

# ULC General Terms and Agreement

**1. GENERAL** The following terms and conditions apply to all sales of goods and products (collectively, "Products") by United Lens Company ("ULC"), to you (the "Customer"), and constitutes the final, complete and exclusive agreement ("Agreement") between Customer and ULC relating to the subject matter hereof and supersedes all prior or contemporaneous quotations, proposals, understandings, representations, warranties, promises and other communications, whether oral or written, relating to such subject matter. Additional terms shall not be applicable otherwise specifically agreed to in a writing signed by ULC's authorized representative. Any term or condition in any order, confirmation, or other document furnished by Customer at any time, which is in any way inconsistent with or in addition to the terms and conditions set forth herein is hereby expressly rejected, and ULC's acceptance of any offer or order of Customer is expressly made in reliance of Customer's assent to all terms and conditions hereof. Any of the following shall constitute Customer's acceptance of these terms: (a) Customer's acceptance of delivery of any Products, (b) Customer placing any orders based on quotations that include, reference, or contain these terms; (c) receipt without objection of any order acknowledgment containing these terms; or (d) signing this terms document. Customer may send purchase orders; however, all terms on the purchase order except for price, delivery date, quantity (as limited below) and product designation shall be null and void. ULC may place additional terms on their quotation or confirmation to the purchase order ("Terms Document") and such terms shall apply to the Agreement.

**2. PRICE AND QUOTE** Product prices are shown on quotations from ULC. Unless stated otherwise, Quotations are valid for fourteen (14) calendar days. ULC defaults to MIL-PRF-13830 for non-specified characteristics and inspections performed. Clerical errors and scrivener's errors are subject to correction.

**3. PAYMENT TERMS** Unless stated otherwise on a Terms Document, ULC may at any time require prepayment or COD terms for all or part of any order. ULC shall be permitted to send an invoice any time after the earlier of: (a) the date shown on any purchase order from the Customer; (b) the date shown on any quotation from ULC; or (c) the delivery of part or all of the order. For non-prepaid or COD items, payment terms shall be net thirty (30) days from the date of invoice. Customer may not withhold or retain any portion of the payment for any reason. Any payments not paid on time shall be subject to additional interest charges at the rate of one and one-half percent (1 1/2%) per month (not to exceed the maximum interest allowable by law). In the event ULC commences a legal action or suit to collect the purchase price or any part thereof, Customer shall, in addition to the full purchase price and interest due pursuant to this section be liable for all costs and expenses of such legal action or suit (including reasonable attorney's fees). Applicable taxes shall be paid by the Customer directly to the taxing authority.

**4. PERFORMANCE, QUANTITIES AND MULTIPLE SHIPMENTS** ULC shall have fully performed any order if ULC ships between ninety percent (90%) and one hundred ten percent (110%) of the quantities shown on a purchase order in one or more shipments. ULC may ship Products in multiple shipments. Customer may not reject Products merely due to quantity or receipt of partial shipments. Customer may only request credits for any shortages based on the identified quality of a shipment and the quantity actually received. ULC will invoice for the amount of the Products actually shipped. All claims for shortages or credits must also be made immediately, but in no event later than sixty (60) days after receipt of the Products.

**5. DELIVERY** Unless stated otherwise by ULC, All Products will be shipped Free Carrier (FCA Incoterms 2010) ULC's dock. For FCA shipments, Title and risk of loss shall pass to Customer when ULC makes the products available to the carrier for shipment to the Customer. All Products shall have a point of origin of the United States. Diversion contrary to law is prohibited.

**6. EXPORT COMPLIANCE (a) Compliance with United States Laws:** Buyer shall comply with all applicable United States statutes and government rules, regulations and orders including those pertaining to United States export laws and regulations. **(b) United States Export Laws Restrictions:** Buyer will not sell, transfer or re-export purchased product prohibited or restricted for export, in its original form or as incorporated into other products without complying with United States export laws and regulations. This is including proper export licensing documentation or authorization. Buyer certifies that purchased product will not be used in or sold/transferred for use in nuclear, chemical/biological or missile technology products nor involving any U.S. sanctioned country or company. ULC will not engage in any transaction that requires the illegal export of any products and will not assist directly or indirectly with the illegal export or re-export of any products. \*\*Buyer shall indicate in the RFQ

(Request for Quotation) if the product purchased will be ultimately shipped or used outside of the United States\*\*. Depending on the value of the order, specific product(s), end user, country of ultimate destination and end use, ULC may be required to apply for an export license with the appropriate U.S. Government agency.

**7. TIMING AND FORCE MAJEURE.** Any delivery date provided by ULC is an estimate only. Product lead times are estimates and subject to change. ULC shall not be liable for any event beyond its control, including, but not limited to delay in delivery due to causes beyond ULC's reasonable control, such as acts of God, acts of the government, strikes, war, delays of carriers, inability to obtain necessary material, transit delays, government preferences and priorities, fires,. ULC shall not be liable for any damages or penalties whatsoever whether direct or indirect, special, incidental or consequential, resulting from ULC's failure or the failure of ULC's suppliers to perform or delay in performing. ULC also shall not be responsible for manufacturing lead time changes, included delays occasioned by ULC's established practices. Customer agrees that any delay in delivery shall not affect the validity of any orders or these terms and conditions. All goods must be taken within 12 months from the date of acceptance of the purchase order.

**8. CANCELLATION OF ORDERS.** All orders are non-cancellable and non-returnable. Orders may be cancelled or amended only with ULC's written consent and upon payment of reasonable cancellation charges, including ULC's actual out of pocket costs, overhead and anticipated profit. Products may only be returned with ULC's written consent and within thirty (30) days. ULC reserves the right to cancel an order, or any part thereof, at any time.

