

# TERMS OF BUSINESS OF COOPERVISION HONG KONG LTD

## 1. TRIAL LENSES

- 1.1. The Supplier may, at its discretion, provide the Customer with trial or sample Products, for the sole purpose of giving trials or preliminary fittings to end users (**Trial Lenses**). The Customer acknowledges that:
- (a) any Trial Lenses are supplied at the Supplier's discretion and the Supplier is entitled to decline any request for Trial Lenses; and
  - (b) it is not permitted to sell any Trial Lenses.

## 2. ORDER PROCESS AND CONTRACT FORMATION

- 2.1. Order An order placed using the Supplier's approved sales channels will constitute an offer by the Customer to buy the Products in accordance with these Terms (Order). The Supplier may accept or decline an Order in whole or in part at its absolute discretion.
- 2.2. Acceptance of an Order Following receipt of an Order, the Supplier may provide an acknowledgement. The acknowledgement is only to confirm the Product Request has been received and shall not constitute acceptance of the Product Request by the Supplier. No part of an Order shall be deemed to be accepted by the Supplier, and the Supplier shall have no obligation to supply any Products, unless and until the Supplier issues a formal written acceptance to the Customer (including by email or other electronic communication), or otherwise begins to fulfil an Order, at which point it will become a binding Contract. The Parties shall use the Order number in all correspondence relating to the Contract.
- 2.3. Changing a Contract The Customer shall not be entitled to amend or cancel a Contract unless expressly agreed by the Supplier.
- 2.4. Products may only be returned or exchanged (in addition to where defective (Section 8) or recalled by the Supplier (Section 9)) at the Supplier's discretion, subject to, and in accordance with, the Supplier's returns policy appended, as Exhibit A, and as amended or updated by the Supplier from time to time.
- 2.5. Terms These Terms apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. Any other correspondence or documents that the Parties use for the ordering of Products or administration will be for administrative convenience only and any terms and conditions included on such forms will not apply.
- 2.6. Changes to Terms: These Terms may be amended or updated by the Supplier from time to time, and the Customer will be subject to the current version of the Terms at the time the Contract is made.

## 3. CUSTOMER'S OBLIGATIONS

- 3.1. Restrictions on Onward Sales The Customer will only sell, ship, or otherwise make available the Products to individual end-consumers in Hong Kong (the Permitted Area), and will not, except with the prior written consent of the Supplier, directly or indirectly sell, ship, distribute or otherwise make available Products to any public or private entity or business, including without limitation, any distributors or resellers within or outside Hong Kong. The Supplier may request evidence and/or conduct a periodic audit of the Customer to ensure compliance with this obligation;
- 3.2. Effects of non-compliance: If the Customer sells, ships, distributes, or otherwise makes available the Products or any part thereof outside the Permitted Area, then (i) it will be liable for any damages incurred by the Supplier and its Group resulting from any breach of this obligation by the Customer; (ii) the Customer's entitlement to rebates and/or price adjustments (if any, authorised in writing by the Supplier) shall be forfeited; and (iii) the Customer shall be liable for infringement of the Supplier IPR, for which the right of use by the Customer is limited to the Permitted Area.
- 3.3. Sales Reporting The Customer will (if requested by the Supplier), in each month, provide a report to the Supplier (in the format provided by the Supplier), including details of any Products returns and rebilling, and detailing the amount by value on a region by region basis (and/or store by store basis), of its onward sales (excluding resale pricing) of the Products for the previous month. The Customer acknowledges that the sales data requested pursuant to this clause is required by the Supplier in connection with its legitimate business interests, including

without limitation, allocation of sales commission, compliance monitoring, inventory management, business strategy optimization and market insights.

#### 4. MANUFACTURE, PACKAGING AND DELIVERY

##### Products and Packaging

- 4.1. The Supplier may change the design, materials, mode of manufacture, specifications, production, packaging, Packing Specification or any other element of any Product. The Supplier will give reasonable written notice to the Customer of any change made under this Section 4.1.
- 4.2. (IF APPLICABLE) The Customer must comply with any legislation, regulations, certification and professional codes relating to the Products, governing:
- (a) their importation, use or sale in the country of destination (including the Applicable Medical Device Laws);
  - (b) payment of any duties or taxes; and
  - (c) transportation and storage, including all obligations to translate instructions, labelling or packaging into any other language

The Supplier may take any reasonable steps it deems necessary to verify the Customer's compliance with its obligations under this Section.

- 4.3. Label Design the Supplier will be responsible for the design of the Label and shall ensure that the design and content complies with applicable laws.

