



**ADVANCED COOLING TECHNOLOGIES, INC.  
PURCHASE ORDER TERMS AND CONDITIONS**

1. **Definitions.** “Buyer” shall mean Advanced Cooling Technologies, Inc. “Seller” shall mean the party with whom Buyer is contracting and to whom Buyer has issued this Purchase Order (“Order”).
2. **Acceptance.** This Order constitutes Buyer’s offer to Seller, and is expressly made conditional on Seller’s acceptance of Buyer’s terms and conditions only. Any additional, different or inconsistent terms proposed by Seller are specifically rejected, unless otherwise expressly agreed to in a writing signed by an authorized representative of Buyer. Seller shall have accepted this Order by issuance of its acknowledgment, commencement of performance or delivery hereunder, or Buyer’s acceptance, payment or use of any goods, products, materials, components, articles, parts, services or other property of Seller subject to this Order (collectively “Goods”). No revision to this Order shall be valid unless in writing and signed by an authorized representative of Buyer.
3. **Packing, Shipment, Delivery and Title.** (a) All packing shall be at Seller’s expense, in suitable containers for protection in shipment and storage. Packing must conform to applicable carrier regulations. Packing lists shall accompany each shipment, showing Buyer’s Order number and description of Goods. (b) Unless otherwise stipulated by Buyer, all Goods shall be shipped F.O.B. and to the destination or point of delivery specified in the Order. (c) Title and risk of loss of all Goods subject to this Order shall remain with Seller until delivery and acceptance of Goods by Buyer. (d) Time is of the essence for the delivery schedule for this Order. If delivery of Goods is delayed beyond the time indicated herein for any reason, Buyer reserves the right without liability (in addition to its other rights and remedies) to cancel this Order by written or facsimile notice, or verbal notice confirmed in writing (which notice shall be effective when received by or communicated to Seller). Upon such cancellation, as to any of the Goods not shipped, Buyer, at its sole discretion, may decide to purchase substitute Goods elsewhere and charge Seller with any cost incurred.
4. **Price:** Seller represents that any price or prices specified in this Order do not exceed Seller’s current selling prices for the same or substantially similar goods. Unless otherwise stipulated in writing by Buyer and Seller, the sum of all prices listed in this Order shall represent the total cost to Buyer as at the point of delivery specified herein, including all sales taxes, excise taxes, custom duties and other government or municipal taxes, levies and charges of every description, and charges for packing, crating, boxing, storage and shipping. If price is not clearly listed or stipulated on this Order, it is not a valid Order and Seller shall confirm with Buyer in writing the price before filling or performing the Order.
5. **Termination for Convenience:** (a) Buyer may, by notice in writing, terminate this Order or work under this Order for convenience and without cause, in whole or in part, at any time, and such termination shall not constitute default. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of work under the Order. (b) In the event of termination for convenience by Buyer, Seller shall be reimbursed for actual,



reasonable, substantiated and allowed costs, plus a reasonable profit for work performed to the date of termination. Buyer may take immediate possession of all work so performed upon written notice of termination to Seller. (c) Seller's obligations, including but not limited to obligations under the warranty, proprietary rights, infringement and indemnity against claims provisions, shall survive such termination.

6. **Termination for Default:** (a) Buyer may, by notice in writing, terminate this Order in whole or in part at any time for Seller's breach of any one or more of its terms, for failure to make progress so as to endanger performance of this Order, or failure to provide adequate assurance of future performance. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of work under the Order. (b) In the event of Seller's default hereunder, Buyer may exercise any or all rights accruing to it, both at law, including without limitation, those set forth in Article 2 of the Uniform Commercial Code, or in equity. (c) Seller's obligations, including but not limited to obligations under the warranty, proprietary rights, infringement, and indemnity against claims provisions of this Order, shall survive such termination.
7. **Force Majeure:** Except with respect to defaults by Seller's subcontractors, neither Buyer nor Seller shall be liable for failures or delays that arise out of causes beyond their reasonable control and without their fault or negligence. Such causes include acts of God or of the public enemy, acts of the Government in its sovereign or contractual capacity, fires, floods, epidemics, terrorism, quarantine restrictions, strikes, freight embargoes, and unusually severe weather. In the event that performance of this Order is hindered, delayed or adversely affected by causes of the type described above ("Force Majeure"), the party whose performance is so affected shall so notify the other party's authorized representative in writing and, at Buyer's option, this Order shall be completed with such adjustments as are reasonably required by the existence of Force Majeure or this Order may be terminated for convenience by Buyer.
8. **Disputes:** (a) Any controversy or claim that may arise out of or in connection with this Order that after good faith negotiations cannot be resolved to both Parties' mutual satisfaction may be resolved by submitting the claim to a court of competent jurisdiction. (b) Pending resolution or settlement of any dispute arising under this Order, Seller shall proceed diligently as directed by Buyer with the performance of this Order.
9. **Governing Law:** This Order and the acceptance of it shall, as provided herein, constitute a contract made in and be governed in all respects by the laws of the Commonwealth of Pennsylvania.
10. **Proprietary rights.** (a) Unless otherwise expressly agreed in writing to the contrary, all specifications, information, data, drawings, software and other items supplied to Buyer by Seller shall be disclosed to Buyer on a non-proprietary basis and may be used and/or disclosed by Buyer without restriction unless (i) otherwise required by the U.S. Government regulations, or (ii) Buyer has executed a separate agreement restricting the use and disclosure of such information, data, software, and the like. (b) Unless otherwise expressly agreed in writing to the contrary and subject to Section 10(d) below, all specifications, information,



