

## Ophthalmic Labs, Inc. Terms and Conditions of Sale

1. ENTIRE AGREEMENT: Any of the terms and provisions of Buyer's order which are inconsistent with the terms and provisions hereof shall not be binding on Ophthalmic Labs and shall not be considered applicable to the sale of the products mentioned herein. No modification hereof shall be valid unless in writing and duly signed by a person authorized by Ophthalmic Labs.

2. PRICES: Prices are subject to change without notice. Unless otherwise specified on the order, prices are for the specific quantity stated and do not include taxes, if applicable, nor charges for transportation, special packaging or marking or testing.

3. QUANTITY DISCOUNTS: When quantity price discounts are quoted, they are computed separately for each type of product or equipment, and are based on the quantity of each type and each size ordered at any one time for immediate delivery. If any order is reduced or cancelled, it is agreed that prices will be adjusted upward to the higher prices, if applicable, for the quantity not cancelled.

4. QUALITY LEVELS: Prices are based on quality levels commensurate with normal processing. If a different quality level is required, Buyer must specify his requirements and pay any additional costs that may be applicable.

5. TAXES: Unless prohibited by statute, Buyer agrees to pay Ophthalmic Labs the amount of any Federal, State, City or other tax, import or export duty, tariff or customs charge levied by any jurisdiction either inside or outside the United States. Ophthalmic Labs may be required to pay on account of the ownership at the place of installation, or the manufacture, transportation, sale or use of the material and equipment which is the subject of this contract.

6. REPRESENTATION: Buyer represents to Ophthalmic Labs that Buyer:  
A. Is licensed under the laws of the Buyer's jurisdiction as a doctor of medicine or osteopathy or as an optometrist or as a medical school, college of optometry or hospital; has the education, skills, knowledge and experience to use the product(s) for its intended use.  
B. Will use the product(s) solely in accordance with its operation manual.  
C. Is purchasing the product(s) solely for use as a diagnostic instrument in Buyer's medical, osteopathic or optometric practice.  
D. Will not transfer the product(s) to any other person or entity not so licensed.  
E. Buyer agrees to break no seals on the product packaging or attempt to make any repairs to product. Buyer agrees to indemnify and defend Ophthalmic Labs against all claims, cost, expense and liability incurred as a result of Buyer's breach of any of the foregoing representations.

7. TERMS: Unless otherwise stated, payment terms shall be net 30 days subject to approval by Ophthalmic Labs of amount and terms of credit. Ophthalmic Labs reserves the right to require payment in advance or C.O.D., or otherwise modify credit terms either before or after acceptance of any order if for any reason Buyer's credit is or becomes objectionable to Ophthalmic Labs. Pending correction of any objectionable credit situation, Ophthalmic Labs may withhold shipments without incurring any liability to Buyer. When partial shipments are made, payments therefore shall become due in accordance with the designated terms of the invoice, if at the request of Buyer, shipment is postponed, payment will become due immediately after notice to Buyer that products are ready for shipment. A service charge of 1 1/2% per month on the unpaid balance shall be imposed upon all accounts not paid when due.

8. SHIPMENT: All shipments will be made F.O.B. the Ophthalmic Labs facility unless otherwise specified. In the absence of specific instructions, Ophthalmic Labs will select the carrier. Title to the materials shall pass to the Buyer upon delivery thereof by Ophthalmic Labs to the carrier or delivery services; thereupon, the Buyer shall be responsible therefore Products held for Buyer, or stored for Buyer, shall be at the risk and expense of Buyer; claims against Ophthalmic Labs for shortages must be made within 5 days after arrival of shipment. Unless specifically referenced in the sales agreement, all installation and shipping expenses, as well as any miscellaneous items that were necessary to complete system integration will be added on to the final invoice.

