



VOLK OPTICAL INC. TERMS AND CONDITIONS OF SALE

Revised as of August 4, 2020

1. General

These Terms and Conditions ("Terms") apply to Volk Optical Inc.'s ("Seller") sale of goods, services, products, and/or software licenses directly to Purchasers and directly or indirectly to End Users. The "Purchaser" is the entity that purchases the goods, services, products, and/or software licenses directly from Seller. The "End User" is the Purchaser or, where the Purchaser is an authorized Seller distributor, the entity that purchases Seller goods, services, products, and/or software licenses from the Purchaser.

These Terms, any Supplemental Terms, and any applicable written agreements constitute the complete and final agreement of Seller and Purchaser and may not be added to, modified, superseded, or altered except in a written instrument signed by both parties. Certain products and/or software may be subject to additional terms and conditions ("Supplemental Terms"). Any additional or contrary terms and conditions contained in any form, other than Supplemental Terms or terms accepted in writing by both parties are hereby rejected. No waiver of any provision herein shall constitute a waiver of any other provision (whether or not similar) nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in writing. In the event of a conflict between these Terms and Conditions and a separate written agreement, the provisions of such separate agreement will prevail.

These Terms and Conditions do not transfer ownership of, or grant Purchaser any rights to Seller's intellectual property. As between the parties, all intellectual property rights inherent in and appurtenant to the goods, including all copyrights, trademarks, patents, trade secrets, and all other proprietary rights, shall remain the sole and exclusive property of Seller.

2. Prices, Taxes and Permits

All prices are subject to change without notice. Seller's price shall be its price in effect at the time of shipment. All prices exclude sales, use, franchise, license, excise and other taxes in respect of manufacture, sale or delivery of the goods furnished hereunder, export or import duties and inspection fees, all of which shall be paid by Purchaser unless a proper exemption certificate is furnished.

3. Terms of Payment

Unless otherwise specified, and subject to credit approval, the terms of domestic payment shall be net thirty (30) days from date of invoice, and payment on export shipments shall be cash in United States funds payable pursuant to Seller's instructions. Seller reserves the right to make delivery in installments, and all such installments are to be separately invoiced and paid for at the then current price when due per invoice, without regard to subsequent deliveries. If payment is made by wire transfer or other electronic means, it should be made to and will be accepted only as specified on the invoice provided directly by Seller. Please reference order number on any electronic payment. By placing a credit card or ACH direct payment account on file, Purchaser authorizes Seller to charge such card for all fees Purchaser accrues as a result of its purchases. BY USING A CREDIT CARD, PURCHASER HEREBY UNCONDITIONALLY WAIVES ANY AND ALL CHARGEBACK RIGHTS IT MAY HAVE.

4. Delivery

Unless set forth otherwise in the purchasing documentation, delivery will be Ex-Works at plant of manufacture. Delivery dates are approximate and subject to confirmation. Purchaser is solely responsible for inspecting and testing all delivered goods and services.

5. Risk of Loss

Purchaser assumes all responsibility for risk of loss of, or damages to, the goods furnished hereunder, upon delivery by Seller. If the Purchaser delays shipment, payments are to be made as specified and the goods furnished hereunder shall be held at Purchaser's risk and subject to reasonable storage charges and insured by the Purchaser.

6. Delays

Seller shall not be responsible for reasonable or excusable delays in filling any order when due.

"Excusable delays" include, without limitation, delays resulting from accidents; acts of God; strikes; riots; civil commotion; fires; floods; freight embargoes or transportation delays; shortage of labor; inability to secure fuel; materials; supplies or power; all at present prices or on account of shortages thereof; any existing or future laws, acts, regulations, orders, requests or decrees, of the Federal or of any State Government affecting the conduct of Seller's business which Seller in its judgment and discretion deems it advisable to comply with as a legal or patriotic duty; or other causes beyond Seller's control.

"Reasonable delays" include, without limitation, delays to which the Purchaser, when notified, makes no objection. In the event of any such delay, the date of delivery shall be extended for a period equal to the time lost by reason of the delay. In the event of inability, for any reason, to supply the goods to be furnished hereunder, Seller may allocate its available supply of such goods or raw materials among any or all Purchasers, as well as departments, divisions, subsidiaries or affiliates of Seller or among Seller's product lines on such basis as Seller may deem practical without liability for any failure of performance which may result therefrom.

7. Warranties

The Seller warrants to the End User that the goods furnished hereunder will, for the appropriate periods of product warranties, as defined below or in our user/product manual or user instructions for use shipped with each product, conform to Seller's agreed to specifications. The obligation of the Seller, and the End User's sole exclusive remedy hereunder, shall be limited, at the Seller's option, to replacement or repair of any defective goods. End User shall not return goods unless authorized in writing by Seller. Seller shall have the right to inspect the goods at End User's installation. End User's failure to give prompt written notice (30 days) upon discovery of any alleged defect shall constitute acceptance of the goods as delivered, and a waiver by End User of all claims with respect thereto.

