

# Frame Sales Terms and Conditions

## 1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions:

- Contract** - means any contract for the sale of goods between us and you into which these Conditions are incorporated;
- Conditions** - means the standard terms and conditions of sale set out below, including any special terms and conditions confirmed in writing by us;
- Goods** - means the goods which we shall supply in accordance with these Conditions, under an order which is accepted;
- we** - means The Norville Group Limited, and "us" and "our" shall be construed accordingly;
- you** - means the person placing an order for the Goods and entering into the Contract with us and "your" shall be construed accordingly;
- 1.2 All rights expressly reserved by or granted to us by these Conditions shall be without prejudice to any other rights which we may have from time to time.
- 1.3 Unless expressly stated otherwise, where our prior written consent is required in these Conditions, then we shall be under no obligation not to unreasonably withhold or delay in giving that consent. We shall be under no duty or obligation to you to justify or provide a reason for our decision.

## 2. BASIS OF SALE

- 2.1 These Conditions shall apply to all Contracts for the sale of Goods by us to you to the exclusion of all other terms and conditions, including any terms and conditions which you may purport to apply under any purchase order. No variation of these Conditions shall be binding unless agreed in writing by us. These Conditions set out the entire agreement to the exclusion of all other terms and conditions. Acceptance of delivery of the Goods shall be deemed conclusive evidence of your acceptance of these Conditions.
- 2.2 Our employees or agents are not authorised to make any representations concerning the Goods unless confirmed by us in writing. In entering into a Contract, you acknowledge that you do not rely on any such representations which are not so confirmed.
- 2.3 Where the Goods are to be delivered in instalments, each instalment shall constitute a separate Contract. Failure by us to deliver any instalment shall not entitle you to treat the Contract as repudiated.
- 2.4 All specifications, drawings and particulars of weights, dimensions and performance issued by us are approximate only and are not intended to form the basis of any Contract.
- 2.5 We reserve the right to withdraw any offer or special promotion displayed in the catalogue that in our opinion is being abused. However, in the event that you have already placed an order that we have accepted we will provide you with a full refund for any money received.
- 2.6 Occasionally a product is so popular that orders exceed our expectations. This sometimes means that our stockroom may be out of stock of a particular item for a short time. Accordingly, all orders are submitted by you and accepted by us on a "subject to availability" basis.

## 3. ORDERS AND SPECIFICATIONS

- 3.1 All orders for Goods shall be deemed to be an offer by you to purchase Goods pursuant to these Conditions. No order submitted by you shall be deemed to have been accepted by us unless and until the Goods are delivered to you or, if earlier, your order is confirmed in writing as being accepted by us.
- 3.2 You shall be responsible for ensuring the accuracy of the terms of any order submitted by you, and for giving us any necessary information relating to the Goods within a sufficient time to enable us to perform the Contract in accordance with these Conditions.
- 3.3 No order which has been accepted by us may be cancelled by you except with our prior written consent and on terms that you shall indemnify us in full against all loss (including loss of profit), costs (including the cost of all labour and material used), damages, charges and expenses incurred by us as a result of cancellation.
- 3.4 We reserve the right to make changes in design or modify or improve Goods without imposing obligations on ourselves to incorporate any such modifications or improvements into Goods previously manufactured.
- 3.5 Where you specify that the Goods shall be of a certain colour or size, such specification shall be subject to reasonable commercial variation other than where expressly agreed in writing with you. You shall indemnify us in respect of all costs, claims and expenses incurred by us in respect of any claims of intellectual property infringement caused by any specification provided by you.

## 4. ORDERING GOODS 'ON APPROVAL'

- 4.1 Where you order Goods, and we accept your order, 'on approval', the terms of clause 4 shall apply to that order and those Goods. The remainder of these Conditions shall also apply, except as set out in clause 4.
- 4.2 A maximum of three frame products will be supplied on approval on a single invoice. At the time of dispatch, we will raise an invoice.
- 4.3 If you do not wish to keep the Goods, you must return them to us within 14 days of delivery and comply with our policy for returns set out in clause 11. If you do not return the Goods within 14 days of delivery we shall debit your account with the price of the Goods.
- 4.4 Notwithstanding clause 4.3, if you return the Goods to us later than 14 days after delivery (measured by the time between when the Goods are tendered for delivery to you, and the time when we retain possession of the Goods upon return) and comply with our policy for returns set out in clause 11, we shall be entitled to levy a stock return charge equivalent to 20% of the price of the returned Goods.
- 4.5 If your returned Goods quote an Rx order number on which the Goods 'on approval' have been supplied glazed, we will issue a full value credit note.
- 4.6 For the avoidance of doubt, any Goods returned later than three months after delivery shall not be considered to have been ordered and delivered 'on approval', notwithstanding anything to the contrary stated in your order, our acknowledgement, our acceptance, our delivery note or otherwise. Such Goods shall not be subject to an invoice credit under clause 4.

## 5. PRICE OF THE GOODS

- 5.1 The price of the Goods shall be the price quoted in the most recently published version of this catalogue or as agreed between us at a net price.
- 5.2 While we try to ensure that all advertised prices are accurate, errors may occur. If we discover an error in the price of goods you have ordered, we will inform you as soon as possible and give you the option of re-confirming the order at the correct price or cancelling it. If we are unable to contact you, we will treat the order as cancelled. If you have already paid for the goods and the order is subsequently cancelled, you will receive a full refund.
- 5.3 Except as otherwise agreed in writing by us, all prices are given by us on an ex-works basis, and where we agree to deliver the Goods otherwise than at our premises, you will be liable to pay our charges for transport, packing and insurance.
- 5.4 Unless stated otherwise, the price is exclusive of any applicable value added tax, which you shall automatically be liable to pay us at the rate from time to time in force.

