



HARDIN OPTICAL STANDARD TERMS & CONDITIONS OF SALE

SECTION 1. Exclusive Terms. These Hardin Optical Company (“HOC”) Terms and Conditions of Sale, HOC’s quotation for the Order (and any HOC revisions thereto), including all applicable appendices, exhibits, correspondence and other documents that have been mutually agreed in writing, set out the exclusive terms and conditions (this “Agreement”) that apply to all sales by Hardin Optical (“HOC”) to the customer or purchaser shown on this Agreement for the products (the “Products”). HOC objects to, and rejects, all terms and conditions that are different from or additional to those set out in this Agreement. For the avoidance of doubt, unless specifically accepted by HOC in writing, all pre-printed or other terms and conditions set forth on Customer’s Purchase Order(s) are hereby rejected by HOC. A failure by HOC to object to different or additional terms in any future communication shall not waive the terms and conditions in this Agreement. Customer’s acceptance of the terms and conditions to purchase Products (the “Order”) is limited to the terms and conditions in this Agreement. HOC conditions its offer or acceptance of (as applicable) and agreement to the Order upon Customer’s assent to the terms and conditions of this Agreement, excluding all different or additional terms and conditions. No Order is effective as to HOC unless in writing and on the terms and conditions of this Agreement.

SECTION 2. Definitions. The following defined terms have the meanings set forth below.

- 2.1 “Claims”: All claims, demands, causes of action, damages, and remedies against and liabilities of HOC arising out of, under, for or in connection with the Order or any Product under any statute, theory of liability or cause of action, including: breach of contract or breach of any provision of or obligation under the Order; failure, defect or nonconformity of any Product; warranty, delivery or failure of delivery, or indemnity; infringement, misappropriation or the like; negligence (whether sole, joint, contributory, or gross), contribution, products liability or strict liability, or any other theory.
- 2.2 “Delivery” or “Delivered”: HOC’s delivery of Products to Customer in accordance with this Agreement at HOC’s Plant or as otherwise specifically agreed, in writing, by HOC.
- 2.3 “Including” (without regard to capitalization) means “including by way of example and not in limitation”.
- 2.4 “Intellectual Property”: All inventions, know-how, specifications, lists of materials including chemicals, formulations, patents, patent applications, copyrights, designs, industrial designs, utility models, samples, prototypes, manufacturing techniques, methods, practices, and processes, equipment, confidential or proprietary information, trade secrets, trade indicia (including trademarks, trade names, logos, product names and slogans), methods, processes, software, protocols, schematics, web sites, works of authorship, source code, executable and object code, databases, and customer information, sales, marketing, financial, and advertising information and other business information, and all legal rights therein, including patent rights, trade secret rights, trademark rights, copyrights, moral rights, database rights and license or other conveyance rights in, relating to, or arising from any intellectual property.
- 2.5 “Product”: Hardin Optical standard or custom Products actually sold or contracted for sale by HOC to Customer.
- 2.6 “HOC’s Plant”: The location at which HOC or HOC’s subcontractor hold Products for delivery to purchasers.

SECTION 3. Purchase Order.

- 3.1 Requirements: A written Purchase Order specifying all requirements for the Order must be provided to and approved by HOC prior to acceptance of the Order into production. At minimum, each Purchase Order must include or reference the unique item number and revision agreed upon and communicated during the quote process; ship date and location; individual product price and total price; any quality codes or requirements governing the parts, their creation, or shipping; applicable regulatory requirements for the products.
- 3.2 If the Customer makes a request to change to any line item or implements any change to the current revision of the Purchase Order in effect, Hardin will notify the customer within 10 days of such change request/implementation that there is (or may be) an impact the current order in effect. Hardin will then formally provide the Customer with a quote within 30 days of change providing the details (pricing, schedule, other) of such impact.

- 3.3 A copy of the Product drawing including all specifications and notes providing a manufacturable level of detail must be provided in reference to all Purchase Order line items. It is the Customer's responsibility to provide updated drawings and specifications for all Products as necessary.
- 3.4 Revisions: **Change of Scope.** If the Customer makes requests to change any line item from the original agreed and approved Purchase Order, and at any time period of that contract, then HOC reserves the right to re-evaluate costs and pricing. The RFQ process will be utilized to establish the affect from requested changes, whether with material, geometries, tolerances, further R&D or NRE.

