SUPPLY AGREEMENT FOR BRANDED PRODUCTS
GENERAL TERMS

1. COMMENCEMENT AND TERM

1.1 The Agreement will commence on the Start Date and subject to Section 1.2, will continue, unless terminated earlier in accordance with its terms, for the Initial Term and thereafter until either Party gives at least three (3) months' written notice to the other Party, such notice to expire on or after the end of the Initial Term.

1.2 The Agreement will expire automatically on the date falling five (5) years after the Start Date.

2. PRODUCTS

2.1 The Supplier may, at its discretion, provide the Customer with trial or sample Products, for the sole purpose of giving trials or preliminary fittings to end users (**Diagnostic Lenses**). The Customer acknowledges that:

(a) any Diagnostic Lenses are supplied at the Supplier's discretion and the Supplier is entitled to decline any request for Diagnostic Lenses;
(b) the Supplier reserves the right to charge the Customer for Diagnostic Lenses (including freight); and
(c) it is not permitted to sell any Diagnostic Lenses provided to it under the Agreement (unless otherwise agreed in writing by the Supplier (including by email) and only as permitted by Applicable Laws).

3. ORDER PROCESS AND CONTRACT FORMATION

3.1 Placing an Order The Customer will order Products using the Supplier's approved sales channels (**Product Request**). Each Product Request will be a separate offer by the Customer to buy the relevant Products. The Supplier may accept or decline any Product Request in whole or in part at its absolute discretion.

3.2 Acceptance of an Order Following receipt of a Product Request, the Supplier may provide an acknowledgement containing an order number. The acknowledgement is only to confirm the Product Request has been received and shall not constitute acceptance of the Product Request by the Supplier. No part of a Product Request shall be deemed to be accepted by the Supplier, and the Supplier shall have no obligation to supply any Products, unless and until the Supplier issues a formal written acceptance to the Customer (including by email or other electronic communication), or otherwise begins to fulfil the Product Request, at which point it will become binding (**Order**). The Parties shall use the Order number in all correspondence relating to the Order.

3.3 Changing an Order The Customer may only amend or cancel an Order with the Supplier's express agreement.

3.4 Returns Policy Products may only be returned (in addition to where defective (Section 10) or recalled (Section 11)) at the Supplier's discretion, subject to, and in accordance with, the Supplier's returns policy, as amended or updated by the Supplier from time to time (available at http://coopervision.co.uk/practitioner/returns-policy).

3.5 Terms of Purchase The Products will be supplied subject to the terms of the Agreement only and no other terms will apply. Any Product Request or order forms, purchase orders or other correspondence that the Parties may use for the ordering of the Products or otherwise administering the Agreement or any Order will be for administrative convenience only and any terms and conditions included on such forms will not apply. The Customer agrees that the Agreement supersedes any current or previous agreement with the Supplier or any of its Group for the supply of the Products or their equivalent.

4. CUSTOMER'S OBLIGATIONS

4.1 Restrictions on Onward Sales The Customer will not directly or indirectly sell, distribute or otherwise make available Products to distributors, resellers or end-users outside the United Kingdom, European Economic Area and Switzerland (**Permitted Area**). The Customer will apply the same restrictions to its own customers and take all necessary measures to prevent such sale by its customers. The Customer will be responsible for any damages incurred by the Supplier and its Group resulting from any breach of this obligation either by the Customer or its customer(s). The Supplier may request evidence and/or conduct a periodic audit of the Customer from time to time to ensure compliance with this obligation.

4.2 Sales Reporting To enable the Supplier to allocate internal sales commission effectively, the Customer will, in each month, provide a report to the Supplier detailing the amount by value on a country by country basis (and/or a region by region or store by store basis, if requested by the Supplier) of its onward sales of the Products for the previous month.

4.3 The Customer will provide a further report to the Supplier every quarter, detailing the Supplier's share of the Customer's commercial spend (in percentage terms only) in each relevant segment (FRP contact lenses and daily contact lenses) for each of the previous three (3) months.

4.4 Sale of Selective Distribution Network Products The Customer agrees, where it is able to purchase nominated Products (from the Supplier) due to its accreditation as an authorised reseller of the Supplier, as part of a selective distribution network (**Selective Distribution Network Products**), to only sell the Selective Distribution Network Products to end users or other accredited authorised resellers of the Supplier. In addition, the Customer agrees to comply with such additional terms and conditions as are notified to it, by the Supplier, from time to time in connection with the sale and marketing of the Selective Distribution Network Products.

5. FORECASTS

5.1 The Supplier may require the Customer to provide forecasts of its requirements for the Products, at such intervals as the Supplier may reasonably require, by giving five (5) Business Days' notice to the Customer in writing.

6. MANUFACTURE, PACKAGING AND DELIVERY

Products and Packaging

6.1 The Supplier may change the design, materials, mode of manufacture, specifications, production, packaging, Packing Specification or any other element of any Product. The Supplier will give reasonable written notice to the Customer (including by email) of any change made under this Section 6.1.

6.2 The Customer must comply with all Applicable Laws relating to the Products, including Articles 7 (Claims) 14 (General obligations of distributors), 16 (Cases in which obligations of manufacturers apply to importers, distributors or other persons) and 20(5) (CE marking of conformity) of the MDR, where applicable, and those governing:

(a) their importation, use or sale in the country of destination;
(b) payment of any duties or taxes; and
(c) transportation and storage including all obligations to translate instructions, labelling or packaging into any other language.

The Supplier may take any reasonable steps it deems necessary to verify the Customer's compliance with its obligations under this Section.

