



JGR Optics Inc.
160 Michael Cowpland Drive
Kanata, Ontario K2M1P6 Canada
Tel: 613-599-1000
Email: info@jgroptics.com
www.jgroptics.com

TERMS AND CONDITIONS OF SALE

1. Applicability

- 1.1 These terms and conditions of sale (these "**Terms**") are the only terms which govern the sale of the goods ("**Goods**") and services ("**Services**") by JGR Optics Inc. ("**Seller**") to the buyer named on the purchase order ("**Buyer**"). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods and Services covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.
- 1.2 The accompanying invoice (the "**Sales Confirmation**") and these Terms (collectively, this "**Agreement**") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer's general terms and conditions of purchase regardless of whether or when Buyer has submitted its purchase order or such terms. Fulfilment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Terms.
- 1.3 Notwithstanding anything to the contrary contained in this Agreement, Seller may, from time to time change the Services without the consent of Buyer *provided that* such changes do not materially affect the nature or scope of the Services, or the fees or any performance dates set forth in the Sales Confirmation.

2. Orders

- 2.1 All Customer Purchase Orders ("PO") shall be submitted by email to info@jgroptics.com, in either English or French, and are subject to written acceptance by the Seller.
- 2.2 All POs are considered final. Any requests to amend or cancel a PO are subject to review and acceptance by the Seller. The Seller reserves the right to apply cancellation or restocking fees.
- 2.3 Any requests to consolidate several POs are subject to acceptance by the Seller and must be submitted no later than ten (10) business days before the first scheduled shipping date.

3. Delivery of Goods

- 3.1 Delivery of the Goods shall be made EXW in Ottawa, Ontario (Incoterms 2010). The Buyer is responsible for all loading and shipping costs and will provide their preferred shipping courier and account number to info@jgroptics.com to arrange for shipment of the Goods to their location of choice. If the Buyer does not provide their preferred shipping courier and account number at least five (5) business days before the scheduled shipping date, the Seller shall have sole discretion to either: (1) decide all transportation matters including mode of transportation, and all costs incurred

by the Seller with respect to the transportation including customer brokerage fees and custom fees will be invoiced to the customer, or (2) delay the shipment. The Seller shall not be liable for any delays, loss or damage in transit.

- 3.2 Seller may, in its sole discretion, without liability or penalty, make whole or partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped and the associated shipping cost, handling fees, and taxes whether such shipment is in whole or partial fulfilment of Buyer's purchase order.
- 3.3 The quantity of any instalment of Goods as recorded by Seller on dispatch from Seller's place of business is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary.
- 3.4 Seller shall not be liable for any late delivery or non-delivery of Goods (even if caused by Seller's negligence). Seller shall ensure all reasonable efforts are made to meet all delivery and shipping dates. All delivery and shipping dates are estimates and not guaranteed.
- 3.5 Any liability of Seller for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or adjusting the invoice respecting such Goods to reflect the actual quantity delivered.
- 3.6 Buyer acknowledges and agrees that the remedies set forth in **Error! Bookmark not defined.Error! Reference source not found.** are Buyer's exclusive remedies for the delivery of Non-Conforming Goods. Except as provided under Section 3(c), all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to Seller.

4. Title and Risk of Loss

Title and risk of loss passes to Buyer upon departure of the Goods from the Delivery Point. As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Ontario Personal Property Security Act.

5. Buyer's Acts or Omissions

If Seller's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Buyer or its agents, subcontractors, consultants or employees, Seller shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Buyer, in each case, to the extent arising directly or indirectly from such prevention or delay.

6. Inspection and Rejection of Non-Conforming Goods

- 6.1 Buyer shall inspect the Goods within thirty (30) days of receipt ("Inspection Period"). Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Non-Conforming Goods during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Seller. "Non-Conforming Goods" means only the following: (i) product

shipped is different than identified in Buyer's purchase order; or (ii) product's label or packaging incorrectly identifies its contents.

- 6.2 If Buyer timely notifies Seller of any Non-Conforming Goods, Seller shall, in its sole discretion, (i) replace such Non-Conforming Goods with conforming Goods, or (ii) credit or refund the Price for such Non-Conforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at its expense and risk of loss, the Non-Conforming Goods to Seller's facility located at 160 Michael Cowpland Drive, Kanata, Ontario K2M 1P6. If Seller exercises its option to replace Non-Conforming Goods, Seller shall, after receiving Buyer's shipment of Non-Conforming Goods, ship to Buyer, at Buyer's expense and risk of loss, the replaced Goods to the Delivery Point.
- 6.3 Buyer acknowledges and agrees that the remedies set forth in Section 8(b) are Buyer's exclusive remedies for the delivery of Non-Conforming Goods. Except as provided under Section 8(b), all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to Seller.