Notwithstanding the foregoing warranties and remedies, Seller shall have no obligation hereunder if the goods become defective as a result of End User's disassembly or modification of the goods, unauthorized service or repair, misuse or abuse of the goods, End User's combination of the goods with any equipment, goods, or systems not provided by Seller and intended to be combined with the goods, the improper storage, accidents, contamination, adulteration, improper configuration, improper use or misapplication after delivery thereof to End User, End User's failure to follow the recommended cleaning, disinfection and sterilization instructions and/or cautions contained in the user/product manual or instructions for use, End User's failure to use the goods consistent with the documentation made available by Seller, instructions provided by Seller, and best industry practices, End User's failure to return the product in packaging consistent with the original protective packaging and it results in shipping damages, or End User's breach of these Terms. If the product fails to function due to defects in either materials or workmanship, Seller will, at its option, either repair or replace the product without charge, subject to the Warranty Limitations.

Warranty Periods:

- Seller warrants its Non-contact Slit Lamp and BIO Lenses against defects in materials or workmanship for a period of 10 years from receipt by End User.



- Seller warrants its Contact Laser & Diagnostic Lenses against defects in materials or workmanship for a period of 5 years from receipt by End User.
- Seller warrants its All Glass G Series Mirrored Lenses against defects in materials or workmanship for a period of 4 years from receipt by End User.
- Seller warrants its Volk Vitrectomy, Standard 3 and 4 Mirror Lenses and its 2 mm research Lenses against defects in materials or workmanship for a period of 1 year from receipt by End User.
- Seller warrants its Merlin®, and ROLS® Reinverter, and ROLS∞ against defects in material or workmanship for a period of 1 year from receipt by End User.
- Seller warrants its Pictor Plus® and Pictor Prestige™, iNiview®, and VistaView™ digital ophthalmic imaging devices against defects in materials or workmanship for a period of 1 year from receipt by End User.
- Seller warrants its Volk Autoclave Sterilizable (ACS) Vitrectomy Lenses, Surgical Gonio, and Volk Vold Gonio Lens, against defects in materials or workmanship for the lesser of 6 months from receipt by End User or 100 sterilization cycles.
- Seller warrants its VitreoLens Handle®, Infusion Handle & Steady Mount against defects in materials or workmanship for a period of 6 years from receipt by End User.

End User shall be responsible for returning products for warranty service to Volk Optical, 7893 Enterprise Drive, Mentor, Ohio 44060 - USA. In the event product is not eligible for warranty service, Customer is solely responsible for all costs of shipping and handling.

Warranty repairs will include all labor, adjustments and replacement parts. Replacement parts may be remanufactured or contain remanufactured materials. The warranty service will not be provided without proof the product was purchased directly from Seller an authorized Seller distributor, or a Volk-authorized e-commerce platform.

In the event of a product recall during the warranty period, the applicable product will be replaced at no cost to End User. Any repair for issues not covered by the above warranty may be conducted at the sole discretion of Seller at a cost to be determined by Seller.

SELLER MAKES NO OTHER WARRANTY, EXPRESSED OR IMPLIED, OF THE PRODUCT, GOODS, SERVICES, OR SOFTWARE LICENSE SUPPLIED HEREUNDER, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY EXCLUDED. SELLER FURTHER DOES NOT WARRANT THAT INFORMATION REGARDING PRODUCTS INCLUDING AVAILABILITY, PRICING, SPECIFICATIONS, AND SHIPPING TIMING ARE ACCURATE OR OTHERWISE FREE OF ERRORS.

8. Limitations of Liability and Indemnification

SELLER SHALL HAVE NO LIABILITY TO PURCHASER, END USER, OR ANY THIRD PARTY FOR LOSS OF PROFITS, OR SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES UNDER ANY CIRCUMSTANCES OR LEGAL THEORY, WHETHER BASED ON NEGLIGENCE, BREACH OF WARRANTY, STRICT LIABILITY, TORT, CONTRACT, OR OTHERWISE. SELLER SHALL IN NO EVENT BE LIABLE TO PURCHASER, END USER, OR ANY THIRD PARTY IN RESPECT OF THIS ORDER AND/OR PRODUCT, SERVICE, OR SOFTWARE LICENSE DELIVERED ON ACCOUNT OF THIS ORDER FOR ANY AMOUNT GREATER THAN THAT PAID TO SELLER ON ACCOUNT OF THIS ORDER. PURCHASER AND END USER EACH ACKNOWLEDGE THAT IT IS PURCHASING THE GOODS SOLELY ON THE BASIS OF THE COMMITMENTS OF THE SELLER EXPRESSLY SET FORTH HEREIN. USE OF PRODUCTS, GOODS, SERVICES, INSTRUCTIONS, DOCUMENTATION, SOFTWARE LICENSE AND/OR OTHER MATERIALS PROVIDED BY SELLER DO NOT CONSTITUTE MEDICAL ADVICE AND DO NOT REPLACE EXPERT MEDICAL OPINION, DIAGNOSIS, TREATMENT OR OTHER PROFESSIONAL JUDGMENT. End User acknowledges and agrees that it will rely solely on the medical and professional judgment of its employees and agents when using the products, goods, and services.