data, drawings, software, and other items which are (i) supplied to Seller by Buyer, or (ii) obtained or developed by Seller in the performance of this Order or paid for by Buyer, shall be proprietary to Buyer, shall only be used for purposes of providing Goods to Buyer pursuant to this Order, and shall not be disclosed to any third party without Buyer's express written consent. All such items supplied by Buyer or obtained by Seller in the performance of this Order or paid for by Buyer shall be promptly provided to Buyer on request or upon completion of this Order. (c) Unless otherwise expressly agreed in writing to the contrary and subject to Section 10(d) below, any invention or intellectual property first made or conceived by Seller in the performance of this Order or derived from or based on the use of information supplied by Buyer shall be the property of Buyer and Seller shall execute such documents necessary to perfect Buyer's title thereto. (d) Applicable U.S. Government Procurement Regulations incorporated into this Order, when applicable, take precedence over any conflicting provisions of Section 10 to the extent that such Regulations so require. The incorporation by reference of such U.S. Government Regulations dealing with the rights of subcontractors in technical data, subject inventions, copyrights, software, and similar intellectual property are not intended to, and shall not, unless otherwise required by applicable law, obviate or modify any greater rights which Seller may have previously granted Buyer pursuant to prior agreements between the parties.

11. **Buyer's Property.** All drawings, tools, fixtures, materials and other items supplied or paid for by Buyer shall be and remain the property of Buyer. All such items shall be used only in the performance of work under this Order unless Buyer consents otherwise in writing. Seller shall have the obligation to maintain any and all property furnished by Buyer to Seller and shall be responsible for all loss or damage to said property except for normal wear and tear.
12. **Warranty.** Seller warrants that all Goods furnished under this Order shall conform to all specifications and appropriate standards, will be new, and will be free from defects in material or workmanship. Seller warrants that all Goods furnished hereunder will be merchantable, and will be safe and appropriate for the purpose for which Goods of that kind are normally used. If Seller knows or has reason to know the particular purpose for which Buyer intends to use the Goods, Seller warrants that such Goods will be fit for such particular purpose. Inspection, test, acceptance or use of Goods furnished hereunder shall not affect Seller's obligations under this warranty, and such warranty shall survive inspection, test, acceptance and use. Seller's warranty shall run to Buyer, its successors, assigns and customers, and users of products sold by Buyer. Seller agrees to replace or correct defects of any Goods not conforming to the foregoing warranty promptly, without expense to Buyer, when notified of such nonconformity by Buyer, provided that Buyer elects to provide Seller with an opportunity to do so. In the event of failure of Seller to correct defects in or replace nonconforming Goods, Buyer, after reasonable notice to Seller, may make such corrections or replace such Goods and charge Seller for the costs incurred by Buyer in doing so. Seller shall be liable for and save Buyer harmless from any loss, damage, or expense whatsoever that Buyer may suffer from breach of these warranties.
13. **Inspection and Acceptance.** All Goods are subject to Buyer's inspection, testing and approval, both at Seller's facility and Buyer's point of destination. Buyer reserves the right to reject and refuse acceptance of any Goods which do not comply with all the terms of this



Order. Acceptance, payment, use, or resale of Goods by Buyer shall not release Seller of any of Seller's obligations, representations, or warranties hereunder. Payment for any Goods shall not be deemed an acceptance hereof.