## 6. TERMS OF PAYMENT

- 6.1 Payment is required from you via your account with us in full within 30 days of the end of the month following delivery of the Goods or (where we waived the requirement for you to set up an account with us) by credit or debit card in full at the time of placing your order. Receipt of payment by us does not amount to us accepting your order, and your order only becomes binding as stated in clause 3.1. The time of payment shall be of the essence of the Contract.
- 6.2 We reserve the right to refuse an order, or require payment by bank or credit card, where any order placed by you would, if accepted by us, take you over the credit limit on your account with us.
- 6.3 In the event that a payment is dishonoured by your bank or credit card provider, they (being your bank, credit card provider or our debt collection company) may charge a fee. Where we incur any fee or liability as a result of a dishonoured payment, you will be liable to reimburse us in full for the amount we have incurred.
- 6.4 All credit and charge card holders are subject to validation checks and authorisation by the card issuer. If the issuer of your payment card refuses to authorise payment to us, we will not be liable for any delay or non-delivery. In addition, in the interests of preventing fraudulent use of credit, debit and charge cards, we may validate the names, addresses and other information supplied by you during the order process against commercially available records (e.g Electoral Roll data, Credit Reference Services). A third party may also be instructed to complete these checks. By ordering from our website you consent to such checks being made. We may need to contact you by letter, telephone or email to verify details before we are able to process and dispatch your order or we may be unable to accept your order. Any information given may be disclosed to a registered Credit Reference Agency which may keep a record of the information. All information provided will be treated in accordance with the Data Protection Act 1998. These measures are taken as extra protection for you, to ensure your online shopping experience with us is as safe and secure as possible.
- 6.5 If you fail to make any payment on the due date (including if any payment is dishonoured by your bank or credit card provider), then we reserve the right to cancel the Contract or suspend further deliveries to you, and/or charge you interest in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, as amended.
- 6.6 You shall not withhold payment or other amount due to us by reason of any right of set-off or counterclaim that you may have or allege to have or for any other reason whatsoever.

## 7. DELIVERY

- 7.1 We will not dispatch your Goods prior to payment in full being received by us, or prior to any validation checks being satisfactorily completed. **Subject to orders covered by clause 7.2**, your **Goods-goods** will normally be delivered by within five working days thereafter.
- 7.2 Subject to clause 7.1, all single orders placed with us by 4:30am (weekdays) will be delivered the following working day, unless we advise to the contrary. Small orders are shipped by DX or Royal Mail first-class. Orders over £100 are sent by trackable systems..

- 7.3 We may deliver your Goods in one instalment, or a number of separate instalments. You shall make all arrangements to take delivery of the Goods whenever they are tendered for delivery.
- 7.4 Any dates quoted for delivery of the Goods are approximate only and we shall not be liable for any delay in delivery of the Goods whatsoever caused. Time for delivery shall not be of the essence of the Contract. We may deliver the Goods in advance of the quoted delivery date upon giving you reasonable notice.
- 7.5 If you fail to take delivery of the Goods or fail to give us adequate delivery instructions at the time stated for delivery, then we reserve the right to store the Goods until actual delivery and charge you for the reasonable costs (including insurance) of storage, or sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to you for the excess over the price under the Contract or charge you for any shortfall below the price under the Contract.
- 7.6 You shall be deemed to have accepted the Goods 14 days after delivery to you. After acceptance, you shall have no right to reject Goods that are not in accordance with the Contract. Notwithstanding the Sale of Goods Act 1979, acceptance of some of the Goods by you, whether conforming to the Contract or not, shall deprive you of the right to reject the rest of the Goods, whether they conform to the Contract or not.
- 7.7 Other than in accordance with clauses 4 and 11, no Goods delivered to you which are in accordance with this Contract will be accepted for return. Any such Goods returned by you may, at our discretion, be returned to you or stored at your cost without prejudice to our other rights and remedies.
- 7.8 Any Goods that are returned, whether defective or otherwise, shall be returned at your cost in the same condition as delivered to you, complete with the original packaging, materials and inserts and with the original delivery note for those Goods. The risk in those Goods does not pass to us until we receive them from you.

## 8. RISK AND TITLE

- 8.1 Risk of damage to or loss of the Goods shall pass to you at the time we notify you that the Goods are available for collection (in the case of Goods to be collected) or at the time of delivery or, if you fail to take delivery, at the time we tender the Goods for delivery (in the case of Goods to be delivered).
- 8.2 Notwithstanding delivery and the passing of risk in the Goods or any other provision of these Conditions, the legal and equitable title in the Goods shall not pass to you until we have received in cleared funds payment in full of the price of the Goods or, if later, at the time risk of damage to or loss of the Goods shall have passed to you.
- 8.3 Until such time as the title in the Goods passes to you, you shall hold the Goods as our fiduciary agent and bailee, you shall keep the Goods separate from your own and those of third parties, you shall keep the Goods properly stored, protected, insured and identified as our property, and you shall not resell or use the Goods.
- 8.4 Until such time as the title in the Goods passes to you (and provided the Goods are still in existence and have not been resold) we shall be entitled, at any time, to require you to return the Goods to us (at your cost) and, if you fail to do so seek a court order to permit us to enter upon any premises where the Goods are stored and repossess the Goods.