##### 4.4. Affixing the Label (IF APPLICABLE)

The Supplier will affix all Labels to the Products in accordance with the Packing Specification. The Supplier will not be responsible for loss suffered by the Customer which results from the Labels or labelling of the Products except in so far as such loss arises directly as a result of a failure to comply with the Packing Specification.

##### Delivery

- 4.5. Time Frame The Supplier will use reasonable endeavours to despatch the Products by the date confirmed in the Contract or otherwise notified to the Customer (the **Despatch Date**). The Parties agree that the Despatch Date is an estimate and time will not be of the essence.
- 4.6. Location Delivery will be complete when the Products have been delivered at the Customer's designated premises (**Delivery**).
- 4.7. Instalments The Supplier may at its sole discretion deliver the Products by instalments, which shall be invoiced and paid for separately. No cancellation or termination of any instalment by the Supplier or any delay in delivery or defect in an instalment will entitle the Customer to terminate or cancel any other Contract or instalment.
- 4.8. Deemed Acceptance Each shipment of Products will be deemed to have been accepted by the Customer unless the Customer reports any damage or shortfall (other than hidden defects) in the Products within three (3) Business Days of receipt. Unless so notified, the quantity of any consignment upon despatch, as recorded by the Supplier, will be conclusive evidence of the quantity received by the Customer.
- 4.9. Supplier Delays Subject to Section 4.12 and Section 15, if the Supplier has not despatched the Products (or any of them) by the Despatch Date then:
- (a) the Customer may notify the Supplier in writing of the delay and require Delivery before a separately agreed date after such notice; and
  - (b) if Delivery of those Products does not take place within that extended period then that Contract (or the relevant part of it) will be deemed cancelled (and neither Party shall have any liability to the other in respect of that part of the Contract) and the Customer may obtain similar products in respect of that Contract from an alternative supplier (on the condition that it notifies the Supplier in advance of its intention to do so).

- 4.10. Subject to Section 13.5: (i) the Parties agree and acknowledge that Section 4.10 sets out the Customer's only remedy for any delay or failure by the Supplier to Deliver the Products (in whole or in part) and any such delay or failure will not be a breach of these Terms; and (ii) the

Supplier will not be liable for any loss or damage arising from or relating to its delay or failure to Deliver the Products including the Customer's costs of obtaining similar products from an alternative supplier.

4.11. Customer Delays If the Customer fails to collect, or fails to accept any shipment of the Products or Delivery is delayed due to the Customer's carrier or a failure by the Customer to provide information or instructions that have been requested by the Supplier then:

- (a) risk will pass to the Customer on the Despatch Date; and/or
- (b) the Customer will reimburse the Supplier for any additional costs incurred (including for interim storage).

4.12. Removing products

Subject to Section 9.5, the Supplier may cease to supply all or any Products:

- (a) with immediate effect where the Supplier considers this reasonably necessary to address any health or safety concerns or as required by law or by a Competent Authority; or
- (b) on a temporary basis where the Supplier is experiencing supply chain or manufacturing difficulties; or
- (c) by giving at least six (6) months' written notice to the Customer (including by email).

## 5. TITLE AND RISK

5.1. Title and risk in the Products will pass to the Customer on Delivery.

## 6. EXCLUSIVITY

6.1. The Supplier will be the sole and exclusive supplier to the Customer of the Products and subject to Section 4.10, the Customer will not purchase the Products from any third party.

## 7. PRICE AND PAYMENT

7.1. Price The Customer will pay the price specified in the Contract (Price) or, if no price is quoted, the price set out in the Supplier's price list as at the date of Delivery. The Price will be payable in the currency specified in the invoice and is exclusive of (i) the costs of additional or bespoke packaging. The Supplier reserves the right to charge costs of transportation to the Customer's designated premises (where applicable), and insurance of the Products during transit, separately.

7.2. Price Changes The Supplier may change the Prices at its discretion, by giving the Customer not less than thirty (30) days' notice in writing (including by email).

7.3. Payment Date The Customer will make all payments within thirty (30) days end of month (EOM) (Due Date).

7.4. Timing of Payments Time for payment by the Customer will be of the essence. Payments will only be deemed received once the Supplier has received cleared funds.

7.5. No Right to Withhold All sums payable by the Customer will be paid free and clear of all setoffs, deductions and withholdings, except as required by law.

7.6. Late Payment If the Customer fails to make any payment by the Payment Date then:

- (a) the Customer will pay the Supplier interest on the unpaid amount at the rate of 4% per annum above the base rate of the Supplier's receiving bank from time to time. Interest will accrue on a daily basis, from the Payment Date until payment by the Customer and any administrative or legal costs incurred by the Supplier in the recovery of such sums will also be payable;
- (b) the Supplier may suspend deliveries of the Products and all deliveries or provision of services under any other agreement between the Customer and any other member of the Supplier's Group until all outstanding amounts have been paid in full.

