

Rochester Precision Optics, LLC Standard Terms and Conditions for Buyers
(RPO-TCB rev. 20210111a, effective 1 November, 2021)

original packaging and protected by an appropriate and adequate shipment carton. Buyer is responsible for risk of loss and all costs associated with the return of Goods to Seller. For returned Goods found to be conforming, Buyer is responsible for the costs of diagnosis and testing, and costs of shipping the conforming Goods back to Buyer. Seller will bear the cost of shipping new, repaired or reworked Goods to Buyer for the purpose of replacing Goods found to be defective or nonconforming (valid warranty claims). (E) Seller's Warranty does not extend to materials or components purchased by it from other manufacturers and resold (either in its original form or as a component of the Goods) to Buyer, and Seller assigns to Buyer any transferable rights it may have arising from warranties given by any such manufacturer with respect to such materials or components. (F) Seller makes no other express warranties, disclaims all other warranties, and disclaims implied warranties of any kind, including warranties of merchantability and fitness for a particular purpose or purposes intended by Buyer.

12. Limitation of Liability. The sole and exclusive remedies of Buyer for any claim or cause of action shall be those specifically set forth in Section 11 (Warranty). Seller's liability for any and all claims shall be limited to general money damages and shall not in the aggregate exceed the amounts paid by Buyer to Seller for the specific corresponding Goods involved. Under no circumstances shall Seller be liable to Buyer or any third party for loss of business revenue, profit or any other economic loss, or any incidental, indirect, special, exemplary, punitive or consequential damages. In the event that a jurisdiction does not allow exclusions or limitations of liability, Seller's liability will be limited to the greatest extent permitted by law in the subject jurisdiction. Buyer agrees that, regardless of any claim it may have against Seller, including successful claims, Buyer will continue to pay all invoices and charges that may come due during the term of any applicable agreement until expiration or termination of such agreement according to its terms. The limitations and exclusions provided in this section shall apply to all claims or causes of action individually and in the aggregate, whether for breach of warranty or for any other claim, whether asserted in contract or tort (including negligence, misrepresentation, and strict liability), and regardless of whether the Party has advised or has been advised of the possibility of any such loss or damage. Buyer waives any claim that these limitations or exclusions deprive Buyer of an adequate remedy.

13. Indemnification. Buyer acknowledges that Seller has no control over, and is not responsible for, the manner in which the Goods will be used by Buyer, Buyer's customers, or other third parties. Buyer shall indemnify, hold harmless, and at Seller's request, defend Seller against: (a) any and all claims, counterclaims, suits, demands, negligent actions, causes of action, damages, penalties, injuries, setoffs, liens, attachments, judgments, debts, costs, expenses, including third-party claims, attorneys' fees and litigation costs, or other liabilities of every character whatsoever (collectively, "Liabilities") arising out of or connected with, caused by, or resulting directly or indirectly from the use or operation of the Goods by Buyer or by third parties; and (b) Liabilities arising from claims of infringement of intellectual property or other IP claims relating to Goods developed pursuant to instructions, specifications, concepts, designs, build-to-print designs, technology or any intellectual property provided by Buyer, and relating to Custom Goods or other Goods developed for Buyer that are not Standard Goods or catalog items (individually and collectively, "Indemnify" or "Indemnification"). If both Seller and Buyer are negligent or otherwise at fault, or both are strictly liable without fault, then the obligations of Indemnification under this section shall continue, but Buyer shall Indemnify Seller only for the portion of damage or injury attributable to Buyer, and Seller shall Indemnify Buyer only for the portion of damage or injury attributable to Seller.

14. Confidential Information. (a) **Proprietary Information.** If a nondisclosure agreement ("NDA") between the Parties is in effect at the time of this order, that NDA shall remain effective for at least as long as the longest period of performance of either Party or the Parties under this order, notwithstanding any terms to the contrary in such NDA. In the absence of an NDA signed by both Parties, disclosing Party's ("Discloser") information disclosed to the receiving Party ("Recipient") shall be deemed confidential and proprietary information ("Proprietary Information") and protected against unauthorized disclosure and use for three (3) years: (i) if such information is in physical, human- or machine-readable form, and the information has been clearly marked or labeled by Discloser as "[Discloser Party name] Proprietary," or with words of similar meaning, or (ii) if such information is disclosed in a form not capable of bearing a label as provided above, is identified by Discloser as confidential at the time of disclosure, and is designated as confidential in writing to Recipient within twenty (20) days of disclosure, describing the information sufficiently for identification and identifying the place and date of such disclosure and the names of each Party's representatives who disclosed and received such information. (b) **Order Is Confidential:** Notwithstanding any other terms to the contrary, the terms of any order by a Party or agreement between the Parties shall be deemed Proprietary Information. (c) **Trade Secrets.** Recipient's obligations regarding the Discloser's Proprietary Information, including obligations of nondisclosure and non-use, shall survive (i) provided that Discloser has labeled or identified in writing such Proprietary Information as a "trade secret" consistent with this section, and (ii) so long as such Proprietary Information remains a trade secret under applicable law.

