

# APPLICATION FOR CREDIT

Name.....

Address.....

.....

City.....

Shire.....

Postcode.....

Tel No.....

Fax No.....

E-Mail Address.....

Fax No. available for receipt of statement by overnight transmission.....

Name of the registered Optician.....GOC reg no. ....

If the business is a Partnership /OR under Sole Ownership:

The full name(s) of all Partners / Owners

.....

The registered office address:

.....

.....

The address at which the accounts are dealt with if different from above.

.....

.....

Telephone No..... Contact Name.....

A copy of the Mid-Optic Limited terms of trading is enclosed. We would particularly draw your attention to our payment terms which are that payment is due by the 28<sup>th</sup> day of the month following the invoice date.

Please sign to accept these terms.

Signature..... Print Name.....

Position..... Date.....

## TERMS AND CONDITIONS OF TRADE

1. General
1. These conditions are the only conditions upon which Mid-Optic Limited ("the Seller") is prepared to deal with its customer ("the buyer") and they shall govern the contract to the entire exclusion of any other express or implied conditions.
2. These conditions may only be modified by a variation in writing signed on behalf of the Seller by a Director and no other action on the part of the Seller (whether delivery of goods or otherwise) shall be construed as an acceptance of any other conditions.
3. These conditions (as modified in accordance with Paragraph (2) and together with the matters referred to on the face of the Seller's last published price list or quotation or acceptance of order, embody the entire understanding of the parties and supersede any prior promises, representations, undertakings or implications.
4. Any order issued by the Buyer is subject to acceptance by the Seller and a contract will only be formed when the Seller has accepted the Buyer's offer to buy.
2. Performance
1. The Seller itself gives no undertaking or guarantee in respect of the description, quality or fitness for purpose of the goods but does undertake that, in the event that any defect in the goods becomes apparent and the goods are returned to the Seller within three days of delivery it will use its best endeavours to secure recompense from its own supplier in respect thereof and it will pass on to the Buyer the benefit of any guarantees or indemnities given to it in respect thereof by its supplier.
2. Notwithstanding the provisions of paragraph (1) above the Seller shall not be liable for any consequential or indirect loss suffered by the Buyer whether this loss arises from breach of a duty in contract or tort or in any other way.
3. In the event that, notwithstanding the provisions of paragraph (1) and (2) of this Condition, the Seller is found liable for any loss or damage suffered by the Buyer, that liability shall in no event exceed the purchase price of the goods.
4. The foregoing provisions of this Condition shall not apply to sales which are made to persons who deal as consumers (as that expression is defined in Section 12 of the Unfair Contract Terms Acts 1977), unless the contract is an international supply contract (as described in Section 26 of that act).
3. Price
1. The price for each consignment of the goods will be as set out in the Seller's list price published on the date on which that consignment is dispatched to the Buyer or such higher price if before delivery the price of the goods to the Seller increases due to any factor beyond the control of the Seller (such as, without limitation, any increase in the costs to the Seller of acquiring the goods between the date of the list price last published and the date on which the goods are dispatched to the Buyer).
2. The contract price is exclusive of value added tax or any similar taxes, levies or duties, which will be added to or charged on invoices at the appropriate rates.
3. The Buyer shall have no right of set off, statutory or otherwise.
4. Payment
1. Unless otherwise agreed in writing, the Buyer shall pay for the goods not later than the twenty eighth day of the month which immediately follows the month in which the Seller's invoice is dispatched to the Buyer. The despatch by the Seller to the Buyer of a monthly consolidation statement shall not prejudice the foregoing.
2. The time of payment of the goods shall be of the essence.
3. If any payment that is made hereunder by the Buyer to the Seller is overdue, interest will be chargeable thereon as well after as before judgement on a day to day basis at an annual rate of four per cent above Yorkshire Bank PLC's base rate from time to time applicable, until the sum due is paid.
4. Where any sum owed by the Buyer to the Seller under this or any other contract is overdue the Seller may withhold any deliveries of goods due to be made under this contract until arrangements as to payment or credit have been established which are satisfactory to the Seller.
5. Delivery
1. Delivery of each consignment of the goods shall be made to the place, and in the manner, designated by the Buyer when placing the order provided that the Seller shall be entitled to withhold delivery of the goods until the Buyer has paid all sums due to the Seller hereunder.
2. Unless otherwise expressly agreed in writing any delivery times specified by the Seller are business estimates only and the Seller will not be liable to the Buyer for any loss or damage (whether direct, indirect or consequential) sustained by the Buyer as a result of the Seller's failure to comply with such delivery times.
3. Time of delivery is not of the essence.
4. If the Buyer being a company shall pass a resolution or suffer an order of a court to be made for its winding up, or if a receiver shall be appointed, or if a petition for the appointment of an administrator shall be presented in respect of it, or being an individual or partnership shall suspend payment or propose to enter into any composition with creditors or become unable to pay its debts (or have no reasonable prospect of doing so) or suffer a bankruptcy order, then the Seller may without prejudice to any other right rescind the contract, or suspend or cancel delivery or recover the possession of any goods for which payment in full has not been received.
6. Risk and Property