7.7. The Prices offered under these Terms will apply only to the purchase of Products by the Customer. If the Customer acquires the business and assets of a third party (or the majority or entirety of shares in such third party), the third party shall only be entitled to order under these Terms with the Supplier's prior written consent.

## 8. DISCLAIMER

- 8.1. CooperVision provides for Product exchanges and defective Product returns according to the return policy set forth in Sections 2.4, as may be amended from time to time. The policies stated herein are in lieu of all express warranties on the part of CooperVision for any of its Products. Subject to Section 13.5 and to the fullest extent permitted by law, CooperVision disclaims any other warranties, whether express or implied, including warranties of merchantability, non-infringement or fitness for a particular purpose.

## 9. SAFETY AND PRODUCT RECALL

- 9.1. Compliance with Instructions and Guidelines The Customer will comply at all times with, and will refer its employees, customers and/or end users to, any information, instructions or guidelines provided by the Supplier concerning the storage, application, handling, treatment, maintenance and use of the Products. The Customer will not modify or in any way interfere with the Products (including by opening, tampering with, splitting up, re-packaging the Products or altering any Label), except in accordance with the Supplier's express written instructions.
- 9.2. The Supplier will not be liable to the Customer for any loss or damage caused by any failure to store or otherwise handle the Products in accordance with information, instructions or guidelines provided by the Supplier.
- 9.3. In this Section 9, serious incident and incident shall also refer to an adverse event, and "serious incident", "incident" and "adverse event" will have the meanings given to them in the Applicable Medical Device Laws (as applicable). The Customer will, or will otherwise procure that any end user supplied with the Products by the Customer will, notify the Supplier by email to [cvhkorder@coopervision.com](mailto:cvhkorder@coopervision.com), immediately of any serious incident or incident (or suspected serious incident or incident) relating to the Products together with details of the incident, the name(s) of any affected end user(s), and the country into which the Products were sold. The Customer agrees to co-operate with the Supplier at all times with monitoring the safety, performance and recall of the Products and to assist the Supplier with complying with the Applicable Medical Device Laws as it relates to the aforementioned (including providing any information and report as required by any Competent Authority). The Customer will maintain a list which contains details of the Products sold by the Customer, the name and address of the end user(s) (if applicable) and the country into which the Products have been sold. This list will be made available to the Supplier promptly on request and the Customer will obtain all necessary consents from the end users in advance so it is able to provide the list, in accordance with Data Protection Law.
- 9.4. Complaints The Customer will immediately notify the Supplier of any complaints or other reports concerning the Products and will comply with all instructions from the Supplier regarding such complaints or reports. Any notification to a Competent Authority as a result of a quality or safety issue relating to the Products (including any serious incident or incident) will be made by the Supplier, except where the Customer does so in accordance with explicit written instructions from the Supplier.
- 9.5. Recall Process The Supplier may at its sole discretion (or as directed by a Competent Authority):
- (a) recall any of the Products already sold to the Customer or its customers (and either refund or credit the Price paid or replace the Products with the same or substantially similar products); or
  - (b) issue a notice to the Customer about the manner and use of any Product already sold to the Customer or its customers; and
- in each case, the Customer will fully and promptly cooperate with the instructions of the Supplier in the notice. The Customer will only be entitled to initiate a recall with its customers or any end users where it is acting on the express written instructions of the Supplier.

## 10. CONFIDENTIALITY

- 10.1. Each Receiving Party will hold all Confidential Information of the Disclosing Party which it obtains under these Terms, in strict confidence and will not disclose or authorise the disclosure of any Confidential Information except:
- (a) to its personnel and advisers who need to know such information for the purposes of exercising the Receiving Party's rights or carrying out its obligations under these Terms; or
  - (b) where and to the extent authorised to do so by the Disclosing Party; or
  - (c) as required to do so by law, a court of competent jurisdiction or any governmental or regulatory authority.

Each Receiving Party will not use the Disclosing Party's Confidential Information for any other purpose.

## 11. DATA PROTECTION

11.1. In this Section 11, all references to "personal data" shall also refer to "personal information", and "personal data" and "personal information" will have the meanings given to them in the Data Protection Law (as applicable). The Parties share the opinion that for the purposes of Data Protection Law and in connection with these Terms:

- (a) the Customer and the Supplier are independent controllers of personal data collected by the Customer and provided to the Supplier under Sections 9.3 and 9.4, and the transfer of that data will be on a controller to controller basis; and
- (b) the Supplier will be the processor of the Customer (as controller) for any personal data of an end user received from the Customer and processed by the Supplier to deliver the Products directly to those end users (where applicable) or allow the Customer to identify an Contract (**Customer Personal Data**).

