF LIABILITIES**

YOU ACKNOWLEDGE AND AGREE THAT TO THE FULLEST EXTENT PERMITTED BY LAW,  COMPANY (INCLUDING, WITHOUT LIMITATION, ITS AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, COLLECTIVELY: “**COMPANY GROUP**”), AS WELL AS ITS VENDORS, DISTRIBUTORS, THIRD PARTY LICENSORS, SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES OR DAMAGES FOR LOST PROFITS, INTERRUPTION, LOSS OF DATA, LOSS OF GOODWILL, WORK STOPPAGE, DEVICE FAILURE, OR MALFUNCTION, OR DAMAGES ARISING OUT OF THE PERFORMANCE, USE OR INABILITY TO USE THE WEBSITE, THE PRODUCTS, PART OF THE PRODUCTS OR SERVICES, WHETHER BASED ON CONTRACT, WARRANTY OR TORT, INCLUDING WITHOUT LIMITATION NEGLIGENCE OR ANY OTHER LEGAL OR EQUITABLE THEORY, EVEN IF THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING IN PARTICULAR LOSS OF PROFITS, SAVINGS OR REVENUE; DAMAGE TO REPUTATION; LOSS OF USE OF A PRODUCT OR ANY ASSOCIATED PRODUCTS; COST OF CAPITAL; COST OF ANY SUBSTITUTE PRODUCTS, FACILITIES OR SERVICES; DOWNTIME; AND THE CLAIMS OF ANY THIRD PARTIES, INCLUDING YOUR CUSTOMERS. FURTHER, WE WILL NOT BE LIABLE OR RESPONSIBLE FOR ANY FAILURE TO PERFORM, OR DELAY IN PERFORMANCE OF, ANY OF OUR OBLIGATIONS HEREIN THAT IS CAUSED BY A FORCE MAJEURE EVENT. IN NO EVENT SHALL THE COMPANY’S AGGREGATE LIABILITY FOR ANY CLAIM ARISING OUT OF OR RELATED TO THESE TERMS AND THE SERVICES, SHALL EXCEED $500 (US DOLLARS). IN THE CASE OF PRODUCTS PURCHASED BY YOU THROUGH THE WEBSITE, THE COMPANY’S AGGREGATE LIABILITY FOR ANY CLAIM ARISING OUT OF OR RELATED TO THE PURCHASE OF SUCH PRODUCTS SHALL NOT EXCEED THE PRICE PAID BY YOU FOR SUCH PRODUCTS.

1. **INDEMNIFICATION**

You agree to defend, indemnify and hold harmless the Company and its affiliates, and respective officers, directors, employees and agents from any third party claims, damages, liabilities and expenses (including reasonable attorney’s fees) arising from (i) your use of the Services or Products that does not comply with these Terms; (ii) abusing or infringing any third party rights through the Services or use of the Products; and (iii) your breach of any applicable law, regulation and policies. This indemnification obligation will survive the termination or expiration of these Terms and the termination of your use of the Services or Products.

1. **GOVERNING LAW; JURISDICTION**

Per your engagement with the respective Alpha Omega entity (as described at the outset of these Terms), you hereby agree (i) that these Terms shall be governed by and construed in accordance with the laws set forth below; and (ii) to resolve any dispute you have exclusively with the competent court set forth below:

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| **Engaged Entity** | **Governing Law** | **Jurisdiction** |
| Alpha Omega GmbH. | Germany | The courts in Munich, Germany |
| Alpha Omega Co. USA Inc. | The State of New York | The courts of the State of New York |
| Guangzhou Alpha Omega Medical Technology Ltd. | The People's Republic of China | The courts in Guangzhou, China |
| Alpha Omega Engineering Ltd. | The State of Israel | The courts in Tel Aviv, Israel |

ANY CAUSE OF ACTION YOU MIGHT HAVE RELATING TO THE SERVICE IS LIMITED IN TIME TO ONE YEAR FROM THE ARISING INCIDENT, AND WILL BE PERMANENTLY BARRED AFTERWARDS.

1. **MISCELLANEOUS**

These Terms, constitute the entire understanding between the parties with respect to the use of the Services and the Products purchased by you. If any provision of these Terms is held to be unenforceable, such provision shall be reformed only to the extent necessary to make it enforceable and such decision shall not affect the enforceability of such provision under other circumstances, or of the remaining provisions hereof under all circumstances. Failure of the Company to enforce any rights or to take action against you in the event of any breach hereunder shall not be deemed as a waiver of such rights or of subsequent actions in the event of future breaches. These Terms and any right granted herein may not be assigned by you without the prior written consent of the Company. The Company may assign its rights and obligations set forth herein at any time, at its sole discretion. Your relationship with the Company is that of an independent contractor, and nothing in these Terms is intended to, or should be construed to, create a partnership, agency, joint venture or employment relationship. We will use reasonable efforts to fill orders, but we shall not be liable for nonperformance or delays caused by a shortage of raw materials, manufacturing problems, delivery or labor problems, priorities, acts of regulatory agencies or judicial bodies, discontinuation of a product line, acts of God or third parties, infringement claims, epidemics or other causes beyond our reasonable control (a "**Force Majeure Event**"). You agree that in the occurrence of a Force Majeure Event, we may allocate Products among all our customers as we deem reasonable, without liability.

1. **AMENDMENTS**

We reserve the right to periodically amend or revise the Terms at our sole discretion; such changes will be effective immediately upon the display of the revised Terms. The last revision date will be reflected in the "Last Updated" above. Your continued use of the Services following such amendments constitutes your acknowledgement and consent of such amendments to the Terms and your agreement to be bound by them. In the event of a material change, we will make best efforts to provide written notification by applicable means of communication.

**CONTACT US** [AO, please complete contact details]