14. **Changes.** Buyer shall have the right by written order to suspend work or to make changes from time to time in services to be rendered or the materials to be furnished by Seller hereunder or the delivery date. If such suspension or changes cause an increase or decrease in the cost of performance of this Order or in the time required for its performance, an equitable adjustment shall be negotiated promptly and the Order shall be modified in writing accordingly. Any claim by Seller for adjustment under this Section 14 must be asserted in writing within twenty (20) days from the date of receipt by Seller of notification of the change or suspension and shall be followed as soon as practicable with specification of the amount claimed and supporting cost figures. However, Seller shall not be excused from processing the Order as so changed by Buyer pending resolution of any claim made by Seller for adjustment under this Section 14.
15. **Infringement.** (a) Seller warrants that all work, items, materials, equipment or Goods provided by Seller pursuant to this Order, which are not of Buyer's design, shall be free from claims of infringement (including misappropriation) of third party intellectual property rights, and that any use or sale of such items by Buyer or any of Buyer's customers shall be free from claims of infringement. (b) Seller shall indemnify and save Buyer and its customers harmless from any and all expenses, liability and loss of any kind (including all costs and expenses including attorney's fees) arising out of claims, suits, or actions alleging such infringement. If requested by Buyer, Seller agrees to defend at Seller's expense any claims, suits or actions alleging such infringement.
16. **Subcontracting and Assignment.** Seller shall not assign this Order, any rights or obligations under this Order or any monies due or to become due hereunder nor delegate or subcontract any obligations or work hereunder without the prior written consent of Buyer. No purported assignment or delegation by Seller shall be binding on Buyer without such consent.
17. **Responsibility and Insurance.** Seller shall be responsible for the actions or failure to act of all parties retained by or under Seller in connection with the performance of this Order. Seller shall also maintain and cause its subcontractors, if any, to maintain such General Liability, Property Damage, Employer's Liability, Workers' Compensation Insurance, Professional Errors and Omissions and Motor Vehicle Liability (Personal Injury and Property Damage) Insurance as are specified in this Order or, if none are specified, such amount as will protect Seller (and its subcontractors) and Buyer from said risks and from any claims under any applicable Workers' Compensation, Occupational Disease, and Occupational Safety and Health statutes. Seller will provide Buyer with certificates evidencing required insurance upon Buyer's request.
18. **Liability for Injury.** Seller shall indemnify and hold Buyer harmless against all loss and liability on accounts of claims of personal injury, death and property damages resulting from any act or omission of Seller (including its agents, employees or subcontractors) in the course of performing this Order, including any Goods delivered hereunder.



19. **Compliance with Law.** Seller shall comply with the provisions of all applicable federal, state, and local laws, regulations, rules, and ordinances applicable to this Order and purchased goods thereunder, including without limitation, any fair labor standards or statutes and any statute or regulation regulating occupational safety and health.
20. **Counterfeit Parts Prevention.** (a) Seller shall not deliver counterfeit parts to Buyer under this Order. (b) If counterfeit parts are delivered to Buyer or found in any of the Goods delivered hereunder, such items will be impounded by Buyer. Seller shall promptly replace such counterfeit parts with parts acceptable to Buyer. (c) To further mitigate the possibility of the inadvertent use of counterfeit parts, Seller shall only purchase component parts directly from the Original Equipment Manufacturer (“OEM”), Original Component Manufacturer (“OCM”), or through an OEM/OCM authorized distributor supply chain. Procurement through independent distributors or brokers is NOT authorized by Buyer, unless approved in advance in writing by Buyer. (d) Seller shall immediately notify Buyer with the pertinent facts if Seller becomes aware or suspects that it has delivered counterfeit parts to Buyer under this Order. When requested by Buyer, Seller shall provide OEM/OCM documentation that authenticates traceability of the affected items to the applicable OEM/OCM.
21. **Conflict Minerals.** (a) Seller shall disclose if any Goods delivered, supplied or manufactured under this Order contain “Conflict Minerals” from the Democratic Republic of Congo (“DRC”), or any adjoining countries (presently including Angola, Burundi, Central African Republic, the Republic of the Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia). (b) The term “Conflict Minerals” shall have the meaning ascribed to it under Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Act”), meaning wolframite, cassiterite, columbite-tantalite (coltan), gold and their derivative metals: tantalum, tin and tungsten. (c) To the extent required therein, Seller commits to complying with the Act. (d) Seller shall maintain effective accounting procedures, internal controls and audit procedures necessary to verify compliance with the Act and this Section 21.
22. **Export/Import Controls.** (a) If applicable to this Order, Seller shall control the disclosure of and access to technical data, information and other items received under this Order in accordance with U.S. export control laws and regulations, including but not limited to the International Traffic in Arms Regulations (ITAR). Seller agrees that no technical data, information or other items provided by Buyer in connection with this Order shall be provided to any foreign persons or to any foreign entity, including without limitation, a foreign subsidiary of Seller, without the express written authorization of Buyer and the Seller’s obtaining of the appropriate export license, technical assistance agreement or other requisite documentation for ITAR-controlled technical data or items. Seller shall indemnify Buyer for all liabilities, penalties, losses, damages, costs or expenses that may be imposed on or incurred by Buyer in connection with any violations of such laws and regulations by Seller. (b) Seller shall immediately notify Buyer if it is or becomes listed on any excluded or denied party list of any agency of the U.S. Government or its export privileges are denied, suspended or revoked.



