

GENERAL TERMS AND CONDITIONS OF SALE

1. Applicability.

- 1.1. These terms and conditions of sale (these "**Terms**") are the only terms which govern the sale of the products ("**Products**") by the seller ("**ZEISS**") to the purchaser of Products ("**Buyer**"). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Products covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.
- 1.2. The accompanying confirmation of sale and/or invoice (the "**Sales Confirmation**") and these Terms (collectively, this "**Agreement**") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer's general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Terms.

2. Price.

- 2.1. Buyer shall purchase the Products from ZEISS at the price(s) (the "**Price(s)**") set forth in ZEISS's national price list in force as of the first (1st) day of each year or as otherwise agreed, or as identified in Buyer's purchase order if accepted by ZEISS. The agreed Price(s) may reflect a discount and/or appear on the invoice or statement. As applicable, the discount may fluctuate based on total purchases made during any month. If the Price[s] should be increased by ZEISS before delivery of the Products to a carrier for shipment to Buyer, then these Terms shall be construed as if the increased price(s) were originally inserted herein, and Buyer shall be billed by ZEISS on the basis of such increased prices.
- 2.2. All Prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any Governmental Authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, ZEISS's income, revenues, gross receipts, personnel or real or personal property or other assets.

3. CZV Lab Network. Notwithstanding any provision of this Agreement to the contrary other than Section 4, below, in order to qualify for the prices and discounts offered under this Agreement, Buyer must purchase Products and Services through CZV-owned laboratories (collectively, the "CZV Lab Network"). Products purchased outside of the CZV Lab Network are not eligible for any rebates or other discounts and do not count toward calculation of total purchases for any reason.

4. EyeMed Jobs. If Buyer accepts EyeMed insurance, then in order for Buyer to receive rebates or other discounts with respect to the purchase of Products under this Agreement that are reimbursed by EyeMed insurance (each an "EyeMed Job"), and to have such EyeMed Job purchases count toward calculation of total purchases for any reason, Buyer must register and purchase the EyeMed Jobs through Luxottica Lab Services ("LLS").

5. Delivery.

- 5.1. The products will be delivered within a reasonable time after the receipt of Buyer's purchase order, subject to availability of finished Products. ZEISS shall not be liable for any delays, loss or damage in transit.
- 5.2. Unless otherwise agreed in writing by the parties, ZEISS shall ship the Products to Buyer's location (the "**Delivery Point**") using ZEISS's standard methods for packaging and shipping such Products. Buyer shall take delivery of the Products within [NUMBER] days of ZEISS's written notice that the Products have been delivered to the Delivery Point. As applicable, Buyer shall be responsible for all loading costs and provide equipment and labor reasonably suited for receipt of the Products at the Delivery Point.