SECTION 4. Payment Terms.

- 4.1 Unless otherwise agreed in writing, all invoices for U.S. domestic shipments of Products are due and payable THIRTY (30) days from date of invoice. However, HOC reserves the right to request payment on other terms in its sole discretion and without prior notice to Customer. Each Delivery shall be separately accepted, and payment shall be made according to the invoice covering the Products and the above payment terms. Unless Customer has rescheduled pursuant to these Terms and Conditions or terminated pursuant to them, HOC is expressly authorized to invoice for, and Customer shall pay for, all Products that HOC is prepared to deliver.
- 4.2 If, in HOC's sole judgment, Customer's financial condition or any other factor impairs HOC's expectation of performance, HOC may immediately suspend or cease work and Deliveries without liability to Customer. As a condition of resuming Delivery, HOC may require full or partial payment in advance, security, or other arrangements in lieu of previous arrangements. If such conditions are not timely satisfied, HOC may cancel the Order without any liability. HOC may enforce its rights and remedies under this Paragraph without prior notice or demand and without proceeding under the Disputes section below.
- 4.3 Unless otherwise agreed in writing all invoices for foreign shipments outside the U.S. of Products are due and payable by advance payment, irrevocable, commercial Letter of Credit, paid on date of shipment, on terms acceptable to Hardin Optical and subject to Uniform Customs and Practices for Documentary Credits, ICC Publication No. 600 (latest version) or other terms in the sole discretion of HOC.
- 4.4 Any Customer payment amounts past due, \$1.00 minimum, shall be assessed a finance charge of 1.5% per month commencing on the date that balance becomes past due, compounded monthly, and prorated daily for partial months overdue. Court costs and attorney's fees will be charged if necessary to collect by legal means.

SECTION 5. Taxes.

- 5.1 All HOC quoted prices do not include applicable taxes and duties, unless otherwise stated.
- 5.2 Any sales, use, revenue, excise, value added, or other tax, fee, or charge of any nature imposed by any government or public authority (non-U.S., national, state, local or other) applicable to the Products, or the manufacture, sale, delivery, shipment or use thereof ("Taxes"), but excluding taxes payable by HOC that are measured by its income, shall be added to the purchase price and shall be paid by Customer.
- 5.3 For clarification, Customer is solely responsible to add any applicable taxes and charges to HOC prices prior to subsequent sale of the goods. In the event that HOC incurs any taxes, charges or liability of any kind resulting from Customer's failure to do so, then HOC may invoice Customer for said costs in order to remit them to the appropriate authority, for which Customer shall indemnify HOC immediately.

SECTION 6. Prices; Limited Pricing Period. Prices are quoted, invoiced and payable in U.S. dollars, and are subject to price adjustments at the sole discretion of HOC. HOC's pricing, cost structure and costs are not subject to audit. The pricing terms for the Order apply only to Products that HOC tenders for Delivery within twelve (12) months after the date of HOC's sales order or sales confirmation.

SECTION 7. Performance of Work and Intellectual Property Rights.

- 7.1 HOC does not grant, convey or confer upon Customer or Customer's customers, or anyone claiming by, through or under Customer, any ownership, interest, right, or license, express or implied, in or to any Intellectual Property of HOC except for: (i) the limited license implied by law for Customer to use and operate the Products sold to Customer for the normal and intended use of such Products; provided, no ownership, interest, right or license, express or implied, is granted, conveyed or conferred to or under any Intellectual Property of HOC covering or relating to any combinations, machines or processes in which any Products might be used.
- 7.2 As between Customer and HOC, HOC owns and retains all Intellectual Property in, relating to, or arising from each Product developed and manufactured by HOC. With regard to any Products or deliverables manufactured by HOC for which the

design and/or specifications and drawings are provided by Customer or for which Customer has provided any funding, such as for non-recurring engineering (NRE), then Customer shall retain ownership of and full responsibility for said design and/or specifications and drawings, except that HOC shall still retain all right, title, and interest in any tooling, equipment, and manufacturing technology, processes, techniques and equipment employed in performance of HOC's work, regardless of whether such Product or deliverable is a standard or custom product. HOC reserves the right to invoice for any NRE charges not already paid in advance by Customer.