A detailed description of the data processing activities to be undertaken by the Supplier as contemplated by paragraph (b), including the Customer Personal Data concerned, is set out below:

Details	Description
<b>Subject matter, nature and purpose of the Personal Data processing:</b>	<b>Subject Matter:</b> Processing of Customer Personal Data to the extent necessary for the delivery of the Products to the end user or the Customer. <b>Nature:</b> Processing activities including acquiring, processing and storing will be undertaken by the Supplier. <b>Purpose:</b> To enable the delivery of the Products to end users or for the Customer's identification of Orders.
<b>Duration of the Personal Data processing:</b>	As contemplated by these Terms.
<b>The type of Personal Data processed:</b>	Identifying data including titles, names, addresses and postal codes. If tracking system is offered, contact information including email addresses and telephone numbers.  Information regarding the end user's ophthalmic health (including optical prescription and optical products used).
<b>The categories of data subject:</b>	The end users who purchase the Products from the Customer.

11.2. The Customer shall ensure that:

- (a) all personal data disclosed or transferred to, or accessed by, the Supplier from the Customer is accurate and up-to-date; and
- (b) all fair processing notices required under the Data Protection Law have been given, and (as applicable) all necessary consents required under the Data Protection Law have been obtained, by the Customer in accordance with Data Protection Law, to allow: (i) the Customer to disclose and, where applicable, transfer any personal data to the Supplier; and (ii) the Supplier to process the personal data, as envisaged under these Terms.

11.3. The Customer and Supplier each agree to comply with their obligations under Data Protection Law with respect to the collection, use, storage, handling and processing of personal data under or in connection with these Terms.

- 11.4. If a Party receives any complaint, notice or communication which relates to any actual or alleged non-compliance with Data Protection Law with respect to the processing of personal data under or in connection with these Terms, that Party shall without undue delay notify the other Party in writing and the Parties shall cooperate with one another to resolve the same.
- 11.5. Where the Supplier acts as a processor of the Customer (as contemplated by Section 11.1(b)), the Supplier shall:
- (a) only process the Customer Personal Data on the documented instructions of the Customer to perform its obligations under these Terms, save that the Supplier may process the Customer Personal Data if required to do so by any law to which the Supplier is subject and, in such a case, the Supplier shall (to the extent permitted by applicable law) inform the Customer of that legal requirement;
  - (b) immediately inform the Customer if, in the Supplier's opinion, the Customer's instruction breaches Data Protection Law;
  - (c) at the request of the Customer (and at the Customer's expense), provide to the Customer such reasonable assistance as is necessary for the Customer to comply with the Data Protection Laws;
  - (d) ensure that appropriate technical and organisational measures are in place to safeguard against the unauthorised or unlawful processing of the Customer Personal Data and against accidental loss or destruction of, or damage to, the Customer Personal Data and such measures shall, at a minimum, meet the requirements of the applicable Data Protection Laws;
  - (e) ensure that any of its personnel who are authorised to process the Customer Personal Data are bound by a duty of confidence to maintain the confidentiality of the Customer Personal Data;
  - (f) on conclusion of the Customer Personal Data processing activities contemplated by these Terms, the Supplier will (as directed by the Customer) securely return or securely destroy the Customer Personal Data and all copies held by or on behalf of the Supplier, unless the Supplier is required to keep such Customer Personal Data for its compliance with applicable law; and
  - (g) provide the Customer with all information reasonably requested to demonstrate compliance with this Section 11 and allow for audits by the Customer or the Customer's designated auditor. Any costs and expenses incurred by the Supplier in assisting the Customer with each audit shall be borne by the Customer.
- 11.6. The Customer consents to the Supplier appointing third-party processors of Customer Personal Data. The Supplier shall inform the Customer of any intended changes concerning the addition or replacement of other third-party processors, thereby giving the Customer the opportunity to object to such changes. The Supplier confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement providing equivalent protection to the Customer Personal Data. The Supplier shall remain responsible for the acts and omissions of its sub-processors.