## 9. WARRANTIES

- 9.1 You hereby warrant and represent to us that you are purchasing the Goods in the course of your business and not as a consumer (within the meaning of the Unfair Contract Terms Act 1977). You shall indemnify us in respect of all direct and indirect loss and other liability whatsoever arising as a result of your breach of clause 9.1.
- 9.2 We warrant to you that the Goods will, at the time of delivery, be of satisfactory quality, be free from material defects and materially correspond to any description or specification given by us in writing to you. For the avoidance of doubt, we do not warrant the suitability of the Goods for any specific purpose, even if that purpose is made known to us before you place your order.
- 9.3 Subject to clause 9.2, all warranties, conditions or other terms implied by statute or common law, including (without limitation) warranties as to quality, freedom from defects and fitness for purpose) are excluded to the fullest extent permitted by the applicable law. You hereby acknowledge this disclaimer and agree that it is reasonable in all the circumstances.
- 9.4 Any claim by you which is based on breach of clause 8.2 shall be notified to us within 14 days of delivery to you or (where the breach was not apparent on reasonable inspection) within a reasonable time after discovery of the breach. If delivery is not refused, and you do not notify us accordingly, you shall not be entitled to reject the Goods and we shall have no liability for such breach, and you shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

## 10. LIABILITY

- 10.1 Except in respect of death or personal injury caused by our negligence, we shall not be liable to you by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by our negligence or that of our employees, agents or otherwise) which arise out of or in connection with the supply of Goods or their use or resale by you, and our entire liability under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.
- 10.2 If we fail to deliver the Goods (or any instalment) for any reason other than any cause beyond our reasonable control or your fault, and we are accordingly liable to you, our liability shall be limited to the excess (if any) of the cost to you (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
- 10.3 Where you accept or have been deemed to have accepted the Goods, then we shall have no liability whatsoever to you in respect of the Goods (save where the breach was not apparent on reasonable inspection in accordance with clause 9.4).
- 10.4 We shall have no liability to you for late delivery or short delivery of the Goods.

## 11. RETURNS POLICY

- 11.1 Subject to these Conditions, any Goods supplied by us that are returned by you for credit (the decision on whether to offer a credit in respect of returned Goods shall be made at our sole discretion) or exchange must fulfil the following requirements: (i) have the appropriate packaging; (ii) be in pristine condition, including case, demo lenses, etc; (iii) be returned with the original invoice to Telesales, Norville Group, Magdala Road, Gloucester, GL1 4DF (a clear copy is acceptable if the original is not available); (iv) have a clearly stated reason for return; and (v) be in the current frame range. We strongly advise sending high value items by recorded and insured delivery.
- 11.2 When returning more than three frames, you must contact your frame sales executive, who will arrange the exchange.
- 11.3 We are unable to accept any Goods returned for credit more than six months after delivery, or any Goods that are deemed by us to be 'end-of-line' Goods.
- 11.4 All Goods returned shall be subject to a £5 stock return charge to cover our administration costs.
- 11.5 For the avoidance of doubt, the confines of this returns policy do not apply in the case of manufacturing defects or error on our part.

## 12. PRODUCT SAFETY

You agree to satisfy yourself that the Goods are fit for your intended purpose and comply with all relevant laws, regulations and other requirements, including (but not limited to) the General Product Safety Regulations 2005, the rules of the General Optical Council, the Association of British Dispensing Opticians, the Federation of Ophthalmic and Dispensing Opticians and any additional safety regulations or guidelines published from time to time to the extent that they apply to the Goods, and you undertake to indemnify us in respect of any and all claims arising from the Goods being unsafe as a result of your failure to comply therewith.

## 13. YOUR INSOLVENCY

If you make any voluntary arrangement, enter administration or liquidation, become bankrupt, insolvent, cease to trade, threaten to cease to trade or commit any other act of bankruptcy (or it appears to us that you are likely to commit any of these acts) we reserve the right to cancel the Contract or suspend any further deliveries under the Contract without any liability to you.

## 14. GENERAL

- 14.1 We shall not be liable to you or deemed to be in breach of Contract by reason of delay or failure to perform any of our obligations if the delay or failure is due to act cause beyond our reasonable control.
- 14.2 These Conditions shall not be enforceable by any person other than you, the buyer of the Goods with whom we have entered into a Contract.
- 14.3 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to the other party's principal place of business.
- 14.4 No waiver by us of any breach of the contract by you shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 14.5 Where any law or court deems any Condition to be invalid or unenforceable in whole or in part, then the offending part shall be removed and the validity of the remainder of the Conditions shall not be affected.
- 14.6 The Contract and these Conditions shall be governed by the laws of England, and any disputes shall be heard in the English courts.
- 14.7 We reserve the right to monitor and record telephone calls our staff receive and make, in order to monitor staff performance and ensure the highest service possible is provided to our customers.
- 14.8 The copyright in all photographs, images and descriptions contained in this catalogue are owned by us, and may not be reproduced without our express consent.
- 14.9 If the performance of the Contract or any obligation hereunder is prevented by force majeure, we shall be excused performance, provided that we shall use reasonable endeavours to remove such cause(s) of non-performance, and shall continue performance hereunder without delay whenever such cause(s) are removed. For the purpose of these Conditions, "force majeure" shall include Acts of God, strikes, lock-outs, industrial action, fire, accident, lightning, earthquake, volcanic activity, storms, flood, shortage of supply of raw materials, lack of mains power, explosion, war and any circumstance beyond our reasonable control.

## **Ophthalmic Lens Sales Terms and Conditions**

### **1. DEFINITIONS AND INTERPRETATION**

1.1 In these Conditions:

**Contract** - means any contract for the sale of goods between us and you into which these Conditions are incorporated;

**Conditions** - means the standard terms and conditions of sale set out below, including any special terms and conditions confirmed in writing by us;

**Goods** - means the goods which we shall supply in accordance with these Conditions, under an order which is accepted;

**we** - means The Norville Group Limited, and "us" and "our" shall be construed accordingly;

**you** - means the person placing an order for the Goods and entering into the Contract with us and "your" shall be construed accordingly;

1.2 All rights expressly reserved by or granted to us by these Conditions shall be without prejudice to any other rights which we may have from time to time.

1.3 Unless expressly stated otherwise, where our prior written consent is required in these Conditions, then we shall be under no obligation not to unreasonably withhold or delay in giving that consent. We shall be under no duty or obligation to you to justify or provide a reason for our decision.