- 7.3 Customer's technical or engineering support or exchange of information with HOC provided from time to time concerning Customer's work under this Agreement shall not be considered a formal "change" unless a written Change Order is mutually agreed and accepted by Customer's duly authorized representative.
- 7.4 HOC shall make every effort to handle Customer's materials with commercially reasonable care to maximize the yield from the material. However, HOC assumes no financial liability for material damaged during manufacturing or processing. Unless otherwise agreed, any excess materials shall be treated as scrap and will not be returned to Customer, unless otherwise agreed by Customer's duly authorized representative.
- 6.5 In the event that Customer elects to receive a quantity of Product in excess of the contracted amount, Customer shall pay HOC in accordance with an invoice from HOC for said excess Product.

SECTION 8. Custom Products. All Orders for Custom Products shall be made a part of this Agreement and shall automatically be subject to these Terms and Conditions as a condition to any obligation of HOC under or in connection with the Order.

SECTION 9. Confidentiality. "HOC's Confidential Information" means all confidential or proprietary information or property of HOC (including the Intellectual Property, samples, formulations, specifications, trade secrets, concepts, drawings, data, processes, technical information, technology, manufacturing processes, inventions, research and development, business plans, product road maps, costs, and pricing) disclosed by HOC in connection with the Order, including disclosures made in the course of making a quotation or completion of this Agreement or in the course of performance under the Order. Customer agrees to keep in confidence, shall not disclose to any third party, and shall not use (other than for purposes of performance under the Order) HOC's Confidential Information.

SECTION 10. Title and Delivery. Delivery of the Products hereunder shall be EX WORKS SELLER'S PLANT (INCOTERMS 2020). Customer is solely responsible for export clearance. Unless otherwise agreed in writing, any alternative delivery points requested by Customer shall be at Customer's cost and risk, including drop shipment from HOC's vendor or subcontractor. Title to Products shall pass upon payment in full by Customer regardless of the mode of delivery, and risk and liability for loss or damage thereto shall pass to Customer upon release from HOC at HOC's, vendor's or subcontractor's Plant, unless otherwise agreed in writing by the parties. Any loss or damage after release from HOC's Plant shall not relieve Customer from its obligations hereunder. Unless otherwise agreed in writing by the Parties, Customer shall be responsible for payment of all expenses and fees for loading, transportation, shipment and insurance.

SECTION 11. Delivery Dates; Delay.

- 11.1 As to all Products, Delivery dates are estimates and are subject to change. Actual Delivery dates may be affected by: (i) Customer's timely completion and delivery of all information required by HOC; (ii) any changes or modifications in Product specifications requested by Customer or necessary for formulations and manufacture; (iii) as to Custom Products, successful testing or processing as required. HOC shall be entitled to extend the Delivery date of Products for any of these reasons without breach.
- 11.2 In the event of a delivery reschedule or temporary hold, HOC may charge inventory charges of 4% per month, in the sole discretion of HOC. In the event of cancellation of any contract by Customer, Customer shall immediately pay any outstanding amounts, plus Customer agrees to pay for all finished Products in inventory and work in progress as of the date of such notification in writing. In addition, Customer shall reimburse HOC for any unrecovered expenses incurred by HOC specifically related to the Customer contract suspension or cancellation.
- 11.3 As to all Products, in event of delay or non-delivery due to causes beyond HOC's reasonable control, including acts of God or of public enemy; acts of civil or military authority; government actions, regulations, priorities, allocations, or controls, whether or not valid, and including exercise of sovereign or contractual powers; fires, floods, weather, epidemics, strikes, lockouts, slow-downs, shortages, factory or port conditions or freight embargoes; inability to obtain necessary labor, materials, or manufacturing facilities; war, civil or other disobedience or insurrection, rebellion, acts of a terrorist or other enemy (collectively, "Force Majeure"), the Delivery date shall, at the request of HOC, be deferred and HOC's performance excused for a period equal to the time lost by reason of Force Majeure. Further, if non-delivery or impracticability of Delivery of any or all of the Products results, in whole or in part, from any Force Majeure, HOC's failure to Deliver shall not be a breach, and HOC may elect to terminate the Order to the extent of the Products affected, without HOC's liability.