7. Price

- 7.1 Buyer shall purchase the Goods and Services from Seller at the prices as provided on the quotation as provided prior to receipt of the purchase order. If the Prices should be increased by Seller before delivery of the Goods to a carrier for shipment to Buyer, then these Terms shall be construed as if the increased prices were originally inserted herein, and Buyer shall be billed by Seller on the basis of such increased prices.
- 7.2 All Prices are exclusive of all harmonized sales tax, goods and services tax, sales tax, value added tax, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any Governmental Authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs and taxes; *provided that*, Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personnel or real or personal property or other assets.

8. Payment Terms

- 8.1 Buyer shall pay all invoiced amounts due to Seller within net thirty (30) calendar days from the date of the invoice for established accounts and subject to credit approval. Otherwise, advance payment is required at least five (5) business days before the scheduled shipping date.
- 8.2 Buyer shall make all payments hereunder by wire transfer or cheque and in USD or CAD, as identified on the invoice.
- 8.3 Buyer shall pay interest on all late payments at the rate of 1.5% per, calculated daily and compounded monthly. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, legal fees on a full indemnity basis. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Goods or performance of any Services if Buyer fails to pay any amounts when due hereunder and such failure continues for thirty (30) days following written notice thereof.
- 8.4 Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.

9. Software

All software is provided under license and is subject to the terms and conditions as set out in the "Software End User License Agreement", a copy of which is located at <https://www.jgroptics.com/uploads/files/jgr-software-end-user-licence-agreement.pdf> or can be obtained upon request by emailing info@jgroptics.com.

10. Limited Warranty

- 10.1 Seller warrants to Buyer that for a period of one (1) year from the date of shipment of the Goods ("**Warranty Period**"), that such Goods will materially conform to Seller's published specifications in effect as of the date of manufacture and will be free from material defects in material and workmanship.
- 10.2 EXCEPT FOR THE WARRANTY SET FORTH IN SECTION 10.1, SELLER MAKES NO CONDITION OR WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY (a) CONDITION OR WARRANTY OF MERCHANTABILITY; (b) CONDITION OR WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.
- 10.3 Products manufactured by a third party ("**Third Party Product**") may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Goods. Third Party Products are not covered by the warranty in Section 10.1. For the avoidance of doubt, SELLER MAKES NO REPRESENTATIONS, CONDITIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT, INCLUDING ANY (a) CONDITION OR WARRANTY OF MERCHANTABILITY; (b) CONDITION OR WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) CONDITION OR WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.
- 10.4 The Seller shall not be liable for a breach of the warranties set forth in Section 10.1 unless: (i) Buyer gives written notice of the defective Goods or Services, as the case may be, reasonably described, to Seller within thirty (30) days of the time when Buyer discovers or ought to have discovered the defect; (ii) if applicable, Seller is given a reasonable opportunity after receiving the notice of breach of the warranty set forth in Section 10.1 to examine such Goods and Buyer (if requested to do so by Seller) returns such Goods to Seller's place of business at Seller's cost for the examination to take place there; and (iii) Seller reasonably verifies Buyer's claim that the Goods or Services are defective.
- 10.5 The Seller shall not be liable for a breach of the warranty set forth in Section 10.1 if: (i) Buyer makes any further use of such Goods after giving such notice; (ii) the defect arises because Buyer failed to follow Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods; or (iii) Buyer alters or repairs such Goods without the prior written consent of Seller.
- 10.6 Subject to Section 10.4 above, with respect to any such Goods during the Warranty Period, Seller shall, in its sole discretion, either: (i) repair or replace such Goods (or the defective part) or (ii) credit

or refund the price of such Goods at the pro rata contract rate provided that, if Seller so requests, Buyer shall, at Seller's expense, return such Goods to Seller.

- 10.7 THE REMEDIES SET FORTH IN SECTION 10.6 SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTIES SET FORTH IN SECTION 10.1, RESPECTIVELY.

11. Limitation of Liability

- 11.1 IN NO EVENT SHALL SELLER BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THESE TERMS, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE BY BUYER OR COULD HAVE BEEN REASONABLY FORESEEN BY BUYER, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

- 11.2 IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE GOODS AND SERVICES SOLD HEREUNDER.