### **2. BASIS OF SALE**

2.1 These Conditions shall apply to all Contracts for the sale of Goods by us to you to the exclusion of all other terms and conditions, including any terms and conditions which you may purport to apply under any purchase order. No variation of these Conditions shall be binding unless agreed in writing by us. These Conditions set out the entire agreement to the exclusion of all other terms and conditions. Acceptance of delivery of the Goods shall be deemed conclusive evidence of your acceptance of these Conditions.

2.2 Our employees or agents are not authorised to make any representations concerning the Goods unless confirmed by us in writing. In entering into a Contract, you acknowledge that you do not rely on any such representations which are not so confirmed.

2.3 Where the Goods are to be delivered in instalments, each instalment shall constitute a separate Contract. Failure by us to deliver any instalment shall not entitle you to treat the Contract as repudiated.

2.4 All specifications, drawings and particulars of weights, dimensions and performance issued by us are approximate only and are not intended to form the basis of any Contract.

2.5 We reserve the right to withdraw any offer or special promotion displayed in the catalogue that in our opinion is being abused. However, in the event that you have already placed an order that we have accepted we will provide you with a full refund for any money received.

### **3. ORDERS AND SPECIFICATIONS**

3.1 All orders for Goods shall be deemed to be an offer by you to purchase Goods pursuant to these Conditions. No order submitted by you shall be deemed to have been accepted by us unless and until the Goods are delivered to you or, if earlier, your order is confirmed in writing as being accepted by us.

3.2 You shall be responsible for ensuring the accuracy of the terms of any order submitted by you, and for giving us any necessary information relating to the Goods within a sufficient time to enable us to perform the Contract in accordance with these Conditions.

3.3 No order which has been accepted by us may be cancelled by you except with our prior written consent and on terms that you shall indemnify us in full against all loss (including loss of profit), costs (including the cost of all labour and material used), damages, charges and expenses incurred by us as a result of cancellation.

3.4 We reserve the right to make changes in design or modify or improve Goods without imposing obligations on ourselves to incorporate any such modifications or improvements into Goods previously manufactured.

3.5 Where you specify that the Goods shall be of a certain colour or size, such specification shall be subject to reasonable commercial variation other than where expressly agreed in writing with you. You shall indemnify us in respect of all costs, claims and expenses incurred by us in respect of any claims of intellectual property infringement caused by any specification provided by you.

### **4. PRICE OF THE GOODS**

4.1 The price of the Goods shall be the price quoted in the most recently published version of this catalogue.

4.2 While we try to ensure that all advertised prices are accurate, errors may occur. If we discover an error in the price of goods you have ordered, we will inform you as soon as possible and give you the option of re-confirming the order at the correct price or cancelling it. If we are unable to contact you, we will treat the order as cancelled. If you have already paid for the goods and the order is subsequently cancelled, you will receive a full refund.

4.3 Except as otherwise agreed in writing by us, all prices are given by us on an ex-works basis, and where we agree to deliver the Goods otherwise than at our premises, you will be liable to pay our charges for transport, packing and insurance.

4.4 Unless stated otherwise, the price is exclusive of any applicable value added tax, which you shall automatically be liable to pay us at the rate from time to time in force.

### **5. TERMS OF PAYMENT**

5.1 Payment is required from you via your account with us in full within 30 days of the end of the month following delivery of the goods or (where we waived the requirement for you to set up an account with us) by credit or debit card in full at the time of placing your order. Receipt of payment by us does not amount to us accepting your order, and your order only becomes binding as stated in clause 3.1. The time of payment shall be of the essence of the Contract.

5.2 We reserve the right to refuse an order, or require payment by bank or credit card, where any order placed by you would, if accepted by us, take you over the credit limit on your account with us.

5.2 In the event that a payment is dishonoured by your bank or credit card provider, they (being your bank, credit card provider or our debt collection company) may charge a fee. Where we incur any fee or liability as a result of a dishonoured payment, you will be liable to reimburse us in full for the amount we have incurred.

5.3 All credit and charge card holders are subject to validation checks and authorisation by the card issuer. If the issuer of your payment card refuses to authorise payment to us, we will not be liable for any delay or non-delivery. In addition, in the interests of preventing fraudulent use of credit, debit and charge cards, we may validate the names, addresses and other information supplied by you during the order process against commercially available records (e.g. Electoral Roll data, Credit Reference Services). A third party may also be instructed to complete these checks. By ordering from our website you consent to such checks being made. We may need to contact you by letter, telephone or email to verify details before we are able to process and dispatch your order or we may be unable to accept your order. Any information given may be disclosed to a registered Credit Reference Agency which may keep a record of the information. All information provided will be treated in accordance with the Data Protection Act 1998. These measures are taken as extra protection for you, to ensure your online shopping experience with us is as safe and secure as possible.

5.4 If you fail to make any payment on the due date (including if any payment is dishonoured by your bank or credit card provider), then we reserve the right to cancel the Contract or suspend further deliveries to you, and/or charge you interest in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, as amended.

5.5 You shall not withhold payment or other amount due to us by reason of any right of set-off or counterclaim that you may have or allege to have or for any other reason whatsoever.

### **6. DELIVERY**

6.1 We will not dispatch your Goods prior to payment in full being received by us, or prior to any validation checks being satisfactorily completed. Your Goods will normally be delivered by within five working days thereafter, unless a longer timescale is indicated in the catalogue (UK mainland only).

6.2 We may deliver your Goods in one instalment, or a number of separate instalments. You shall make all arrangements to take delivery of the Goods whenever they are tendered for delivery.

6.3 Any dates quoted for delivery of the Goods are approximate only and we shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence of the Contract. We may deliver the Goods in advance of the quoted delivery date upon giving you reasonable notice.

6.4 If you fail to take delivery of the Goods or fail to give us adequate delivery instructions at the time stated for delivery, then we reserve the right to store the Goods until actual delivery and charge you for the reasonable costs (including insurance) of storage, or sell the Goods at the best price readily obtainable and (after deducting

all reasonable storage and selling expenses) account to you for the excess over the price under the Contract or charge you for any shortfall below the price under the Contract.