15. Nonpayment. (A) Seller shall have the right to immediately suspend performance by it or otherwise terminate all or any part of this order in the event Buyer fails to pay any amount to Seller when due. (B) In the event of nonpayment, Seller may exercise all rights and remedies under applicable Uniform Commercial Code provisions, and any other rights and remedies to which it is entitled at law or equity. Buyer shall be liable to Seller for all costs of collection, including reasonable attorney's fees, costs of executing on any security interest that Seller may have in the Goods, and any reasonable expenses incurred by Seller as a result of Buyer's nonpayment. To the extent that any other terms herein conflict with the terms of this subsection, the terms of this subsection shall control to protect and benefit Seller to the maximum extent allowable. (C) It is Seller's policy ("IP Policy") that it shall retain ownership of all of its Intellectual Property existing prior to, or developed by Seller in the course of, providing Goods and Services to Buyer, and any agreement between Buyer and Seller shall be construed so as to comply with this IP Policy unless expressly agreed in writing and signed by a corporate officer of Seller.

16. Security Agreement. Buyer agrees that until Buyer has completed payment of the purchase price in full, plus any accrued interest, and has fully performed all other terms and conditions hereof: (1) Seller reserves, and Buyer grants to Seller, a continuing security interest in the Collateral pursuant to the Uniform Commercial Code and any other applicable laws or regulations; (2) the security interest applies to those Goods that Buyer has accepted or of which Buyer or Buyer's authorized agent or customer has taken possession, as described herein or in Related Agreement Documents, and also all proceeds of such Goods (collectively the "Collateral"); (3) Buyer pledges the Collateral and all of Buyer's rights in the Collateral to secure Buyer's debt and obligation to make payment in full; (4) by accepting or taking possession of the Goods, Buyer thereby confirms and authenticates this security agreement; (5) upon request, Buyer will promptly execute and deliver to Seller any instrument, financing statement, assignment or other writing or electronic communication needed to attach and perfect Seller's security interest in the Collateral, if any; (6) Buyer appoints Seller its attorney in fact, if needed, in order for Seller to execute any and all documents to protect Seller's security interest in the Collateral; and (7) Seller is hereby entitled to perfect its security interest in the Collateral, including preparing and filing financing statements and other documents, and to exercise any rights and remedies granted to secured parties under applicable laws or regulations.

17. Excusable Failure or Delay. Seller shall not be held responsible for failure of or delay in delivery of Goods scheduled to be delivered within the first sixty (60) days of Buyer's accepted written request. With respect to volume blanket purchase orders, the initial three (3) months of scheduled deliveries must be committed to (be released) and are not subject to change. Subsequent shipment releases may require minimum release quantities and must allow a minimum of ninety (90) days for related deliveries to begin. Written requests for delivery schedule changes that are consistent with the above are subject to acceptance by Seller and may be subject to purchase price adjustments as determined by Seller. Should Seller incur additional costs because of the inability of Buyer to accept delivery of the Goods or to permit normal and unrestricted installation of Goods, when such installation is required, Buyer promptly upon demand shall reimburse such additional cost to Seller.