- 5.3. ZEISS may, in its sole discretion, without liability or penalty, make partial shipments of Products to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer's purchase order.
- 5.4. If for any reason Buyer fails to accept delivery of any of the Products on the date fixed pursuant to ZEISS's notice that the Products have been delivered at the Delivery Point, or if ZEISS is unable to deliver the Products at the Delivery Point on such date because Buyer has not provided appropriate instructions, documents, licenses or authorizations: (i) risk of loss to the Products shall pass to Buyer; (ii) the Products shall be deemed to have been delivered; and (iii) ZEISS, at its option, may store the Products until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
6. Non-Delivery.
- 6.1. The quantity of any installment of Products as recorded by ZEISS on dispatch from ZEISS's place of business is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary.
- 6.2. The ZEISS shall not be liable for any non-delivery of Products (even if caused by ZEISS's negligence) unless Buyer gives written notice to ZEISS of the non-delivery within 3 business days of the date when the Products would in the ordinary course of events have been received.
- 6.3. Any liability of ZEISS for non-delivery of the Products shall be limited to replacing the Products within a reasonable time or adjusting the invoice respecting such Products to reflect the actual quantity delivered.
7. Quantity. If ZEISS delivers to Buyer a quantity of Products of up to +/-5% of the quantity set forth in the Sales Confirmation, Buyer shall not be entitled to object to or reject the Products or any portion of them by reason of surplus or shortfall and shall pay for such Products the price set forth in the Sales Confirmation adjusted pro rata.
8. Shipping Terms. Delivery shall be made FOB ZEISS location unless otherwise agreed or in accordance with the terms on the face of the Sales Confirmation.
9. Title and Risk of Loss. Title and risk of loss passes to Buyer upon delivery of the Products at the Delivery Point. As collateral security for the payment of the purchase price of the Products, Buyer hereby grants to ZEISS a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Products, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the California Uniform Commercial Code.
10. Amendment and Modification. These Terms may only be amended or modified in a writing which specifically states that it amends these Terms and is signed by an authorized representative of each party.
11. Inspection and Rejection of Nonconforming Products.
- 11.1. Buyer shall inspect the Products upon receipt ("**Inspection Period**"). Buyer will be deemed to have accepted the Products unless it notifies ZEISS in writing of any Nonconforming Products during the Inspection Period and furnishes such written evidence or other documentation as required by ZEISS. "**Nonconforming Products**" means only the following: (i) product shipped is different than identified in Buyer's purchase order; or (ii) product's label or packaging incorrectly identifies its contents.
- 11.2. If Buyer timely notifies ZEISS of any Nonconforming Products, ZEISS shall, in its sole discretion, (i) replace such Nonconforming Products with conforming Products, or (ii) credit or refund the Price for such Nonconforming Products, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at its expense and risk of loss, the Nonconforming Products to ZEISS's designated facility. If ZEISS exercises its option to replace Nonconforming Products, ZEISS shall, after receiving Buyer's shipment of Nonconforming Products, ship to Buyer, at Buyer's expense and risk of loss, the replaced Products to the Delivery Point.
- 11.3. Buyer acknowledges and agrees that the remedies set forth in Section 11.2 regarding Buyer's exclusive remedies for the delivery of Nonconforming Products. Except as provided under Section 11.2,

all sales of Products to Buyer are made on a one-way basis and Buyer has no right to return Products purchased under this Agreement to ZEISS.

12. Payment Terms. Buyer shall pay CZV for Products and Services purchased under this Agreement within thirty (30) days after the date of invoice or, if a monthly statement is also provided, payment must be postmarked by the 20th of the applicable month and received by the end of the month as set forth in Section 12.2 below; provided, however, that final payment shall be due upon Buyer's receipt of a final invoice. All late payments are subject to a finance charge at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, which shall accrue from the due date of the payment. Any good faith disputes regarding invoices or monthly statements shall be made in writing within thirty (30) days after the date of the invoice or, if applicable, the date of the monthly statement. Buyer agrees that failure to dispute within such time periods shall constitute Buyer's waiver of the right to dispute, and the disputed invoice or monthly statement amount shall be deemed final and binding on Buyer. Failure by Buyer to make payment as required under this Agreement shall constitute a material breach of Buyer's obligations under this Agreement and shall entitle CZV to elect, at CZV's sole discretion, to either terminate this Agreement as provided herein, or suspend the provision of any Product or Service under this Agreement. Buyer shall reimburse CZV for all costs incurred by CZV related to efforts to collect payments under this Agreement, including, without limitation, attorneys' fees, court costs, other legal costs, and collection agency fees. This Section shall survive termination of this Agreement.
- 12.1. Invoice Discount (Late Payments). Notwithstanding any provision of this Agreement to the contrary, Buyer shall be eligible to receive Invoice Discounts only if Buyer's account is current and in good standing and payments are timely made as set forth in Section 12 above. Furthermore, in the event Buyer is placed on credit hold two (2) or more times during any twelve (12)-month period, CZV may, in its sole discretion, eliminate Invoice Discounts entirely upon notice to Buyer.
- 12.2. Statement Discount (Late Payments). Notwithstanding any provision of this Agreement to the contrary, Buyer shall be eligible to receive Statement Discounts only if Buyer's account is current and in good standing and payments are postmarked by the 20th of the applicable month and received in CZV's lockbox not later than 6:00 a.m. CST on the last business day of the month. Payments received later than the time and day specified shall be deemed late, and the Statement Discount shall be forfeited.
13. Right to Offset. To the extent not prohibited by applicable law and in addition to any other remedy, CZV has the right but not the obligation to offset any amount that CZV owes to Buyer against any undisputed amounts owed by Buyer under this Agreement.
14. Fair Market Value; No Remuneration or Referrals. The Parties acknowledge and agree that (i) the compensation paid hereunder is consistent with fair market value in arms-length transactions and is not determined in a manner that takes into account the volume or value of referrals or business otherwise generated between the Parties for which payment may be made by a governmental health care program; (ii) the Products and Services do not involve the counseling or promotion of a business arrangement or other activity that would violate any state or federal law; (iii) the Products and Services contracted for hereunder do not exceed those which are reasonably necessary to accomplish the commercially reasonable business purpose of the Parties; (iv) no amount paid hereunder is intended to be and shall not be construed as an inducement or payment for referral of any patient or business; and (v) none of the benefits conferred hereunder to any Party or any Party's employees, contractors or agents is conditioned upon a requirement that either Party or its employees contractors or agents make referrals or be in a position to make or influence referrals to, or otherwise generate business for, the other Party.
15. Lens Warranty. CZV's Lens Policies and Warranties are attached hereto and incorporated herein and shall apply to the Products and Services in this Agreement. The Policies and Warranties are subject to change from time to time.
16. Warranty Limitations. The warranties under this Agreement do not apply where the Products have: (a) been subjected to abuse, misuse, neglect, negligence, accident, improper testing, improper installation, improper storage, improper handling, abnormal physical stress, abnormal environmental conditions or use contrary to