6.5 You shall be deemed to have accepted the Goods 14 days after delivery to you. After acceptance, you shall have no right to reject Goods that are not in accordance with the Contract. Notwithstanding the Sale of Goods Act 1979, acceptance of some of the Goods by you, whether conforming to the Contract or not, shall deprive you of the right to reject the rest of the Goods, whether they conform to the Contract or not.

6.6 No Goods delivered to you which are in accordance with this Contract will be accepted for return. Any such Goods returned by you may, at our discretion, be returned to you or stored at your cost without prejudice to our other rights and remedies.

6.7 Any Goods that are returned, whether defective or otherwise, shall be returned at your cost in the same condition as delivered to you, complete with the original packaging, materials and inserts and with the original delivery note for those Goods. The risk in those Goods does not pass to us until we receive them from you.

6.8 If you have an account with The Norville Group and are purchasing prescription work, postage costs will be in line with our agreed terms. Postage costs for customers without accounts or from outside the UK mainland can be obtained by contacting us prior to placing your order.

### **7. RISK AND TITLE**

7.1 Risk of damage to or loss of the Goods shall pass to you at the time we notify you that the Goods are available for collection (in the case of Goods to be collected) or at the time of delivery or, if you fail to take delivery, at the time we tender the Goods for delivery (in the case of Goods to be delivered).

7.2 Notwithstanding delivery and the passing of risk in the Goods or any other provision of these Conditions, the legal and equitable title in the Goods shall not pass to you until we have received in cleared funds payment in full of the price of the Goods or, if later, at the time risk of damage to or loss of the Goods shall have passed to you.

7.3 Until such time as the title in the Goods passes to you, you shall hold the Goods as our fiduciary agent and bailee, you shall keep the Goods separate from your own and those of third parties, you shall keep the Goods properly stored, protected, insured and identified as our property, and you shall not resell or use the Goods.

7.4 Until such time as the title in the Goods passes to you (and provided the Goods are still in existence and have not been resold) we shall be entitled, at any time, to require you to return the Goods to us (at your cost) and, if you fail to do so seek a court order to permit us to enter upon any premises where the Goods are stored and repossess the Goods.

### **8. WARRANTIES**

8.1 You hereby warrant and represent to us that you are purchasing the Goods in the course of your business and not as a consumer (within the meaning of the Unfair Contract Terms Act 1977). You shall indemnify us in respect of all direct and indirect loss and other liability whatsoever arising as a result of your breach of clause 8.1.

8.2 We warrant to you that the Goods will, at the time of delivery, be of satisfactory quality, be free from material defects and materially correspond to any description or specification given by us in writing to you. For the avoidance of doubt, we do not warrant the suitability of the Goods for any specific purpose, even if that purpose is made known to us before you place your order.

8.3 Subject to clause 8.2, all warranties, conditions or other terms implied by statute or common law, including (without limitation) warranties as to quality, freedom from defects and fitness for purpose) are excluded to the fullest extent permitted by the applicable law. You hereby acknowledge this disclaimer and agree that it is reasonable in all the circumstances.

8.4 Any claim by you which is based on breach of clause 8.2 shall be notified to us within 14 days of delivery to you or (where the breach was not apparent on reasonable inspection) within a reasonable time after discovery of the breach. If delivery is not refused, and you do not notify us accordingly, you shall not be entitled to reject the Goods and we shall have no liability for such breach, and you shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

### **9. LIABILITY**

9.1 Except in respect of death or personal injury caused by our negligence, we shall not be liable to you by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by our negligence or that of our employees, agents or otherwise) which arise out of or in connection with the supply of Goods or their use or resale by you, and our entire liability under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.

9.2 If we fail to deliver the Goods (or any instalment) for any reason other than any cause beyond our reasonable control or your fault, and we are accordingly liable to you, our liability shall be limited to the excess (if any) of the cost to you (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

9.3 Where you accept or have been deemed to have accepted the Goods, then we shall have no liability whatsoever to you in respect of the Goods (save where the breach was not apparent on reasonable inspection in accordance with clause 8.4).

9.4 We shall have no liability to you for late delivery or short delivery of the Goods.

### **10. PRODUCT SAFETY**

You agree to satisfy yourself that the Goods are fit for your intended purpose and comply with all relevant laws, regulations and other requirements, including (but not limited to) the General Product Safety Regulations 2005, the rules of the General Optical Council, the Association of British Dispensing Opticians, the Federation of Ophthalmic and Dispensing Opticians and any additional safety regulations or guidelines published from time to time to the extent that they apply to the Goods, and you undertake to indemnify us in respect of any and all claims arising from the Goods being unsafe as a result of your failure to comply therewith.

### **11. YOUR INSOLVENCY**

If you make any voluntary arrangement, enter administration or liquidation, become bankrupt, insolvent, cease to trade, threaten to cease to trade or commit any other act of bankruptcy (or it appears to us that you are likely to commit any of these acts) we reserve the right to cancel the Contract or suspend any further deliveries under the Contract without any liability to you.

### **12. GENERAL**

12.1 We shall not be liable to you or deemed to be in breach of Contract by reason of delay or failure to perform any of our obligations if the delay or failure to do so act cause beyond our reasonable control.

12.2 These Conditions shall not be enforceable by any person other than you, the buyer of the Goods with whom we have entered into a Contract.

12.3 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to the other party's principal place of business.

12.4 No waiver by us of any breach of the contract by you shall be considered as a waiver of any subsequent breach of the same or any other provision.

12.5 Where any law or court deems any Condition to be invalid or unenforceable in whole or in part, then the offending part shall be removed and the validity of the remainder of the Conditions shall not be affected.

12.6 The Contract and these Conditions shall be governed by the laws of England, and any disputes shall be heard in the English courts.