9. DELIVERY: Ophthalmic Labs acknowledges shipping dates are approximate. If Buyer's order does not cite desired delivery date(s) and/or does not expressly prohibit delivery in advance of schedule date(s), Buyer agrees that immediate delivery is acceptable. If conditions arise which prevent compliance with delivery schedules, Ophthalmic Labs shall not be liable for any damage, and general consequential or otherwise, for delay in delivery or for failure to give notice of delay, and such delay shall not constitute grounds for cancellation. Without limiting the generality of the foregoing; Ophthalmic Labs shall under no circumstances be responsible for failure to fill any orders when due to failure to obtain export licenses; fires; floods; earthquakes; riots, strikes; war; freight embargoes or transportation delays; shortage of labor; inability to secure fuel, material, supplies or power or other energy requirements or on account of shortages thereof, acts of God or of the public enemy; any existing or future laws or acts of the Federal or any other State Government (including specifically, but not exclusively, any orders, rules or regulations issued by any officials of such government) affecting the conduct of Ophthalmic Labs business which Ophthalmic Labs in its judgment and discretion deems it advisable to comply with either as a legal or patriotic duty, or to any other cause beyond Ophthalmic Labs reasonable control.

11. ACCEPTANCE: Upon shipment of any products they will be deemed to have been accepted by Buyer.

12. MODIFICATIONS: Unless otherwise provided, Ophthalmic Labs reserves the right to modify product specifications of products ordered by the Buyer herein providing that the modification will not materially affect form, fit or function.

13. TERMINATION: In the event of complete or partial termination or cancellation of this order for the convenience of the Buyer, or if the Buyer fails or refuses to accept delivery or is otherwise in default under or repudiates the purchase contained herein, or fails to pay when due any invoice, then in addition to any and all remedies allowed by law, Ophthalmic Labs without notice:  
A. May bill and declare due and payable all undelivered equipment under this or any other agreement between Ophthalmic Labs and the Buyer and/or;  
B. May defer shipment under this or any other agreement between the Buyer and Ophthalmic Labs until such breach or repudiation is removed and/or;  
C. May cancel in whole or part an undelivered portion of this agreement and/or any other agreement between Buyer and Ophthalmic Labs. No order for product(s) may be terminated by buyer except by mutual agreement in writing. In the event Buyer attempts to terminate or cancel this order, in whole or in part, where it is not for the convenience of the Government, it shall constitute a breach of contract unless consent to such termination or cancellation is obtained by Buyer from Ophthalmic Labs in writing. In any event, the price of all items delivered and all items which have been finished, but not yet delivered, will be adjusted upward to the applicable quantity break, if any, for the lower quantities.

14. GOVERNING LAWS: The terms of this agreement and all rights and obligations hereunder, shall be governed in accordance with the laws of the state of Massachusetts. Buyer hereby consents and submits to the jurisdiction of the appropriate courts in the Commonwealth of Massachusetts for adjudication of any question, law of fact arising hereunder.

15. LIMITATION OF LIABILITY: Seller will not be liable for any loss, damage, cost of repairs, incidental or consequential damages of any kind, whether or not based upon express warranty or implied warranty, contract, negligence, or strict liability arising in connection with the design, manufacture, sale, use or repair of the products. In no event will Seller be liable to the Buyer for any amount in excess of the purchase price of the product which proves to be defective.

16. SUPPLEMENTAL CLAUSES FOR EXPORT ORDERS:

A. Currency: The prices quoted herein are payable in U.S. Dollars.  
B. Proof of Export: The products are to be purchased only for export and the Purchaser agrees to furnish Ophthalmic Labs with proof of exportation of all or any part of such products within five months from the date of the Ophthalmic Labs invoices therefore or if exportation of any part shall not have occurred within that period, Purchaser agrees to pay Ophthalmic Labs upon demand, the amount of any manufacturer's excise tax or other tax which now or hereafter may be imposed on the sale of such products for consumption within the United States.  
C. License and Permit Requirements:

1. Ophthalmic Labs will secure all export licenses and permits required by the United States Government and Buyer will furnish reasonable cooperation in acquiring such licenses and permits. If such licenses are not paid for by the Buyer, such payments will be added to the contract price.
2. Buyer will secure all licenses and permits required by the foreign government and Ophthalmic Labs will furnish reasonable cooperation in acquiring such licenses and permits.
3. Failure to obtain a required license or permit in sufficient time to permit delivery within the time set forth in the contract and without fault or negligence of the contracting parties shall occasion an extension upon the contract herein until such licenses and permits are obtained, within a reasonable amount of time.