any instructions issued by CZV; (b) been reconstructed, repaired, or altered by persons other than CZV or its authorized representative; or (c) been used with any product that has not been previously approved in writing by CZV.

17. Warranty Disclaimer. EXCEPT AS SET FORTH IN THIS AGREEMENT, CZV MAKES NO WARRANTIES, CONDITIONS OR REPRESENTATIONS, WRITTEN, ORAL, EXPRESS OR IMPLIED, IN FACT OR IN LAW, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES, CONDITIONS OR REPRESENTATIONS OF MERCHANTABILITY OR FITNESS FOR ANY SPECIFIC OR GENERAL PURPOSE, ALL OF WHICH ARE, TO THE EXTENT PERMISSIBLE BY LAW, HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED.
18. Limitation of Liability. CZV SHALL NOT HAVE ANY LIABILITY FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, PUNITIVE DAMAGES, OR RELIANCE LOSSES EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL CZV'S TOTAL LIABILITY IN CONNECTION WITH OR UNDER THIS AGREEMENT (WHETHER UNDER THE THEORIES OF BREACH OF CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORY OF LAW) EXCEED THE FEES PAID BY Buyer UNDER THIS AGREEMENT IN THE SIX (6) MONTHS PRIOR TO THE EVENT GIVING RISE TO SUCH LIABILITY. The Parties expressly acknowledge and agree that CZV has set its prices and entered into this Agreement in reliance upon the limitations of liability specified herein, which allocate the risk between Buyer and CZV and form a basis of the bargain between the Parties.
19. Indemnification. Indemnification. Buyer shall indemnify, hold harmless, and defend CZV, its officers, directors, employees, agents, affiliates, successors, and permitted assigns (collectively, "CZV") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, that are incurred by CZV (collectively, "Losses"), arising out of or related to any third-Party claim alleging: (a) breach or non-fulfillment of any provision of this Agreement by Buyer or Buyer's employees or representatives (collectively "Buyer"); (b) any negligent or more culpable act or omission of Buyer (including any reckless or willful misconduct) in connection with the performance of its obligations under this Agreement; (c) any bodily injury, death of any person, or damage to real or tangible personal property caused by the negligent or more culpable acts or omissions of Buyer (including any reckless or willful misconduct); or (d) any failure by Buyer to comply with any applicable federal, state or local laws, regulations, or codes in the performance of its obligations under this Agreement.
 - 19.1.1. Notice of Third-Party Claims. CZV shall give prompt notice to Buyer (a "Claim Notice") after obtaining knowledge of any Losses or discovery of facts on which CZV intends to base a request or indemnification. CZV's failure to provide a Claim Notice to Buyer under this Section does not relieve Buyer of any liability that Buyer may have to CZV, but in no event shall Buyer be liable for any Losses that result directly from a delay in providing a Claim Notice, which delay materially prejudices the defense of the related third-Party claim. Buyer's duty to defend applies immediately, regardless of whether CZV has paid any sums or incurred any detriment arising out of or relating, directly or indirectly, to any third-Party claim.
 - 19.1.2. CZV Control of Defense. Notwithstanding anything to the contrary in this Section, CZV may select its own legal counsel to represent its interests, and Buyer shall: (a) reimburse CZV for its costs and attorneys' fees immediately upon request as they are incurred; and (b) remain responsible to CZV for any Losses.
 - 19.1.3. Settlement of Indemnified Claims by Buyer. Buyer shall give prompt written notice to CZV of any proposed settlement of a claim. Buyer may not, without CZV's prior written consent, settle or compromise any claim or consent to the entry of any judgment regarding which indemnification is being sought hereunder.