SECTION 12. Substitution and Modification. HOC may modify the specifications of Products formulated by HOC and may substitute Products manufactured to such modified specifications for those described in this Agreement, provided that such substitute Products substantially conform to the specifications applicable to the Products as originally ordered.

SECTION 13. Limited Warranties; Exclusive Remedies.

- 13.1 **Exclusive Express Warranty.** HOC warrants that its Products (i) are, at the time of Delivery, free from defects in material and workmanship. This warranty is subject to all exclusions and limitations set out herein.
- 13.2 **Sole and Exclusive Remedies.** If a warranted Product accepted by Customer does not conform to or is defective under HOC's warranty as contained herein ("Nonconforming Product"), HOC's sole and exclusive liability and Customer's exclusive remedy shall be for HOC (at HOC's option and subject to applicable exclusions and to Customer's compliance with the requirements of this Paragraph), within a reasonable time: (i) to refund the purchase price of the Nonconforming Product; (ii) to deliver to Customer a replacement of such Nonconforming Product; or (iii) to repair such Nonconforming Product. All returns must be made pursuant to HOC's Return Materials Authorization procedures and HOC shall reimburse Customer for the reasonable transportation charges thereunder.
- 13.3 **Limitations On Remedy.** To obtain remedies under HOC's warranty Customer must (i) give prompt written notice to HOC, of warranty defect or nonconformance and identify the Product for which notice is given, and (ii) return all Products claimed to be defective or nonconforming to HOC, FOB HOC's Plant, promptly after such notice, but in no event later than thirty (30) days after such notice has been given.
- 13.4 **Warranty Exclusions.** HOC's warranty of Products does not apply to any Product: (i) in other than its original condition; (ii) that HOC determines has, by Customer or otherwise, been subjected to operating or environmental conditions in excess of limits established in the applicable specifications, (iii) any chemicals, parts, materials, substances, and products provided by any party other than HOC, are commingled or incorporated with HOC's Products, (iv) that is in a condition resulting from typical wear and tear, or (v) is beyond 1 year from invoice date (unless otherwise provided in a separate agreement).
- 13.5 **Warranty Disclaimers and Limitations.** HOC's warranty of Products and any remedy or Claims for warranty or breach of warranty extend to Customer only and not to Customer's customers or users of Customer's products. Except for its express limited warranty above, HOC makes no warranty and disclaims all warranties or liabilities as to any Product or Intellectual Property, whether express, implied, statutory, or otherwise, including all warranties of merchantability, fitness for a particular purpose, title, ownership, and as to non-infringement, misappropriation and the like. The warranty obligations of HOC and the remedies of Customer set out herein are the sole and exclusive remedies of Customer and exclusive obligations of HOC for all Claims and other liabilities arising out of or in connection with any warranty or nonconformance, defect or other breach of warranty. HOC's warranties of Products stated in these Standard Terms and Conditions are in lieu of all other warranties, express, implied, statutory or otherwise. HOC's liability for any Claim under or in connection with any warranty, breach of warranty, or failure of remedy shall in no case exceed the HOC's obligation or liability specified herein and is subject to the limitations and exclusions set out herein.

SECTION 14. Limitation of Liability.

- 14.1 In no event shall the aggregate liability of HOC arising out of or in connection with the Order, the Products, and Claims (including HOC's liabilities for refund, repair or replacement of nonconforming or rejected Products) exceed the total amount paid by Customer to HOC under the individual Order in question. The existence of one or more Claims shall not enlarge or extend this limit. These limitations shall apply notwithstanding any failure of essential purpose of any limited or exclusive remedy.
- 14.2 In no event shall HOC be liable to Customer or any other person for any special, collateral, indirect, incidental, consequential, exemplary, punitive, or enhanced damages ("Excluded Damages") under any Claim or liability or under or as a result of HOC's warranty or remedies. Excluded Damages include costs of removal and reinstallation of products or other items, re-procurement costs (including administrative and personnel costs) of replacement or substitute items, loss of goodwill, loss of revenue or profits, and loss of use.