1. The risk in the goods shall pass to the Buyer upon delivery of the goods to the Buyer or any carrier acting on the buyer's behalf or if the Buyer wrongfully fails to take delivery of the goods the time when the Seller has tendered delivery of the goods.
2. The property in the goods shall not pass to the Buyer until the full price of the goods which are the subject of any other contract between the Buyer and the Seller is paid in cash or cleared funds.
3. Until such time as the full price of the goods has been paid:
  - (a) they shall be held by the Buyer in a fiduciary capacity and stored by the Buyer at its premises in such a manner that they are clearly identifiable as the goods of the Seller and shall be kept separate from any other goods whether or not supplied by the Seller.
  - (b) they shall be handed over to the Seller on demand and the Seller shall be entitled to re-take possession of them without prejudice to any of its other rights against the Buyer and the Seller is hereby granted a licence to enter into the Buyer's premises for the purpose of recovering the goods.
  - (c) the Seller hereby authorises the Buyer to use or sell the goods in the normal course of the Buyer's business but shall account to the Seller for the proceeds of sale or otherwise of the goods, whether tangible or intangible, including insurance proceeds. If the Buyer sells the goods prior to paying the full price thereof the Buyer shall hold the proceeds of sale on trust for the Seller and shall immediately pay the proceeds of sale into a separate bank account. The Seller shall be entitled to call upon the Buyer to assign all claims that the Buyer may have against purchasers from the Buyer.
7. Damage or Loss in Transit
1. The Seller will replace, free of charge, goods damaged in transit where delivery has been made by the Seller's carrier, provided the Seller is notified in writing of such damage and shall have returned the goods to the Seller within three days of the date of delivery by the Seller or the Seller's carrier (in order that the Seller shall be enabled to comply with the provisions of the Medicine Act 1968 and other legislative provisions relevant to the Seller's business).
2. If the quantity of goods delivered does not correspond with the quantity required to be delivered in that consignment the Buyer shall not be entitled to reject that consignment but shall be entitled only:
  - (a) if the quantity delivered is less than the contract quantity, to a further delivery of goods to make up the deficiency or (at the Seller's option) a refund of the appropriate part of the purchase price, and
  - (b) if the quantity delivered exceeds the contract quantity, to return the excess within a period of three days from the date of delivery or to retain the whole, in which case the price shall be adjusted at the contract rate then prevailing provided that the Buyer shall have no entitlement whatsoever in respect of that deficiency unless the conditions in paragraph (4) hereof are satisfied.
3. The Buyer shall have no claim in respect of the fact that the goods delivered are of the wrong description unless the conditions in paragraph (4) hereof are satisfied.
4. The conditions before referred to are that:
  - (a) the receipt for the goods is qualified by a remark to that effect, and
  - (b) the claim is made upon the Seller within 48 hours of delivery and the goods are returned to the Seller in their original unmarked condition within three days of delivery
5. In any event the Buyer shall be treated as having accepted any consignment of the goods if it retains them for longer than three days after their delivery
8. Storage
1. The Seller shall be entitled to store the goods (or any of them) at the Buyer's expense at its own premises or elsewhere if:
  - (a) where the arrangement is for the goods to be delivered by the Seller, either the Seller is unable to despatch the goods by reason of any act or omission on the part of the Buyer, or the Seller has dispatched the goods but the Buyer fails to take delivery thereof
  - (b) the Seller is withholding delivery of the goods pursuant to Condition 4 (4) hereof
2. The expenses that the Seller may re-claim from the Buyer include all reasonable costs incurred by the Seller (whether by way of storage, insurance or otherwise) in respect of the goods and it is expressly declared that it shall be reasonable for the Seller to effect insurance in respect of the goods notwithstanding that the risk therein has passed to the Buyer.
9. Sales Promotion Documentation
- Whilst the Seller takes every precaution in the preparation of its catalogues, circulars, price lists and its other literature, these documents are for the Buyer's guidance only and the particulars contained therein shall not constitute representations by the Seller and the Seller shall not be bound thereby.
10. Cancellation
- Contracts are not subject to cancellation without the seller's written consent. Where cancellation is accepted, the Seller shall in addition to any express terms of acceptance of cancellation be entitled to re-imbursment of any costs incurred by the Seller in connection with the contract.
11. Force Majeure
- The Seller shall have the right to cancel or to reduce the volume of the goods delivered if it is prevented from or hindered in delivery of the goods through any circumstances beyond its control including (but not limited to) industrial action, war, fire, or prohibition of enactment of any kind, without incurring any liability for any loss or damage whatsoever resulting there from.
12. Notices
- Any notice to be given hereunder shall be in writing and shall be deemed to have been duly given if sent or delivered to the party concerned at its address as that party may from time to time notify in writing and shall be deemed to have been served, if sent by post, 48 hours after posting.
13. Governing Law
- The contract is governed by the Laws of England and the English High Court of Justice (to the jurisdiction of which the Buyer hereby irrevocably submits shall have the exclusive jurisdiction to resolve any disputes arising out of it. Note: The Seller's prices are calculated on the basis that the above Conditions will apply. Buyers requiring prices to be quoted on a different basis should inform the Seller