20. Insurance. Buyer shall maintain at its own expense commercial general liability insurance for bodily injury, death and property loss and damage (including coverages for product liability, completed operations, contractual liability, personal injury liability, network security/data protection liability, and, if applicable, professional liability or errors and omission insurance) covering Buyer for claims, lawsuits or damages arising out of its performance under this Agreement, and any negligent or wrongful acts or omissions by Buyer or any employee or agent of Buyer. All such policies shall provide limits of liability in the minimum amount of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollar (\$3,000,000) in the annual aggregate. Buyer shall also maintain Automobile Liability insurance with limits of One Million Dollars (\$1,000,000) per accident, Worker's Compensation with statutory limits as applicable, and Employer's Liability insurance with limits of One Million Dollars (\$1,000,000). Buyer's insurance Buyer shall be an "A+" rated carrier by A.M. Best Buyer, with financial size of at least "X". Upon Business Associate's request, Buyer or Buyer's agent shall provide Business Associate with a copy of all certificates of insurance evidencing the existence of all coverage required hereunder.
21. Relationship of the Parties. Nothing in this Agreement creates any agency, joint venture, partnership or other form of joint enterprise, employment or fiduciary relationship between the Parties. Buyer is an independent contractor pursuant to this Agreement. Neither Party has any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other Party or to bind the other Party to any contract, agreement, or undertaking with any third Party.
22. Compliance.
- 22.1. Compliance with Laws. In the performance of its obligations under and related to the matters addressed by this Agreement, each party shall comply with all applicable laws.
- 22.2. Anti-Kickback Statute Compliance. This Agreement may provide for discounts, including, without limitation, rebates, on the purchase of Products and Services. Each party shall take all actions required to comply with applicable standards of 42 C.F.R. § 1001.952(h) (the Anti-Kickback Statute discount safe harbor regulations). In addition, to the extent required to comply with the Anti-Kickback Statute discount safe harbor regulations or other applicable laws and regulations, Buyer shall fully and accurately reflect in cost reports and other submissions to federal healthcare programs all discounts provided by CZV and, upon request by the Secretary of the U.S. Department of Health and Human Services or a state agency, shall make available information provided to Buyer by CZV concerning the discounts. Buyer shall pay any and all reasonable costs, including reasonable attorneys' fees, incurred by CZV as a result of Buyer's failure to comply with this Section.
- 22.3. Medicare Compliance; Access to Records. In the event that Section 952 of P.L. 96-499 (42 U.S.C. § 1395x(v)(1)) is applicable to this Agreement, CZV agrees as follows: (a) until the expiration of four (4) years after the furnishing of such services pursuant to this Agreement, CZV shall make available, upon written request of the Secretary of the U.S. Department of Health and Human Services or upon request of the Comptroller General of the United States, or any of his or her duly authorized representatives, this Agreement, and books, documents and records of CZV that are necessary to certify the nature of the duties of this Agreement; and (b) if CZV performs its services under this Agreement through a subcontract with a related organization, with a value or cost of Ten Thousand Dollars (\$10,000.00) or more over a twelve (12)-month period, then any such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request of the Secretary of the U.S. Department of Health and Human Services or upon request of the Comptroller General of the United States, or any of his or her duly authorized representatives, the subcontract, and books, documents and records of such organization that are necessary to verify, the nature and extent of the cost of services provided pursuant to such subcontract.
23. Waiver. No waiver by ZEISS of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by ZEISS. No failure to exercise, or delay in exercising, any right, remedy, power or

privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

24. Confidential Information. Confidential Information. Each party ("Receiving Party") acknowledges that, in the course of the performance of this Agreement, it may learn certain confidential and proprietary information about business and operations of the other party ("Disclosing Party") that has been identified as "confidential" or proprietary or that the Receiving Party knows or has reason to know to be confidential, including, without limitation, patient data, information or personal health information ("Confidential Information"). Receiving Party agrees that it will keep all such information strictly confidential, and that it will not use it for any other purpose other than to exercise its rights and responsibilities under this Agreement, and that it will not resell, transfer, or otherwise disclose such information to any third party without the Disclosing Party's specific, prior written consent. Receiving Party agrees that Disclosing Party is and shall remain the exclusive owner of Confidential Information disclosed hereunder by the Disclosing Party and all patents, copyrights, trade secrets, trademarks and other intellectual property rights therein. Receiving Party shall, upon the request of Disclosing Party, return to Disclosing Party all drawings, documents and other tangible manifestations of Confidential Information received by Receiving Party pursuant to this Agreement (and all copies and reproductions thereof). The obligations in this provision shall remain in effect following termination of this Agreement. Specifically excluded from the parties' confidentiality obligation is all information that: (a) was in the Receiving Party's legitimate possession prior to receipt of such information from Disclosing Party; (b) can be proven to have been independently developed by Receiving Party; (c) was rightfully received from third parties and, to the best knowledge of Receiving Party, without an obligation of confidentiality to Disclosing Party; (d) is in the public domain through means other than by breach of this Agreement by Receiving Party; or (e) is disclosed pursuant to any judicial or government request, requirement or order, provided that the Receiving Party takes reasonable steps to provide the Disclosing Party the ability to contest such request, requirement or order. The parties acknowledge that Confidential Information has competitive value and that irreparable damage may result to the Disclosing Party if the Receiving Party discloses Confidential Information. The parties agree that legal proceedings at law or in equity, including injunctive relief, are appropriate in the event of a breach hereof without the duty of posting bond.
25. Force Majeure. Except for the payment sums due and owing from Buyer to CZV, neither Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from the following force majeure events ("Force Majeure Events"): (a) acts of God; (b) flood, fire, earthquake or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances; (i) shortage of adequate power or transportation facilities; and (j) other events beyond the reasonable control of the Party impacted by the Force Majeure Event (the "Impacted Party"). The Impacted Party shall give notice within ten (10) days of the Force Majeure Event to the other Party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of thirty (30) days following written notice given by it under this Section, either Party may thereafter terminate this Agreement upon five (5) days' written notice.
26. Assignment. The rights and obligations under this Agreement are not assignable by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, however, CZV

may assign its rights to its subsidiaries or affiliates without such consent and upon thirty (30) days prior written notice to Buyer.

27. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.
28. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.
29. Governing Law. This Agreement shall be governed by California law and controlling United States federal law in the state or federal courts with jurisdiction in San Diego County, California, without regard to the choice or conflict of laws provisions of any jurisdiction, and any disputes, actions, claims or causes of action arising out of or in connection with this Agreement. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded. EXCEPT WHERE PROHIBITED BY LAW, THE PARTIES EXPRESSLY WAIVE TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING ANY DISPUTE, CONTROVERSY, OR CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.
30. Equitable Remedies. Buyer acknowledges and agrees that (a) a breach or threatened breach by Buyer of any of its obligations under this Agreement may give rise to irreparable harm to CZV for which monetary damages would not be an adequate remedy and (b) in the event of a breach or a threatened breach by Buyer of any such obligations, CZV shall, in addition to any and all other rights and remedies that may be available to CZV at law, at equity, or otherwise in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance, and any other relief that may be available from a court of competent jurisdiction, without any requirement to post a bond or other security, and without any requirement to prove actual damages or that monetary damages will not afford an adequate remedy. Buyer agrees that Buyer will not oppose or otherwise challenge the appropriateness of equitable relief or the entry by a court of competent jurisdiction of an order granting equitable relief, in either case, consistent with the terms of this Section.
31. Arbitration and Class Action Waiver. Any dispute, controversy or claim arising out of, relating to or in connection with this Agreement, including the breach, termination, or validity thereof, shall be finally resolved by arbitration and shall be submitted to JAMS, or its successor, for final and binding arbitration before a single arbitrator. The arbitration shall take place at a JAMS (or its successor's) office in San Diego County, California, unless the parties agree on some other venue. JAMS Comprehensive Arbitration Rules & Procedures shall apply to the arbitration, which may be accessed from this link <https://www.jamsadr.com/rules-comprehensive-arbitration> except that Rule 17 shall be modified to allow for the depositions of up to three witnesses per side. Included in the three depositions per side shall be the right to take the deposition of the other party, and to require the party to produce a corporate designee or designees to testify on up to five (5) topics to be set forth in the deposition notice. The fact that the party may choose to have more than one witness testify as to such topics does not mean that deposition shall count as more than one deposition for purposes of the three deposition per side limit. The arbitration shall be governed by the Federal Arbitration Act and shall be final and binding on the parties. Judgment on the award may be entered in and enforced by any court of competent jurisdiction. The parties agree to arbitrate solely on an individual basis, and that this Agreement does not permit class arbitration or any claims brought as a plaintiff or class member in any class or representative arbitration proceeding. The arbitral tribunal may not consolidate more than one person's claims and may not otherwise preside over any form of a

representative or class proceeding. Notwithstanding the tribunal's power to rule on its own jurisdiction and the validity or enforceability of this Agreement to arbitrate, the tribunal has no power to rule on the validity or enforceability of this Agreement to arbitrate solely on an individual basis.

32. Notices. All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "**Notice**") shall be in writing and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees prepaid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.
33. No Waiver. A failure or omission of either party to insist, in any instance, upon strict performance by the other party of any term or provision of this Agreement, or to exercise any of its rights under this Agreement, shall not be deemed a modification of any term or provision of this Agreement, or a waiver or relinquishment of the right to insist upon further performance or enforcement of any such term or provision by such party, nor shall such failure or omission constitute a waiver of the right of such party to insist upon the performance by the other party of any term or provision of this Agreement. No waiver or modification of any provision of this Agreement shall be valid unless in writing and signed by the party against whom the same is sought to be enforced.
34. Severability. If any part of this Agreement is held invalid or unenforceable, the remainder of this Agreement will still be considered valid and enforceable.
35. Survival. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Insurance, Compliance with Laws, Confidential Information, Governing Law, Submission to Jurisdiction/Arbitration, and Survival.
36. Authorization to Purchase. The individual making the online purchase represents and warrants that they are competent and capable of entering into a binding contract, and that they are authorized to execute the purchase pursuant to the terms of this Agreement.



Lens Policies and Warranties

Effective January 1, 2020

Warranty; Replacement; Returns

Professional Change

All lenses are warranted for a 1-time replacement within 120 days after the original date of purchase at no charge for changes or errors by the doctor or optician. Changes or errors resulting in an upgrade are excluded and will be invoiced at full price. Professional Changes are limited to the following:

- Prescription change
- Doctor or optician errors (seg, style, hts, et.al.)
- Edging errors
- Cosmetic changes
- Changing from one progressive to another (an upgrade will be invoiced at full amount of the upgrade)
- Changing or removing anti-reflective coating

Progressive Non-Adapt Warranty

For patient non-adapt on ZEISS brand and synchrony progressive lenses that have not undergone a professional change, are warranted for a 1-time remake within 6 months after the original purchase date on the same progressive lens. All other progressive lenses are warranted for a 1-time remake within 90-days after the original purchase date.

Scratch Warranty

Lenses, in the original frame with the original prescription, under normal wear and tear use, are warranted for a 1-time replacement within 1 year from the original purchase date.