18. Governing Law and Dispute Resolution. These Terms and Conditions, and any applicable purchase orders and agreements, shall be governed in accordance with the laws of the State of New York, USA, without regard to any applicable choice-of-law or conflict-of-law rules. The Parties agree that jurisdiction and venue shall be proper in the state and federal courts in Monroe County, New York, USA, and Buyer hereby accepts the pertinent secretary of state, or other applicable government authority that has authorized the Buyer's corporate formation or status, as agent for receiving service of process on behalf of Buyer. This Agreement excludes the application of the United Nations Convention on Contracts for the International Sale of Goods of 1980 (and any amendments or successors thereto). The Parties shall endeavor to promptly settle any dispute that arises hereunder by direct negotiation between their managing directors or similar senior executives. If direct negotiation fails to resolve the dispute, it shall be settled by final and binding arbitration conducted in English by a single arbitrator, who shall be a qualified and licensed lawyer. Arbitration of disputes involving purely U.S. domestic transactions or issues, or in which the Parties' principal places of business with respect to the dispute are located in the United States, shall be governed by rules of the American Arbitration Association; all other arbitration shall be governed by the International Arbitration Rules of the International Centre for Dispute Resolution. Arbitration proceedings will be confidential; no Party will publicize the nature of any dispute or the outcome of any arbitration proceeding except to the extent required by applicable law, provided in such case the Party required to make any disclosure informs the other Party of such requirement to allow the other Party to seek a protective order. The arbitrator will issue appropriate protective orders to safeguard each Party's confidential information disclosed in the arbitration.

19. Attorney's Fees. If it is necessary for Seller to obtain legal representation to enforce any part of these Terms and Conditions or applicable Related Agreement Documents, the non-prevailing Party agrees to bear the court costs and other tribunal or dispute resolution costs and reasonable attorney fees of the prevailing Party.

20. Severability. If any provision of this Agreement is invalid, illegal, or incapable of being enforced by any rule of law or public policy, all other provisions of this Agreement will nonetheless remain in full force and effect so long as the economic and legal substance of the transactions contemplated by this Agreement is not affected in any manner adverse to any Party. Upon such determination that any provision is invalid, illegal or incapable of being enforced, the Parties will negotiate in good faith to modify this Agreement in an acceptable manner to the end that the transactions contemplated

hereby are fulfilled.

21. Remedies. Except as expressly provided herein, the rights and remedies set forth herein are cumulative and in addition to any other rights or remedies that the Parties may have at law or in equity.

22. Non-Recurring Engineering. (a) Custom mold tooling, other tooling, related physical components, manufacturing processes, know-how, designs and other non-recurring engineering (individually and collectively "NRE") developed by Seller for the purpose of fulfilling Buyer's order or any other agreement between Buyer and Seller are proprietary to Seller and shall be kept in the sole possession of Seller. (b) Regarding Buyer-paid exclusive NRE: (i) such NRE shall be proprietary to Buyer, possession and location of such NRE shall be determined and controlled by Seller, and such NRE shall be used exclusively for Buyer, unless Buyer provides written approval to Seller to use the NRE for another purpose or the Period of Exclusivity (defined in (d) below) has lapsed, whichever is earlier; (ii) Seller shall be responsible for all care and maintenance of such NRE while it is in Seller's possession or control; (iii) and Seller shall not relocate such NRE from Seller's designated facility without Buyer's prior written consent. (c) Upon termination of applicable agreements relating to Buyer-paid exclusive NRE, Seller may destroy such NRE, or retain such NRE for possible use in a future agreement with Buyer, or, upon expiration of Period of Exclusivity, may repurpose such NRE. (d) Period of Exclusivity is defined as twelve (12) consecutive months following Seller's acceptance of an Order for Goods derived from such Buyer-paid exclusive NRE; such Order shall adhere to the minimum order quantity identified by Seller. Upon the passing of twelve (12) consecutive months with no Orders involving purchase of Goods derived from such Buyer-paid NRE, all ownership and rights of such NRE shall immediately transfer from Buyer to Seller.

23. Non-Solicitation. Neither Party will directly solicit to hire, employ, contract, or otherwise engage any employee, former employee, contractor or former contractor of the other Party, with whom their personnel have had contact in the course of performance of any agreement to which these Terms and Conditions apply, and for an additional period of twelve (12) months after the term of such agreement, without prior written consent of the other Party. This section shall not apply to non-solicited, non-recruited responses to general advertisements for employment.

24. Compliance with Applicable Laws and Regulations: International Trade and Export Control. (A) To the extent applicable, the Parties shall comply with all laws and regulations that are applicable to this order or agreement, and to the provision of Goods and Services identified therein, including applicable International Trade and Export Control Laws. Buyer shall not, by any act or failure to act, cause Seller to be liable under, or to be in jeopardy of liability under, such laws and regulations. Buyer shall indemnify, hold harmless, and at Seller's request, defend Seller against that portion of any and all claims, charges, penalties and any other liabilities whatsoever attributable to Buyer's breach of this section. Buyer's breach of this section shall constitute a material breach of these Terms and Conditions and any related order or agreements, and Seller shall be entitled to terminate any such order or agreement, at its discretion, upon written notice to Buyer without cost or liability to Seller. (B) It shall be Buyer's responsibility to apply for and obtain any needed re-export licenses or other agency authorization required under Export Control Laws prior to exporting or re-exporting any Goods or effecting any deemed exports, if such licenses and authorizations have not already been obtained by Seller or cooperatively by Seller and Buyer together. Buyer and Seller shall cooperate fully with each other in providing any needed documentation or other reasonable assistance requested by the other Party for the purpose of obtaining such licenses or agency authorization.