12.7 We reserve the right to monitor and record telephone calls our staff receive and make, in order to monitor staff performance and ensure the highest service possible is provided to our customers.

12.8 The copyright in all photographs, images and descriptions contained in this catalogue are owned by us, and may not be reproduced without our express consent.

12.9 If the performance of the Contract or any obligation hereunder is prevented by force majeure, we shall be excused performance, provided that we shall use reasonable endeavours to remove such cause(s) of non-performance, and shall continue performance hereunder without delay whenever such cause(s) are removed. For the purpose of these Conditions, "force majeure" shall include Acts of God, strikes, lock-outs, industrial action, fire, accident, lightning, earthquake, volcanic activity, storms, flood, shortage of supply of raw materials, lack of mains power, explosion, war and any circumstance beyond our reasonable control.

# Practice and Workshop Equipment Sales Terms and Conditions

## 1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions:

**Contract** - means any contract for the sale of goods between us and you into which these Conditions are incorporated;

**Conditions** - means the standard terms and conditions of sale set out below, including any special terms and conditions confirmed in writing by us;

**Goods** - means the goods which we shall supply in accordance with these Conditions, under an order which is accepted;

**we** - means The Norville Group Limited, and "us" and "our" shall be construed accordingly;

**you** - means the person placing an order for the Goods and entering into the Contract with us and "your" shall be construed accordingly;

1.2 All rights expressly reserved by or granted to us by these Conditions shall be without prejudice to any other rights which we may have from time to time.

1.3 Unless expressly stated otherwise, where our prior written consent is required in these Conditions, then we shall be under no obligation not to unreasonably withhold or delay in giving that consent. We shall be under no duty or obligation to you to justify or provide a reason for our decision.

## 2. BASIS OF SALE

2.1 These Conditions shall apply to all Contracts for the sale of Goods by us to you to the exclusion of all other terms and conditions, including any terms and conditions which you may purport to apply under any purchase order.

2.2 No variation of these Conditions shall be binding unless agreed in writing by us. These Conditions set out the entire agreement to the exclusion of all other terms and conditions. Acceptance of delivery of the Goods shall be deemed conclusive evidence of your acceptance of these Conditions.

2.3 Our employees or agents are not authorised to make any representations concerning the Goods unless confirmed by us in writing. In entering into a Contract, you acknowledge that you do not rely on any such representations which are not so confirmed.

2.4 Where the Goods are to be delivered in instalments, each instalment shall constitute a separate Contract. Failure by us to deliver any instalment shall not entitle you to treat the Contract as repudiated.

2.5 All specifications, drawings and particulars of weights, dimensions and performance issued by us are approximate only and are not intended to form the basis of any Contract.

2.6 We reserve the right to withdraw any offer or special promotion displayed in the catalogue that in our opinion is being abused. However, in the event that you have already placed an order that we have accepted we will provide you with a full refund for any money received.

2.7 Occasionally a product is so popular that orders exceed our expectations. This sometimes means that our stockroom may be out of stock of a particular item for a short time. Accordingly, all orders are submitted by you and accepted by us on a "subject to availability" basis.

## 3. ORDERS AND SPECIFICATIONS

3.1 All orders for Goods shall be deemed to be an offer by you to purchase Goods pursuant to these Conditions. No order submitted by you shall be deemed to have been accepted by us unless and until the Goods are delivered to you or, if earlier, your order is confirmed in writing as being accepted by us. 3.2 You shall be responsible for ensuring the accuracy of the terms of any order submitted by you, and for giving us any necessary information relating to the Goods within a sufficient time to enable us to perform the Contract in accordance with these Conditions.

3.3 No order which has been accepted by us may be cancelled by you except with our prior written consent and on terms that you shall indemnify us in full against all loss (including loss of profit), costs (including the cost of all labour and material used), damages, charges and expenses incurred by us as a result of cancellation.

3.4 We reserve the right to make changes in design or modify or improve Goods without imposing obligations on ourselves to incorporate any such modifications or improvements into Goods previously manufactured.

3.5 Where you specify that the Goods shall be of a certain colour or size, such specification shall be subject to reasonable commercial variation other than where expressly agreed in writing with you. You shall indemnify us in respect of all costs, claims and expenses incurred by us in respect of any claims of intellectual property infringement caused by any specification provided by you.

## 4. ORDERING GOODS 'ON APPROVAL'

4.1 Where you order Goods, and we accept your order, 'on approval', the terms of clause 4 shall apply to that order and those Goods. The remainder of these Conditions shall also apply, except as set out in clause 4.

4.2 A maximum of three items of practice and workshop equipment will be supplied on approval on a single invoice. At the time of dispatch, we will raise an invoice.

4.3 If you do not wish to keep the Goods, you must return them to us within 14 days of delivery and comply with our policy for returns set out in clause 11. If you do not return the Goods within 14 days of delivery we shall debit your account with the price of the Goods.

4.4 Notwithstanding clause 4.3, if you return the Goods to us later than 14 days after delivery (measured by the time between when the Goods are tendered for delivery to you, and the time when we retain possession of the Goods upon return) and/or do not comply with our policy for returns set out in clause 11, we shall be entitled to levy a stock return charge equivalent to 20% of the price of the returned Goods.

4.5 For the avoidance of doubt, any Goods returned later than three months after delivery shall not be considered to have been ordered and delivered 'on approval', notwithstanding anything to the contrary stated in your order, our acknowledgement, our acceptance, our delivery note or otherwise. Such Goods shall not be subject to an invoice credit under clause 4.

## 5. PRICE OF THE GOODS

5.1 The price of the Goods shall be the price quoted in the most recently published version of this catalogue or as agreed between us at a net price.

5.2 While we try to ensure that all advertised prices are accurate, errors may occur. If we discover an error in the price of goods you have ordered, we will inform you as soon as possible and give you the option of re-confirming the order at the correct price or cancelling it. If we are unable to contact you, we will treat the order as cancelled. If you have already paid for the goods and the order is subsequently cancelled, you will receive a full refund.