Foundation super hard coating, on the original lens and frame with the original prescription and coating is warranted for a 1-time replacement within 2 years from the original date of purchase for scratching, crazing, or peeling under normal wear and tear use.

Anti-Reflective Warranty

ZEISS premium anti-reflective coatings including the ZEISS DuraVision series (except for mirror), PureCoat Plus, synchrony HMC+ and HMCX on lenses in the original frame with the original prescription, are warranted for a 2-time replacement within 2 years after the original purchase date for defects under normal wear and tear use. All other anti-reflective coatings are warranted for a 1-time replacement within 1 year from the original date of purchase year under normal wear and tear use.

3-Piece/Drill Mount Warranty

Drilled rimless and metal groove lenses made in Hi-index 1.60-1.67, Trivex, or Polycarbonate, in the original frame with the original prescription, are warranted for a 1-time replacement within one (1) year for starring and/or cracking. There is no warranty on all other materials.

Lab Error Replacement

All lenses, in the original frame with the original prescription, that do not meet industry-recognized standards (i.e. ANSI), or contain a cosmetic defect or other imperfection are warranted for a 1-time replacement within 30 days after the original purchase date at no charge, only if the original lenses are returned to the lab. Credit will be issued only after receipt of the defective lenses and the error is validated by ZEISS. All validated lab error replacement lenses are processed on a priority basis.

Stock Lens Returns

Stock lenses without anti-reflective coatings in the original unopened sealed package may be returned for credit within 90 days after the original invoice date only if the return is documented with the original invoice number. All stock lens returns are subject to a 15% restocking fee

What is not Covered under Warranty

- A non-adapt order if the same lenses were previously replaced due to a professional change
- Abused or otherwise damaged lenses
- Patient's old frame or doctor supplied lenses
- Upgrades of any kind, which will be invoiced at the full amount of the upgrade
- Stock Lenses without coatings (returnable only)
- Errors contained in electronic orders

Warranty Limitations

The warranties herein do not apply where the products have: (a) been subjected to abuse, misuse, neglect, negligence, accident, improper testing, improper installation, improper storage, improper handling, abnormal physical stress, abnormal environmental conditions or use contrary to any instructions issued by ZEISS; (b) been reconstructed, repaired, or altered by persons other than ZEISS or its authorized representative; or (c) been used with any product that has not been previously approved in writing by ZEISS.

Warranty Disclaimer

EXCEPT AS SET FORTH IN THIS AGREEMENT, ZEISS MAKES NO WARRANTIES, CONDITIONS OR REPRESENTATIONS, WRITTEN, ORAL, EXPRESS OR IMPLIED, IN FACT OR IN LAW, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES, CONDITIONS OR REPRESENTATIONS OF MERCHANTABILITY OR FITNESS FOR ANY SPECIFIC OR GENERAL PURPOSE, ALL OF WHICH ARE, TO THE EXTENT PERMISSIBLE BY LAW, HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED.

Policies

Credits

Credits will not be issued after 90 days from the date of the original order for any reason whatsoever.

Electronic / Non-Electronic Orders

Electronic ordering is preferred and are sequenced in a queue for production. All phone orders are read back to the customer at the time the order is placed to ensure accuracy. Faxed orders are accepted only if the order is on our standard d Rx order form and clearly legible.

Cancellations

Orders cancelled before lab processing begins will not incur any charges. Orders cancelled after lab processing has begun, are subject to a charge of 50% of full invoice value.

Shipping

The standard shipping rate during Monday through Friday only is \$4.95 per Rx job for next business day 2:00 p.m. delivery (excludes Saturday and Sunday delivery) and is subject to change at any time. Additional charges will apply for all special non-standard shipping requirements (e.g., overnight expedite, courier, or weekend service).

Payment

Payments are due within 30 days after invoice or statement date. To receive discounts, payment in full must be postmarked by the 20th of the month. Accounts that are past due are subject to a 1.5% interest charge per month. Accounts 45 days or more past due will be placed on hold and are not eligible to receive credits, discounts, or participate in any promotions.