23. **Equal Opportunity and Affirmative Action.** If applicable, this contractor and subcontractor shall abide by the requirements of 41 C.F.R. §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.
24. **DPAS Rating.** If Seller has accepted this Order, and this Order supplies a DPAS rating, Seller is held accountable to the terms of Title 15 Code of Federal Regulation, Part 700, “Defense Priorities and Allocation System.”
25. **Severability.** If any provision of this Order or applicable thereof is found invalid, illegal or unenforceable by law, the remainder of this Order will remain valid, enforceable and in full force and effect, and the parties will negotiate in good faith to substitute a provision of like economic intent and effect.
26. **Quality System.** External suppliers shall implement a quality system.
27. **Records.** The external provider and sub-tier external providers are responsible for the identification and maintenance of quality system records relating to the ACT purchase order. Advanced Cooling Technologies, Inc, its customers and applicable regulatory authorities reserve the right to access these records. The records shall be maintained in a manner that allows them to be readily retrievable and prevent damage. All records shall be maintained for a period of fifteen (15) years, unless specified otherwise, and shall not be destroyed without ACT’s approval.
28. **Right of Access.** Advanced Cooling Technologies, Inc, its customers and applicable regulatory authorities reserve the right to enter the external provider and any sub-tier external providers to verify compliance to purchase order documentation. This may include in-process and final inspection, quality system audit and review of required documentation.
29. **Nonconforming Material.** The external provider or sub-tier external providers shall provide a process for the identification, segregation and disposition of nonconforming product. Nonconforming materials shall be identified and segregated to prevent use. Advanced Cooling Technologies, Inc. shall be notified of nonconforming product. Nonconforming materials shall not be submitted to ACT without written approval from ACT Quality Assurance. Nonconforming material shipped to ACT without written approval will not be accepted. The external provider shall notify ACT of any damage to ACT or its customers furnished materials.
30. **Inspection and Test Reports.** The external provider agrees to maintain objective evidence to assure conformance to the purchase order requirements. The objective evidence may



include: dimensional data sheet, certificates of conformity, test reports, statistical records and process control.

31. **Test Specimens.** The external supplier shall provide test specimens for design approval, inspection/verification, investigation, or auditing, as required.
32. **Dimensional Data Sheet.** The data shall include the part number or specification number and revision, a listing of the required dimensions and tolerances followed by the actual measurements, lot size, sample size and purchase order number.
33. **Certificates of Conformance** shall include the following:
  - a) Part Number and Revision Level
  - b) Specification Number and Revision
  - c) Purchase Order Number
  - d) Quantity
  - e) Serial Number, when applicable
  - f) Signature and date of authorizing quality assurance representative
34. **Test Reports.** This includes the chemical and physical test reports or material certifications. If a machine shop purchases the stock material, the shop will request the chemical and physical test reports from the mill and supply this documentation with the finished product.
35. **Delegation.** There may be instances where ACT does not possess the required measurement and test equipment to verify product conformance. In these instances, ACT will delegate the verification activities to the external provider. The delegation of these activities will be defined in the purchase order. A register of these delegations will be maintained by ACT.
36. **Packaging and Handling.** Materials shall be packaged in a manner to protect from loss and deterioration.
37. **Flow Down Requirements.** The external provider shall flow down the purchasing document quality requirements to any sub-tier external providers used in the performance of the purchase order. This will include any key characteristics, where applicable.
38. **Special Processes.** The external provider agrees to use ACT customer-approved sources for special processes, where applicable. The identification of the special process and the approved source will be documented in the purchase order specification. When special processes are required, the external provider agrees to provide ACT with documented evidence of qualification and approval according to the required specification.
39. **Change of Process.** The external provider shall notify ACT if there has been a significant product or process change related to the items in the purchase order specification or the quality management system. The external provider Quality Assurance Manager will contact the ACT Quality Manager in writing of the change. The external provider agrees to provide information pertaining to the product quality with the change. ACT quality will review and approve the change, as required.



40. **Foreign Objects.** The external provider shall provide provisions for the prevention, detection, and removal of foreign objects.
41. **Acceptance Authority Media.** The external provider shall follow good practices when signing and maintaining records. Acceptance Authority Media shall be used in an ethical manner to maintain the integrity of the product and associated manufacturing records.
42. **Awareness.** External suppliers shall ensure that persons are aware of their contribution to product or service conformity, contribution to product safety and the importance of ethical behavior.