**9. REJECTION** Customer's right to reject any Products supplied hereunder is conditioned upon Customer giving ULC a written notice of rejection setting forth the basis thereof within thirty (30) days after delivery of the Products to Customer. Failure to give such notice within such time constitutes acceptance of such Products. Products may only be returned only when authorized by ULC in writing, and then only on such terms as ULC may specify. Acceptance may not be revoked. ULC may limit the acceptance of return product or issuance of credit based on the value of the claim.

**10. DISCLAIMER OF WARRANTIES** ULC OFFERS NO WARRANTIES ON THE PRODUCTS AND SPECIFICALLY DISCLAIMS ALL WARRANTIES WHETHER EXPRESS OR IMPLIED INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Under no circumstances shall Customer be permitted to return goods to ULC after acceptance without ULC's written permission, which may, in addition to other criteria, be conditioned on the value of the property. In the event any warranties are not able to be disclaimed pursuant to law, ULC disclaims the warranties to the maximum extent permissible under the applicable law. ULC provides material as specified by our Customer and is not responsible for the quality or performance of that material beyond the extent that is influenced by the manufacturing of that material.

**11. INDEMNIFICATION,** To the maximum extent permitted by law, Customer shall release, discharge, indemnify, protect, defend and hold harmless ULC and its shareholders, directors, officers, employees, Affiliates and agents from and against any and all claims, actions, suits, proceedings, obligations, liabilities, orders, damages, government inquiries and investigations of any nature (including, but not limited to subpoenas, expressions of interest, audits and all other phases of inquiries or investigations) costs and expenses (including attorneys' and paralegals' fees and expenses) (collectively "Losses") regardless of whether such Loss(es) are based on contract, tort (including negligence, regardless of whether the negligence is by ULC or third parties), strict liability, or any other theory or form of action, even if such party has been advised of the possibility thereof, arising out of, in connection with, or incidental to: Customer's breach of this Agreement; any infringement of intellectual property rights from Products or tools made to Customer's specifications; or the subsequent use of the Products.

**12. LIMITATION OF LIABILITY** Notwithstanding anything to the contrary contained in this Agreement, ULC's liability in connection with the sale of Product(s) hereunder, regardless of the form of action giving rise to such liability (whether in contract, tort or otherwise), shall not exceed the purchase price for Products paid by Customer to ULC pursuant to an applicable order. ULC shall not be liable for any extraordinary, exemplary, special, indirect, consequential or incidental damages of any kind, including without limitation, lost profits, even if ULC has been advised of the possibility of such damages. **THE FOREGOING STATES THE ENTIRE LIABILITY OF ULC WITH REGARD TO THIS AGREEMENT AND ULC'S SALE OF PRODUCT(S) HEREUNDER. THE LIMITATIONS CONTAINED IN**

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**THIS SECTION ARE A FUNDAMENTAL PART OF THE BASIS OF ULC'S BARGAIN HEREUNDER, AND ULC WOULD NOT ENTER INTO THIS AGREEMENT ABSENT SUCH LIMITATIONS.**

**13. DEFAULT** If Customer shall fail to pay all or any part of the sums due or to become due to ULC, keep and perform any of Customer's obligations herein, become insolvent or become a party to any federal or state insolvency proceeding or receivership, or become a judgment debtor, any sum due or to become due may, at the option of ULC, become immediately due and payable in full, and concurrently, or in the alternative, ULC may at its option terminate this Agreement and exercise any other remedies available under applicable law.

**14. NOTICES** Notices may be delivered by overnight courier or fax, with proof of delivery, or by United States mail, registered or certified mail, with postage prepaid, in each case addressed to the party being notified at such party's last communicated address on any order or quote. ULC may also send notices to the email address it has on record for the customer. Email notice shall be considered received unless ULC receives a "Message Not Sent" from the server.

**15. NOT TRANSFERABLE** This Agreement is not transferable or assignable by Customer either directly or by operation of law without the prior written consent of ULC.

**16. HEADINGS** Paragraph headings are for convenience only and shall not be construed to define or limit the operative provisions of this Agreement.

**17. AMENDMENTS** No amendment, change to or modification of this Agreement, or any schedules or attachments hereto, shall be valid unless the same shall be in writing and signed by the party or parties to be charged therewith.

**18. WAIVERS** The failure of either party to insist upon strict performance of any provision of this Agreement, or to exercise any right provided for herein, shall not be deemed a waiver for the future of such provision or right, and no waiver of any provision or right shall affect the right of the waiving party to enforce any other provision or right herein.

**19. APPLICABLE LAW** The rights and duties of the parties shall be governed by the laws of the Commonwealth of Massachusetts. The federal and state courts located within Worcester County, Massachusetts shall have exclusive jurisdiction to determine any and all actions and proceedings relating to or arising from this Agreement and the sale of Product(s) hereunder and each party hereby irrevocably consents to the personal and subject matter jurisdiction of such courts with respect thereto.

**20. RELATIONSHIP OF PARTIES** The relationship of the parties shall be that of independent contractors and not as partners or joint ventures. Each party is, and is intended to be, engaged in its own and entirely separate business.

**21. TOOLING.** Tools made to Customer specifications will be held for Customer's use and kept in repair and/or replaced without additional charge by ULC; however, ULC shall retain title and possession of the tools at all times. ULC may scrap any tooling should the tools not be used on one of Customer's orders during any five (5) year period.