25. Force Majeure. Neither Party shall be deemed in default or otherwise liable hereunder for any delay or failure of performance (other than payment obligations) resulting from Force Majeure, provided that the Party affected by Force Majeure cause gives written notice to the other Party within ten (10) days of learning of such cause. Seller shall endeavor to mitigate the effect of any Force Majeure event and complete performance of any Order affected by Force Majeure; Seller shall notify Buyer of plan to address Force Majeure and resume performance as soon as is reasonably possible. Incurred cost to address Force Majeure, if necessary, shall be the responsibility of Buyer, unless otherwise agreed to in writing between the Buyer and Seller.

26. Termination for Default; Change in Control. Seller may, by written notice, terminate an order or related agreement, or any portion thereof, for default without any liability against Seller for the portion terminated ("Default Termination"): (i) when Seller has reasonable grounds for insecurity regarding Buyer's performance, and Buyer fails to provide adequate assurances of performance within ten (10) days following Seller's demand; or (ii) should Buyer (a) become insolvent, (b) become unable to pay its debts as they mature, (c) make a general assignment for the benefit of creditors, (d) have a receiver appointed for the whole or any substantial part of its assets, or (e) become in any way the subject of a bankruptcy petition; or (iii) Buyer fails to perform any obligation hereunder. In the event of Default Termination, Buyer shall pay Seller all Cancellation Fees as provided herein (see Section 9). Each Party shall give the other Party reasonable at least thirty (30) days' advance written notice of, any Change in Control of the first Party, after which both Parties shall reasonably cooperate and assist the other Party with any such transition in good faith for the purpose of maintaining the validity and effectiveness of any related agreement. Notwithstanding the foregoing, each Party shall retain the right to terminate any related agreement in the event that such Change in Control would create a conflict of interest or would conflict with that Party's business activities or policies.

27. Survival. Provisions hereunder that by their terms, sense, or context are intended to survive expiration or termination, including but not limited to confidentiality obligations, shall survive these Terms and Conditions and any related agreement.

28. Relationship of the Parties. The relationship between the Parties will be that of independent contractors and not that of principal and agent, nor that of legal partners. Neither Party will represent itself as the agent or legal partner of the other Party nor perform any action that might result in other persons believing that it has any authority to bind or enter into commitments on behalf of the other.

29. Assignment. This Agreement is not assignable by any Party without prior written consent of the other Party, which shall not be unreasonably withheld; provided, however, that a Party may, without consent, assign this Agreement as a result of a Change in Control, or to a parent, subsidiary or affiliate corporate entity as part of an internal company reorganization. This Agreement shall be binding upon, and will inure to the benefit of, the Parties and their respective successors and permitted assigns.

30. Order of Precedence; Prior Agreement Governs. (A) These Terms and Conditions shall govern the agreement between Buyer and Seller. In the event of differences or conflicts between these Terms and Conditions and any other applicable agreement documents, the order of precedence, in order of decreasing authority, shall be as follows: (i) Any written agreement terms signed by both Parties that expressly supersede the documents identified in this subsection (A); (ii) Seller's sales order acknowledgment, or any similar order acceptance terms provided by Seller to Buyer; (iii) Seller's written quote provided to Buyer; (iv) These Terms and Conditions; (v) Any other written agreement terms between Buyer and Seller. (B) Notwithstanding the foregoing, in the event that Buyer and Seller have previously agreed, in a writing signed by both Parties, to terms or any other form of written agreement ("Prior Agreement"), and that Prior Agreement (a) relates to or is applicable to the Goods or Services, (b) expressly supplements or supersedes these Terms and Conditions, and (c) has not expired, and has not been expressly cancelled, terminated or superseded, then, in the event of a conflict between the Prior Agreement and these Terms and Conditions, the Prior Agreement shall govern with respect to that conflict.

[End of Terms and Conditions]