5.3 Except as otherwise agreed in writing by us, all prices are given by us on an ex-works basis, and where we agree to deliver the Goods otherwise than at our premises, you will be liable to pay our charges for transport, packing and insurance.

5.4 Unless stated otherwise, the price is exclusive of any applicable value added tax, which you shall automatically be liable to pay us at the rate from time to time in force.

## 6. TERMS OF PAYMENT

6.1 Payment is required from you via your account with us in full on the last day of the month following delivery of the Goods or (where we waived the requirement for you to set up an account with us) by credit or debit card in full at the time of placing your order. Receipt of payment by us does not amount to us accepting your order, and your order only becomes binding as stated in clause 3.1. The time of payment shall be of the essence of the Contract.

6.2 We reserve the right to refuse an order, or require payment by bank or credit card, where any order placed by you would, if accepted by us, take you over the credit limit on your account with us.

6.3 In the event that a payment is dishonoured by your bank or credit card provider, they (being your bank, credit card provider or our debt collection company) may charge a fee. Where we incur any fee or liability as a result of a dishonoured payment, you will be liable to reimburse us in full for the amount we have incurred.

6.4 All credit and charge card holders are subject to validation checks and authorisation by the card issuer. If the issuer of your payment card refuses to authorise payment to us, we will not be liable for any delay or non-delivery. In addition, in the interests of preventing fraudulent use of credit, debit and charge cards, we may validate the names, addresses and other information supplied by you during the order process against commercially available records (e.g. Electoral Roll data, Credit Reference Services). A third party may also be instructed to complete these checks. By submitting an order you consent to such checks being made. We may need to contact you by letter, telephone or email to verify details before we are able to process and dispatch your order or we may be unable to accept your order. Any information given may be disclosed to a registered Credit Reference Agency which we may keep a record of the information. All information provided will be treated in accordance with the Data Protection Act 1998. These measures are taken as extra protection for you, to ensure your shopping experience with us is as safe and secure as possible.

6.5 If you fail to make any payment on the due date (including if any payment is dishonoured by your bank or credit card provider), then we reserve the right to cancel the Contract or suspend further deliveries to you, and/or charge you interest in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, as amended.

6.6 You shall not withhold payment or other amount due to us by reason of any right of set-off or counterclaim that you may have or allege to have or for any other reason whatsoever.

## 7. DELIVERY

7.1 We will not dispatch your Goods prior to payment in full being received by us, or prior to any validation checks being satisfactorily completed. Your Goods shall normally be delivered within 7 working days thereafter unless a longer timescale is indicated in the catalogue (UK mainland only).

7.2 Small orders are shipped by DX or Royal Mail first-class. Orders over £100 are sent by trackable systems.

7.3 Unless otherwise agreed in writing the place of delivery of the Goods shall be your normal place of business.

7.4 We may deliver your Goods in one instalment, or a number of separate instalments. You shall make all arrangements to take delivery of the Goods whenever they are tendered for delivery.

7.5 Any dates quoted for delivery of the Goods are approximate only and we shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence of the Contract. We may deliver the Goods in advance of the quoted delivery date upon giving you reasonable notice.

7.6 If you fail to take delivery of the Goods or fail to give us adequate delivery instructions at the time stated for delivery, then we reserve the right to store the Goods until actual delivery and charge you for the reasonable costs (including insurance) of storage, or sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to you for the excess over the price under the Contract or charge you for any shortfall below the price under the Contract.

7.7 You shall be deemed to have accepted the Goods 14 days after delivery to you. After acceptance, you shall have no right to reject Goods that are not in accordance with the Contract. Notwithstanding the Sale of Goods Act 1979, acceptance of some of the Goods by you, whether conforming to the Contract or not, shall deprive you of the right to reject the rest of the Goods, whether they conform to the Contract or not.

7.8 Other than in accordance with clauses 4 and 11, no Goods delivered to you which are in accordance with this Contract will be accepted for return. Any such Goods returned by you may, at our discretion, be returned to you or stored at your cost without prejudice to our other rights and remedies.

7.9 Any Goods that are returned, whether defective or otherwise, shall be returned at your cost in the same condition as delivered to you, complete with the original packaging, materials and inserts and with the original delivery note for those Goods. The risk in those Goods does not pass to us until we receive them from you.

7.10. Our standard charges for delivery are (at the date of publishing this catalogue) as follows:

Value of Order	Delivery Charge
Up to £100	£4.00
£100 - £149.99	£8.00
£150 - £199.99	£10.00
£200 upwards	£15.00

However, we reserve the right to change these charges at any time upon written notification to you. Postage costs for outside the UK mainland will be calculated and be made known to you prior to confirming your order.

## 8. RISK AND TITLE

8.1 Risk of damage to or loss of the Goods shall pass to you at the time we notify you that the Goods are available for collection (in the case of Goods to be collected) or at the time of delivery or, if you fail to take delivery, at the time we tender the Goods for delivery (in the case of Goods to be delivered).

8.2 Notwithstanding delivery and the passing of risk in the Goods or any other provision of these Conditions, the legal and equitable title in the Goods shall not pass to you until we have received in cleared funds payment in full of the price of the Goods or, if later, at the time risk of damage to or loss of the Goods shall have passed to you.

8.3 Until such time as the title in the Goods passes to you, you shall hold the Goods as our fiduciary agent and bailee, you shall keep the Goods separate from your own and those of third parties, you shall keep the Goods properly stored, protected, insured and identified as our property, and you shall not resell or use the Goods.

8.4 Until such time as the title in the Goods passes to you (and provided the Goods are still in existence and have not been resold) we shall be entitled, at any time, to require you to return the Goods to us (at your cost) and, if you fail to do so seek a court order to permit us to enter upon any premises where the Goods are stored and repossess the Goods.