## 12. INTELLECTUAL PROPERTY RIGHTS

- 12.1. Licence from the Supplier The Supplier grants to the Customer a non-exclusive, non-transferable, revocable right in Hong Kong to use the Supplier's name, the Supplier Trademarks and the Supplier's IPR in the Packing Specification (including on the Labels where relevant) (the **Supplier Licensed IPR**) on any sales literature, point of sale material and advertisements for the promotion of the Products provided such use is strictly in accordance with the Terms and any brand guidelines made available by the Supplier.
- 12.2. Except as permitted under these Terms, or expressly authorised in writing by the Supplier, the Customer will not (and will not allow or encourage others to) use, register or attempt to register the Supplier Licensed IPR or any other name or trade mark similar to those of the Supplier or its Group.
- 12.3. Supplier Warranties The Supplier warrants to the Customer that:
- (a) it is fully entitled to grant the licence of the Supplier Licensed IPR in Section 12.1; and
  - (b) the use of the Supplier Licensed IPR in accordance with these Terms will not infringe any third party IPR.
- 12.4. Use of the Supplier Licensed IPR The Customer will not, except with the prior written consent of the Supplier::
- (a) alter, add to, deface or remove in any manner any packaging or Labels for the Products or any reference to the relevant Licensed IPR, the other Party or to any other name whether attached or affixed to the Products or their packaging or Labels; or

- (b) use, in relation to the Products, any trade marks other than the relevant Licensed IPR.

12.5. The Customer will:

- (a) at the Supplier's reasonable expense, take all such steps as the Supplier may reasonably require to assist the Supplier in maintaining the validity and enforceability of the Supplier Licensed IPR; and
- (b) promptly and fully notify the Supplier of any actual, threatened or suspected infringement of any Supplier Licensed IPR which comes to the Customer's notice, and/or of any claim by any third party coming to its notice that the importation of the Products into Hong Kong, or their sale in Hong Kong, infringes the rights of any other person. The Customer will at the reasonable request and expense of the Supplier do all such things as may be required to assist the Supplier in taking or resisting any proceedings in relation to any such infringement or claim.

### 13. LIABILITY

- 13.1. To the fullest extent permitted by law, and subject to Sections 13.4 and 13.5, the Supplier's total liability to the Customer in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, and including loss of data or data breaches, shall in no circumstances exceed Price of the Products paid or to be paid under the Contract .
- 13.2. To the fullest extent permitted by law, and except as expressly set out in these Terms, all other conditions, warranties or other terms which might be implied or incorporated into these Terms, whether by statute, common law or otherwise, including the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care are excluded.
- 13.3. To the fullest extent permitted by law, neither Party nor its Group will be liable to the other Party whether in contract, tort (including negligence or breach of statutory duty) or otherwise arising out of, or in relation to, these Terms, for any:
- (a) direct or indirect loss of profit, revenue, business, goodwill or anticipated savings; or
  - (b) indirect or consequential loss,
- provided that nothing in these Terms will operate to limit the Supplier's right to recover payment of any properly rendered invoice.
- 13.4. The limits of liability set out in Sections 13.1 and 13.3 will not apply to any indemnity under Section 14.
- 13.5. The limitations and exclusions on each Party's liability in these Terms are made to the full extent permitted by applicable law. Nothing in these Terms will limit or exclude either Party's liability:
- (a) for fraud, fraudulent misrepresentation, death or personal injury;
  - (b) for any other liabilities that cannot be excluded, including Section 8 of the Control of Exemption Clauses Ordinance (Cap. 71 of the Laws of Hong Kong); or
  - (c) where such limitation or exclusion would contravene applicable law,
- (collectively, **Non-Excludable Rights**).

### 14. INDEMNITIES

- 14.1. Indemnification by Supplier The Supplier will indemnify the Customer and its directors, officers, employees, sub-contractors and agents (the **Customer Indemnified Parties**) against any and all claims, liabilities, damages, losses, expenses and costs (including legal costs on a full indemnity basis), that the Customer Indemnified Parties sustain or incur as a result, directly or indirectly, of any action, claim or proceeding that the Supplier Licensed IPR infringes the IPR of any third party.
- 14.2. Indemnification by Customer The Customer will indemnify the Supplier, the Supplier's Group and their respective directors, officers, employees, sub-contractors and agents (the **Supplier Indemnified Parties**) against any and all claims, liabilities, damages, losses, expenses and costs (including legal costs on a full indemnity basis), that the Supplier Indemnified Parties sustain or incur as a result, directly or indirectly, of any action, claim or proceeding that arises as a result of a breach by the Customer of its obligations under Section 4.2 9.1 or 11.

### 15. FORCE MAJEURE

- 15.1. A Party will not be liable for any failure or delay in fulfilling any obligation under these Terms to the extent that such failure or delay is the consequence of a Force Majeure Event.
- 15.2. The Party unable to fulfil its obligations as a result of the Force Majeure Event will, as soon as reasonably practicable:
- (a) notify the other Party of the nature and extent of the Force Majeure Event; and
  - (b) use commercially reasonable efforts to commence performing such obligations as soon as possible or otherwise mitigate the effects of the Force Majeure Event by finding a workaround to perform the obligation despite the Force Majeure Event.