12. Compliance with Laws

Buyer shall comply with all applicable laws, regulations and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. Buyer shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Buyer. Buyer assumes all responsibility for shipments of Goods requiring any government import clearance. Seller may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.

13. Indemnification

Buyer shall indemnify, defend and hold harmless Seller and its officers, directors, employees, agents, parent company, affiliates, subsidiaries, successors and permitted assigns (collectively, the "**Indemnified Party**") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including legal fees, fees and the costs of enforcing any right to indemnification under this Agreement and the cost of pursuing any insurance providers, incurred by Indemnified Party, relating to any claim of a third party or Seller arising out of or occurring in connection with the products purchased from Seller or Buyer's negligence, wilful misconduct or breach of this Agreement. Buyer shall not enter into any settlement without Seller's or Indemnified Party's prior written consent.

14. Termination

In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (a) fails to pay any amount

when due under this Agreement and such failure continues for thirty (30) days after Buyer's receipt of written notice of nonpayment; (b) has not otherwise performed or complied with any of these Terms, in whole or in part; or (c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

15. Confidential Information

All non-public, confidential or proprietary information of Seller, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

16. Privacy

JGR Optics is committed to protecting the privacy of our Customers. A copy of JGR Optics' "Privacy Policy" is located at <https://www.jgroptics.com/uploads/files/jgr-privacy-policy.pdf> or can be obtained upon request by emailing info@jgroptics.com.

17. Entire Agreement

This Agreement, including JGR Optics' "Software End User License Agreement" and "Privacy Policy", and together with any related exhibits, schedules, attachments and appendices, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, conditions and warranties, both written and oral, regarding such subject matter.

18. Survival

Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Order including, but not limited to, the following provisions: Compliance with Laws, Confidential Information, Governing Law, Choice of Forum and Survival.

19. Notices

All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing. Notices sent in accordance with this Section will be deemed effectively given: (a) when received, if delivered by hand, with signed confirmation of receipt; (b) when received, if sent by a nationally recognized overnight courier, signature required; (c) when sent, if by facsimile or email (in each case, with confirmation of transmission) if sent during the addressee's normal business hours, and on the next business day if sent after the addressee's normal business hours; and (d) on the tenth

(10) day after the date mailed by certified or registered mail by the Canada Post Corporation, return receipt requested, postage prepaid.

20. Severability

If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

21. Amendments and Modifications

These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and is signed by an authorized representative of each party.

22. Waiver

No waiver by any party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

23. Cumulative Remedies

All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the Parties or otherwise. Notwithstanding the previous sentence, the Parties intend that Buyer's rights under Section 6 and Section 10 are Buyer's exclusive remedies for the events specified therein.

24. Assignment

Buyer shall not assign, transfer, delegate or subcontract any of its rights or obligations under this Agreement without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve Buyer of any of its obligations hereunder. Seller may at any time assign, transfer or subcontract any or all of its rights or obligations under this Agreement without Buyer's prior written consent.

25. Successors and Assigns

This Agreement is binding on and enures to the benefit of the Parties to this Agreement and their respective permitted successors and permitted assigns.

26. No Third-Party Beneficiaries

This Agreement benefits solely the Parties to this Agreement and their respective permitted successors and assigns, and nothing in this Agreement, express or implied, confers on any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

27. Governing Law

This Agreement, and all matters arising out of or relating to this Agreement, are governed by, and construed in accordance with, the laws of the Province of Ontario, and the federal laws of Canada applicable therein without regard to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the Province of Ontario. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

28. Choice of Forum

Any legal suit, action, litigation or proceeding of any kind whatsoever in any way arising out of, from or relating to this Agreement, including all exhibits, schedules, attachments, and appendices attached to this Agreement, and all contemplated transactions, shall be instituted in the courts of the Province of Ontario, and each Party irrevocably submits to the non-exclusive jurisdiction of such courts in any such suit, action, litigation or proceeding. Service of process, summons, notice, or other document by mail to such Party's address set forth herein shall be effective service of process for any suit, action, litigation or other proceeding brought in any such court. Each Party agrees that a final judgment in any such suit, action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. The Parties irrevocably and unconditionally waive any objection to the venue of any action or proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

29. Force Majeure

The Seller shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, pandemic, lockouts, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage, provided that, if the event in question continues for a continuous period in excess of sixty (60) days, Buyer shall be entitled to give notice in writing to Seller to terminate this Agreement.