SECTION 15. Termination.

- 15.1 **By Customer.** Customer may terminate the Order (in whole or in part) by written notice to HOC at least SIXTY (60) days prior to the scheduled Delivery date under the Order. As a condition of any termination, Customer shall pay HOC's termination charges including: (i) a price adjustment for partial termination based on the quantity of goods actually Delivered to account for the reduced aggregate quantity of the Order; (ii) all costs, direct or indirect, incurred or committed for the Order (or the

portion terminated); (iii) a reasonable allowance for prorated expenses and anticipated profits; and (iv) at HOC's option, a minimum termination charge of ten percent (10%) of the purchase price of the Products terminated.

15.2 **By Seller.** HOC has the right to terminate the Order in accordance with the provisions set out elsewhere in this Agreement, or if elsewhere stated, at least upon THIRTY (30) days written notice. HOC also has the right to cancel the Order immediately if Customer becomes insolvent or if voluntary or involuntary proceedings are commenced as to Customer under any bankruptcy or insolvency law, or upon default or breach by Customer in its performance, payment or observance of any provision, obligation, liability, covenant, agreement or duty in or arising under the Order or pursuant to applicable law. All rights, remedies and powers of HOC are cumulative, and the statement or description of any right, remedy or power shall not limit or exclude any others provided or available to HOC, and may be pursued or enforced in any manner or order, all without election of remedy or other restriction.

SECTION 16. Nonwaiver of Default. In the event of any default by Customer, HOC may decline to make further shipments without being in breach. If HOC elects to continue to make shipments, HOC's action shall not constitute a waiver of any default or in any way affect HOC's remedies.

SECTION 17. Assignment. This contract shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. HOC may assign this contract, including both its rights and obligations, in whole or in part by one or more assignments and without notice to or consent by Customer, provided that the assignment ensures that all Product quality, delivery and other requirements are satisfied. Customer may not assign this contract in any respect without the prior written consent of HOC, not to be unreasonably withheld. HOC shall have the right, without notice to or consent by Customer, to subcontract manufacturing or other work as to any or all Products.

SECTION 18. Legal Compliance. Customer at all times shall comply with all applicable U.S. federal, state, local, and foreign laws and regulations regarding use and sale of the Products. To the extent that the Products are subject to U.S. export control laws and regulations or other international trade controls, Customer certifies that it will not import, export or re-export such Products or technologies unless it complies fully with all applicable laws and regulations relating to such import, export or re-export.

SECTION 19. Applicable Law; Forum. The laws of the State of Oregon, United States of America shall govern all Claims and Disputes (defined below) and the validity, enforceability, and construction of the Order and this Sales Agreement. With respect to transactions to which the 1980 United Nations Convention on Contracts for the International Sale of Goods ("CISG") might otherwise apply, the parties hereto agree to exclude the application of the CISG to the Order, the Sales Agreement or any transaction thereunder. In the event of any dispute arising in connection with the Products or this Agreement, each party consents to the exclusive personal jurisdiction of and venue in the federal or state courts located in the State of Oregon, U.S.A..

SECTION 20. Attorneys' Fees. If either Party brings any legal action or initiates any dispute resolution proceeding to enforce payment of any unpaid purchase price for Products sold to Customer or any other matter, the prevailing party shall be entitled to recover from the other party, in addition to any judgment, its attorney's fees and expenses.

SECTION 21. Severability; Amendments; Notification. If any provision of the Order, the Sales Agreement or these Terms and Conditions is held to be illegal, invalid or unenforceable, then (a) such provision shall be reformed so as to cure or remove such defect and if not reformed shall be severed, (b) the legality, validity and enforceability of the remaining provisions of the Order shall not be affected or impaired, and (c) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the severed provision. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Captions and headings herein are included for convenience of reference only and shall not affect the interpretation of the Order. No change or modification to the terms and conditions set out in this Agreement shall be effective unless specifically agreed to by HOC in a signed, written amendment. All notices to HOC shall be directed in writing, by recognized next-day delivery service to: Hardin Optical Company at its current business address.