## 16. LAW AND JURISDICTION

- 16.1. These Terms and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed with the laws of Hong Kong to the exclusion of the United Nations Convention on Contracts for the International Sales of Goods. Each Party irrevocably agrees that the courts of Hong Kong shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Terms, its subject matter or formation (including non-contractual disputes or claims).

## 17. GENERAL

- 17.1. General Compliance Each Party will, and will procure that any of its Group, agents and sub-contractors will, perform its obligations and exercise its rights pursuant to these Terms in accordance with all applicable laws and regulations.
- 17.2. Anti-Bribery and Corruption Each Party will comply with its obligations under the Anti-Bribery and Corruption Laws and, in any event, will not act in such a way which may breach the other Party's responsibilities under the Anti-Bribery and Corruption Laws. The Customer shall comply with the Supplier's anti-bribery corruption policy as notified to the Customer from time to time.
- 17.3. Regulatory Notices If the Customer receives any communication from a Competent Authority or regulator which relates to these Terms or the Products, then, to the extent permitted to do so, the Customer will immediately notify the Supplier in writing and provide a copy of the same.
- 17.4. Notices Any notice to either Party under or in connection with these Terms will be in writing, in English and will be delivered personally or by first-class post at the at its registered office or its principal place of business, or such other address as may be notified by a Party in writing from time to time.
- 17.5. Any notice will be deemed to have been received:
- (a) if delivered personally at the time the notice is left at the proper address provided that it is left during business hours, otherwise at the time that business hours resume at the place where the notice has been left; or
  - (b) if sent by first-class post, at 9.00 am on the third Business Day after posting.
- For the purposes of this Section, "writing" will not include email or other electronic communications. The provisions of this Section will not apply in relation to communications between the Parties which may be sent by email.
- 17.6. Assignment The Customer will not, without the prior written consent of the Supplier, assign, transfer, charge, mortgage, subcontract or deal in any manner with all or any of its rights or obligations under these Terms.
- 17.7. The Supplier may at any time assign or novate all or any part of its rights and obligations pursuant to these Terms, to any of its Group or to a successor. All references these Terms to the Supplier will be construed as including any Group company or successor to which such rights or obligations (or both, as applicable) are assigned or novated.
- 17.8. Waiver No failure or delay by either Party in enforcing or exercising any right, power or remedy under these Terms or by law will constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy or of any breach will prevent or restrict the further exercise of any other right, remedy or any other succeeding breach. No waiver or discharge of any kind will be valid unless in writing and signed by an authorised representative of the Party against whom such waiver or discharge is sought to be enforced.



17.9. Severability If a court of competent jurisdiction or other competent body decides that any provision of these Terms is void or otherwise unenforceable but would be valid and enforceable if appropriately modified then such provision will apply with the minimum modification necessary to make it valid and enforceable. If such a provision cannot be so modified, the provisions' invalidity or unenforceability will not affect or impair the validity or legal effect of any other provision of these Terms.

17.10. Third Parties

- (a) Unless expressly stated, these Terms does not confer upon any third party any right or benefit, whether under the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of Laws of Hong Kong) or otherwise.
- (b) If the Customer acquires the business and assets of a third party (or the majority or entirety of shares in such third party) (**Acquired Entity**), the Acquired Entity and/or all or part of their business shall only be added to, and entitled to order pursuant to and benefit from, these Terms with the Supplier's prior written consent and when the Parties agree relevant Product prices and terms of supply for the Products to such Acquired Entity.
- (c) Without prejudice to Section 17.10(a), if (i) the Customer or all or part of its business is incorporated into, merged or otherwise combined with (in whole or in part) another company or business; or (ii) another company or business forming part of the Customer's Group wishes to order Products from the Supplier (or is merged or otherwise combined with (in whole or in part) the Customer); then such company or business shall not be entitled to order pursuant to, and benefit from, these Terms unless the Supplier provides its written consent and relevant Product prices and terms of supply for the Products have been agreed.

17.11. No Partnership or Agency Nothing in these Terms is intended to create a joint venture, agency relationship or partnership between the Parties. Except as expressly authorised in these Terms, neither Party has any authority to, and will not, act, make representations or contract on behalf of the other Party.

17.12. Variations Except as expressly set out in these Terms, no variation or addition to these Terms will be valid unless it is in writing and signed by authorised representatives of each Party.

17.13. Survival Any provision of these Terms which expressly or by implication is intended to come into or continue in force on or after the expiry or termination of the Contract will remain in full force and effect.