## 9. WARRANTIES AND LIABILITY

9.1 You hereby warrant and represent to us that you are purchasing the Goods in the course of your business and not as a consumer (within the meaning of the Unfair Contract Terms Act 1977). You shall indemnify us in respect of all direct and indirect loss and other liability whatsoever arising as a result of your breach of clause 9.1.

9.2 We warrant to you that the Goods will, at the time of delivery, be of satisfactory quality, be free from material defects and materially correspond to any description or specification given by us in writing to you. For the avoidance of doubt, we do not warrant the suitability of the Goods for any specific purpose, even if that purpose is made known to us before you place your order.

9.3 Subject to clause 9.2, all warranties, conditions or other terms implied by statute or common law, including (without limitation) warranties as to quality, freedom from defects and fitness for purpose) are excluded to the fullest extent permitted by the applicable law. You hereby acknowledge this disclaimer and agree that it is reasonable in all the circumstances.

9.4 Any claim by you which is based on breach of clause 9.2 shall be notified to us within 14 days of delivery to you or (where the breach was not apparent on reasonable inspection) within a reasonable time after discovery of the breach. If delivery is not refused, and you do not notify us accordingly, you shall not be entitled to reject the Goods and we shall have no liability for such breach, and you shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

9.5 We shall not be liable for the Goods' failure to comply with the warranty set out in Clause 9.2 above where you alter or repair such Goods or instruct anyone other than us to alter or repair the Goods without our written consent.

## 10. LIABILITY

10.1 Except in respect of death or personal injury caused by our negligence, we shall not be liable to you by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by our negligence or that of our employees, agents or otherwise) which arise out of or in connection with the supply of Goods or their use or resale by you, and our entire liability under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.

10.2 If we fail to deliver the Goods (or any instalment) for any reason other than any cause beyond our reasonable control or your fault, and we are accordingly liable to you, our liability shall be limited to the excess (if any) of the cost to you (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

10.3 Where you accept or have been deemed to have accepted the Goods, then we shall have no liability whatsoever to you in respect of the Goods (save where the breach was not apparent on reasonable inspection in accordance with clause 9.4).

10.4 We shall have no liability to you for late delivery or short delivery of the Goods.

## 11. RETURNS POLICY

11.1 Subject to these Conditions, any Goods supplied by us that are returned by you for credit (the decision on whether to offer a credit in respect of returned Goods shall be made at our sole discretion) or exchange must fulfil the following requirements: (i) have the appropriate packaging; (ii) be in pristine condition; (iii) be returned with the original invoice to Norville Autoflow, Magdala Road, Gloucester, GL1 4DG (a clear copy is acceptable if the original is not available); (iv) have a clearly stated reason for return; and (v) be in the current practice and workshop equipment range. We strongly advise sending high value items by recorded and insured delivery.

11.2 When returning more than three pieces of equipment, you must contact your sales executive, who will arrange the exchange.

11.3 We are unable to accept any Goods returned for credit more than six months after delivery, or any Goods that are deemed by us to be 'end-of-line' Goods.

11.4 All Goods returned shall be subject to a £5 stock return charge to cover our administration costs.

11.5 For the avoidance of doubt, the confines of this returns policy do not apply in the case of manufacturing defects or error on our part.

## 12. PRODUCT SAFETY

You agree to satisfy yourself that the Goods are fit for your intended purpose and comply with all relevant laws, regulations and other requirements, including (but not limited to) the General Product Safety Regulations 2005, the rules of the General Optical Council, the Association of British Dispensing Opticians, the Federation of Ophthalmic and Dispensing Opticians and any additional safety regulations or guidelines published from time to time to the extent that they apply to the Goods, and you undertake to indemnify us in respect of any and all claims arising from the Goods being unsafe as a result of your failure to comply therewith.

## 13. YOUR INSOLVENCY

If you make any voluntary arrangement, enter administration or liquidation, become bankrupt, insolvent, cease to trade, threaten to cease to trade or commit any other act of bankruptcy (or it appears to us that you are likely to commit any of these acts) we reserve the right to cancel the Contract or suspend any further deliveries under the Contract without any liability to you.

## 14. GENERAL

14.1 We shall not be liable to you or deemed to be in breach of Contract by reason of delay or failure to perform any of our obligations if the delay or failure to do so is due to act cause beyond our reasonable control.

14.2 These Conditions shall not be enforceable by any person other than you, the buyer of the Goods with whom we have entered into a Contract.

14.3 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed:

14.3.1 to the other party's principal place of business; or

14.3.2 to the other party and delivered to the address provided at the time the order is confirmed or any subsequent or alternative address which one party may notify the other from time to time, where you are a consumer.

14.4 No waiver by us of any breach of the Contract, we shall be considered as a waiver of any subsequent breach of the same or any other provision.

14.5 Where any law or court deems any Condition to be invalid or unenforceable in whole or in part, then the offending part shall be removed and the validity of the remainder of the Conditions shall not be affected.

14.6 The Contract and these Conditions shall be governed by the laws of England, and any disputes shall be heard in the English courts.

14.7 We reserve the right to monitor and record telephone calls our staff receive and make, in order to monitor staff performance and ensure the highest service possible is provided to our customers.

14.8 The copyright in all photographs, images and descriptions contained in this catalogue are owned by us, and may not be reproduced without our express consent.

14.9 If the performance of the Contract or any obligation hereunder is prevented by force majeure, we shall be excused performance, provided that we shall use reasonable endeavours to remove such cause(s) of non-performance, and shall continue performance hereunder without delay whenever such cause(s) are removed. For the purpose of these Conditions, "force majeure" shall include Acts of God, strikes, lock-outs, industrial action, fire, accident, lightning, earthquake, volcanic activity, storms, flood, shortage of supply of raw materials, lack of mains power, explosion, war and any circumstance beyond our reasonable control.