End User agrees to indemnify, hold harmless, and defend Seller, its owners, agents, directors, officers and employees, from any and all claims, expenses, costs (including attorneys' fees), settlements, costs and judgments arising out of or due to: (a) End User's breach of any term or condition of these Terms and Conditions; or (b) any medical decision, diagnosis, or treatment, or negligent, reckless, or intentionally wrongful act or omission by End User or any End User employee or agent. Seller, its owners, agents, directors, officers, and employees each expressly disclaims responsibility, for damages of any kind arising out of the use of, reference to, or reliance on the products, goods, and services, provided that this limitation shall not limit or eliminate Seller's warranty or indemnification obligations as expressly set forth in Sections 7 and 9. Purchaser shall not assert any claim in connection with this Agreement unless Purchaser has given Seller written notice of the claim within six (6) months after Purchaser first knew or should reasonably have known of the facts giving rise to such claim.

9. Patent Indemnity

In the event of any award of damages by a United States Federal Court from which no appeal can be taken against End User arising out of a claim of infringement by the goods supplied hereunder, of any existent valid U.S. patent owned by a third party, End User and Seller agree that Seller shall indemnify End User for such damages to the extent specified in Section 8 hereof, provided End User notifies Seller in writing within ten (10) days from the receipt by End User of the first notice of said claim infringement. Seller, at its option shall have the right to participate in the defense of any such infringement action. Such participation, however, will not constitute any admission of liability upon Seller's part. Any indemnification by Seller will be conditioned upon End User's full assistance and cooperation in the defense of any such action. This sets forth End User's sole and exclusive remedy for any claim of infringement related to the goods, and Seller shall have no obligation or other liability to End User for infringement arising from the use of the goods furnished hereunder in the operation of any process or in combination with other materials or arising from any alteration in the goods made by the End User.

10. Obligations of End User:

End User will:

Comply with all applicable laws, regulations, codes and sanctions relating to their business and their use of the product, goods, services and/or software license.

Ensure the product, goods, services and/or software license are used only by properly trained staff, in a manner consistent with best industry practices and all documentation and instructions provided or otherwise made available by Seller.

Maintain all licenses and certificates necessary to conduct its business.

Ensure all payment information provided to Seller is accurate, authorized, and up-to-date.

11. Obligations of Purchasers that are Authorized Volk Distributors:

All Purchasers that distribute goods on Seller's behalf will:

Provide these Terms to each End User at or before the time of End User's purchase.

Comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including, but not limited to:

- Local and national laws in the territories in which it operates.
- The UK Bribery Act 2010.
- The US Foreign Corrupt Practices Act 1977.
- The UN Convention Against Corruption.



Comply with the Halma plc Group Code of Conduct relating to bribery and corruption which may be found on the Halma website (www.halma.com).

Have in place its own policies and procedures to ensure compliance with this Clause.

Ensure that all parties with which it is associated or who are providing goods or services in connection with this Contract (including subcontractors, agents, consultants and other intermediaries) are aware of and comply with the requirements of this Clause.

Maintain complete and accurate records of all transactions and payments related to this Contract and, on reasonable request, disclose details of those transactions and payments to Seller.

On reasonable request confirm in writing to Seller that it has complied with the requirements of this Clause and, if so requested, allow Seller to verify this compliance by way of an audit of its records.

Immediately inform Seller if it suspects or becomes aware of any breach of this Clause by one of its employees, subcontractors, agents, consultants or other intermediaries and provide detailed information about the breach.

12. Changes and Termination

From time to time, Seller may revise, supplement, or otherwise amend the specifications, quantities, quality, or delivery requirements of the goods. Such changes shall become effective after Purchaser's or End User's receipt of such change. Seller may, for any reason, terminate any order of goods and any related agreement, in whole or in part, upon 10 days prior written notice to Purchaser without penalty, liability, or further obligation, provided that such notice is sent no later than ten (10) days before the delivery or performance date applicable to the subject product, goods or services.

13. Miscellaneous

These Terms and Conditions, and all agreements and documents related to the applicable sale of goods and/or services, shall be construed and performed in accordance with the laws of the State of Ohio without giving effect to its choice of law provisions. Any claim, dispute, or matter arising under or in connection with this agreement shall be brought exclusively in the state or federal courts located in Lake County, Ohio. Purchaser and End User hereby irrevocably submit to the jurisdiction of such courts and hereby waives any objection based on lack of personal jurisdiction, improper venue, or forum non conveniens. The United Nations Convention on the International Sale of Goods (CISG) shall NOT apply to this agreement. Neither Purchaser nor End User may assign its rights or delegate its obligations hereunder without Seller's prior written consent.