17.14. Entire Agreement Except in the case of fraud or fraudulent misrepresentation:

- (a) these Terms sets out the entire agreement between the Supplier and the Customer and supersedes all prior representations, negotiations, understandings or agreements between them relating to the supply of the Products and any such agreements will be deemed to have expired on the Start Date; and
- (b) each Party acknowledges that, in entering the Contract, it has not relied on any statement, representation, assurance or warranty other than those expressly set out in these Terms.

## 18. DEFINITIONS

18.1. **Anti-Bribery and Corruption Laws** means all applicable laws, statutes, regulations, orders, regulatory guidance, standards, directions, codes or other similar regulatory instrument issued in Hong Kong, relating to anti-bribery and anti-corruption including, but not limited to the UK Bribery Act 2010, the US Foreign Corrupt Practices Act 1977, Prevention of Bribery Ordinance (Cap. 201 of Laws of Hong Kong)., in each case as amended, consolidated, re-enacted or replaced from time to time;

18.2. **Applicable Medical Device Laws** means all applicable laws, statutes, regulations, orders, regulatory guidance, standards, directions, codes or other similar regulatory instrument issued by Competent Authority, in Hong Kong, relating to the importation, sale, offer for sale, distribution, labelling, advertising, handling, transportation and all other commercial activities of the Products, including Supplementary Medical Professions Ordinance (Cap. 359 of Laws of Hong Kong), Optometrists (Registration and Disciplinary Procedure) Regulation (Cap. 359F of Laws of Hong Kong), Consumer Goods Safety Ordinance (Cap. 456 of Laws of Hong Kong), the Department of Health's Guidance Notes for

Adverse Event Reporting by Local Responsible Persons (Guidance Notes: GN-03) and the Medical Device Administrative Control System with respect to any medical devices voluntarily listed, t, in each case as amended, consolidated, re-enacted or replaced from time to time;

18.3. **Business Day** means a day other than a Saturday, Sunday or public holiday in Hong Kong;

18.4. **Change of Control** means the sale of all or substantially all of the assets of a Party; any merger, consolidation, amalgamation, acquisition or any other combination of a Party with, by or into another company; or any change in the ownership of more than fifty percent (50%) of the capital stock or other ownership interests of a Party; in each case in one or more related transactions;

18.5. **Competent Authority** means any ministry, governmental department or authority or other regulatory agency responsible for regulating the marketing or distribution of medical devices (including the Product) in the relevant territory, including the UK Medicines and Healthcare Products Regulatory Agency and the European Commission, Hong Kong Department of Health and Welfare and the Hong Kong Customs and Excise Department. ;\_

18.6. **Confidential Information** means the existence of these Terms, and all technical and pricing information relating to the Products (including know-how, designs and trade secrets) and all information relating to the Supplier's or the Customer's processes, plans, intentions, market opportunities, customers and business affairs, but will not include any information:

- (a) that has been placed in the public domain other than through the fault of the Receiving Party;
- (b) that was independently developed by the Receiving Party without reference to the Confidential Information of the Disclosing Party;
- (c) that the Disclosing Party has approved in writing the particular use or disclosure of the information;
- (d) which was already known by the Receiving Party prior to the disclosure without an obligation of confidentiality; or
- (e) which is independently received from a third party without any obligation of confidentiality;

18.7. **Data Protection Law** means all applicable data protection and privacy legislation in Hong Kong including the General Data Protection Regulation ((EU) 2016/679) (the **GDPR**), the Hong Kong Personal Data Protection Act(Privacy) Ordinance (Cap. 486 of Laws of Hong Kong).;

18.8. **Disclosing Party** means the Party disclosing Confidential Information to the Receiving Party;

18.9. **Force Majeure Event** means any circumstances not within a Party's reasonable control including:

- (a) acts of God, fire, explosions, flood, drought, earthquake or other natural disaster;
- (b) epidemic, pandemic, outbreak or crisis;
- (c) war, hostilities, acts or threats of terrorism, riot, civil unrest, any law or action taken by a government or public authority;
- (d) labour or trade disputes, strikes, industrial action, embargoes, blockades or shortages of necessary raw materials; and
- (e) interruption or failure of utility service,

save that a failure to make payment when due will not amount to a Force Majeure Event;

18.10. **Group** means in relation to a Party, that Party and its parent undertakings and any subsidiary undertakings of such Party or its parent undertakings ;

18.11. **Insolvency Event** means a Party:

- (a) ceases to carry on its business;
- (b) has a receiver, administrative receiver, administrator or similar officer appointed over all or any part of its assets or undertakings who is not discharged within fifteen (15) days of such appointment;
- (c) makes an assignment for the benefit of, or a composition with its creditors generally or another arrangement of similar import;
- (d) goes into liquidation or is the subject of a winding up order otherwise than for the purposes of a bona fide amalgamation or reconstruction; or
- (e) if any similar event occurs under the law of any jurisdiction;

18.12. **IPR** (Intellectual Property Rights) means:

- (a) copyright and related rights, database rights, design rights (whether registered or unregistered), rights in know how and Confidential Information;
- (b) patents, rights to inventions, utility models, trademarks, trade names, IP addresses or IP address schemes, domain names and topography rights;
- (c) applications for or registrations of any of the rights described in (a) or (b) above; and
- (d) any other intellectual property having a similar nature or equivalent effect anywhere in the world;

18.13. **Label** means a physical overlabel in accordance with the Packing Specification or the design to be printed directly onto the Product packaging, as applicable;

18.14. **Packing Specification** means the latest version of the packing specification relating to each Product as provided by the Supplier, or as amended from time to time pursuant to Section 4.1 and held on the Supplier's system for approved artwork, which may contain information regarding Labels, pack design, box size and shape, contact lens blister packs and associated labelling and any other details or information regarding the packaging or labelling for any Product;

18.15. **Parties** means the Customer and the Supplier and each of them a Party

18.16. **Products** means any products supplied or made available by the Supplier to the Customer;

18.17. **Receiving Party** means the Party to which Confidential Information is disclosed under these Terms;

18.18. **Supplier Trademarks** means the brand names of the Products and any other trademarks owned or controlled by the Supplier's Group;

18.19. **Terms means** the terms and conditions set out in this document.

## 19. INTERPRETATION

19.1. Except as otherwise provided in these Terms or required by the context, the following principles will be applied in the interpretation of the Terms:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a statute or statutory provision is a reference to such statute or provision as modified, replaced or re-enacted from time to time (whether before or after the Start Date), and includes any subordinate legislation made under it;
- (c) references to persons or entities, includes a reference to natural persons, any body corporate, unincorporated association, trust, partnership or other entity or organisation;
- (d) references to a person or entity, includes a reference to that person's or entity's successors or assigns;
- (e) references to agreements or documents are references to those agreements or documents as respectively amended from time to time;
- (f) the recitals and any other attachments to the Terms form an integral part of the Terms;
- (g) the headings in the Terms will not affect the interpretation of the Terms;
- (h) any reference to **writing** or **written** excludes email unless otherwise expressly stated; and
- (i) whenever the words "include", "includes", "including" or "in particular" (or similar derivatives) are used, they are deemed to be followed by the words "without limitation".

19.2. Words defined in the Data Protection Law shall have the same meaning when used in the Terms.

Returns & Exchange Policy

**Returns**

Returns are not permitted except under the following conditions, and if so, at CooperVision's sole discretion:

- Products damaged in transit (where CooperVision is responsible for the costs of transportation of Products)
- Products ordered erroneously by CooperVision
- Products delivered erroneously by CooperVision
- Special circumstances approved at the sole discretion of CooperVision

CooperVision may in its sole discretion issue a power exchange, credit note or refund for the returned lenses.

**Un-opened Power Exchange:**

Only if permitted by CooperVision in its sole discretion, un-opened, un-expired products may be exchanged for different power for the same lens type only (e.g. Biofinity for Biofinity, Biomedics 1 day Extra for Biomedics 1 day Extra) and must be a product currently offered for sale by CooperVision (i.e., not discontinued). To submit an exchange request, follow the procedure outlined below.

**Returns and Exchange Procedure:**

- Contact CooperVision to obtain authorization of the return or complete a Credit Request Form (further details below). Any returns which are not authorized or accompanied by a completed credit request form will not be accepted.
- Products damaged in transit or ordered/shipped in error must be reported to CooperVision within three (3) business days from receipt of products.
- All products must be physically returned to CooperVision within seven (7) business days (except where products are defective or recalled by CooperVision\*) as follows:-
  - o For Returns, from date of CooperVision's confirmation of acceptance of the return request.
  - o For Exchanges, from date of receipt of replacement goods.
- Any product returned, for any reason, remains the property of the customer until received by CooperVision. Returned products should be returned by a traceable shipping method to protect against loss.
- All products returned must carry a minimum shelf life of twelve (12) months before the expiration date.
- All products returned must be in their original packaging and in a resaleable condition (as determined by CooperVision, acting reasonably). Any product received in un-resaleable condition (defaced, marked, damaged, etc) will not be accepted for a return or an exchange and will be destroyed or shipped back to customer at customer's request and customer's cost.

For general credit enquiries please contact Customer Services of CooperVision.