6.3 Notwithstanding the Customer's obligations under Section 6.2, the Customer must comply with all Applicable Laws relating to the marketing and promotion of the Products and will:

(a) observe all guidelines and instructions provided by the Supplier relating to the promotion and advertisement of the Products;
(b) ensure that all marketing and promotional messaging for the Products aligns and is consistent with:
    (i) any core messaging/narrative provided or made available by the Supplier;
    (ii) any Product claims or promotional materials provided or made available by the Supplier (as approved by the relevant Competent Authorities, where applicable); and

(c) not make any written statement as to the quality or manufacture of the Products, except:

(i) as appears on the packaging and Labels of the Products, or any in Product claims and promotional materials made available by the Supplier; or

(ii) with the prior written approval of the Supplier.

6.4 Label Design The Supplier will be responsible for the design of the Label and shall ensure that the design and content complies with Applicable Laws.

6.5 Affixing the Label The Supplier will affix all Labels to the Products in accordance with the Packing Specification. The Supplier will not be responsible for loss suffered by the Customer which results from the Labels or labelling of the Products except in so far as such loss arises directly as a result of a failure to comply with the Packing Specification.

Delivery

6.6 FCA All Products will be supplied by the Supplier on an FCA (Supplier's premises) basis (Incoterms 2020). If specified in the Agreement Details or in an Order, then the Supplier shall arrange onward transport of the Products, at the Customer's sole risk and cost, to the location(s) specified by the Customer.

6.7 Time Frame The Supplier will use reasonable endeavours to despatch the Products by the date confirmed in the Order or otherwise notified to the Customer (the **Despatch Date**). The Parties agree that the Despatch Date is an estimate and time will not be of the essence.

6.8 Location Delivery will be complete when the Products have been loaded onto the carrier's vehicle at the Supplier's premises (**Delivery**).

6.9 Instalments The Supplier may at its sole discretion deliver Orders by instalments, which shall be invoiced and paid for separately. No cancellation or termination of any instalment by the Supplier or any delay in delivery or defect in an instalment will entitle the Customer to terminate or cancel any other Order or instalment.

6.10 Deemed Acceptance Each shipment of Products will be deemed to have been accepted by the Customer unless the Customer reports any damage or shortfall (other than hidden defects) in the Products within two (2) Business Days of receipt. Unless so notified, the quantity of any consignment upon despatch, as recorded by the Supplier, will be conclusive evidence of the quantity received by the Customer.

6.11 Supplier Delays Subject to Section 6.13 and Section 17, if the Supplier has not despatched the Products (or any of them) by the Despatch Date then:

(a) the Customer may notify the Supplier in writing of the delay and require Delivery within ten (10) Business Days of such notice; and

(b) if Delivery of those Products does not take place within that extended period then that Order (or the relevant part of it) will be deemed cancelled (and neither Party shall have any liability to the other in respect of that part of the Order) and the Customer may obtain similar products in respect of that Order from an alternative supplier (on the condition that it notifies the Supplier in advance of its intention to do so).

6.12 The Parties agree and acknowledge that Section 6.11 sets out the Customer's only remedy for any delay or failure by the Supplier to Deliver the Products (in whole or in part) and any such delay or failure will not be a breach of the Agreement. The Supplier will not be liable for any loss or damage arising from or relating to its delay or failure to Deliver the Products including the Customer's costs of obtaining similar products from an alternative supplier.

6.13 Customer Delays If the Customer fails to collect, or fails to accept any shipment of the Products or Delivery is delayed due to the Customer's carrier or a failure by the Customer to provide information or instructions that have been requested by the Supplier then:

(a) risk will pass to the Customer on the Despatch Date; and/or

(b) the Customer will reimburse the Supplier for any additional costs incurred (including for interim storage).

6.14 Removing products

Subject to Section 11.5, the Supplier may cease to supply all or any Products:

(a) with immediate effect where the Supplier considers this reasonably necessary to address any health or safety concerns or as required by law or by a Competent Authority; or

(b) on a temporary basis where the Supplier is experiencing supply chain or manufacturing difficulties; or

(c) by giving at least three (3) months' written notice to the Customer (including by email).

7. TITLE AND RISK

7.1 Title and risk in the Products will pass to the Customer on Delivery.

8. EXCLUSIVITY

8.1 The Supplier will be the sole and exclusive supplier to the Customer of the Products and, subject to Section 6.11, the Customer will not purchase the Products from any third party during the Term.

9. PRICE AND PAYMENT

9.1 Price The Customer will pay the Price for the Products. All Prices are exclusive of:

(a) the costs of additional or bespoke packaging;

(b) applicable transportation costs to the Customer's designated premises, and insuring the Products during transit, which will be notified to the Customer by the Supplier separately on a case-by-case basis; and

(c) any applicable taxes, tariffs and duties including value added or other sales tax, import duties and customs fees,

which will be added to the Price, specified on the invoice and payable by the Customer in accordance with this Section 9.

9.2 Price Changes The Supplier may change the Prices at its discretion, by giving the Customer not less than thirty (30) days' notice in writing (including by email).

9.3 Payment Date The Customer will make all payments by the Payment Date. On termination of the Agreement, all outstanding payments will become due immediately.

9.4 Timing of Payments Time for payment by the Customer will be of the essence. Payments will only be deemed received once the Supplier has received cleared funds.

9.5 No Right to Withhold All sums payable by the Customer will be paid free and clear of all setoffs, deductions and withholdings, except as required by law.

9.6 Late Payment If the Customer fails to make any payment by the Payment Date then:

(a) the Customer will pay the Supplier interest on the unpaid amount at the rate of 4% per annum above the base rate of the Supplier's receiving bank from time to time. Interest will accrue on a daily basis, from the Payment Date until payment by the Customer and any administrative or legal costs incurred by the Supplier in the recovery of such sums will also be payable;

(b) the Supplier may suspend deliveries of the Products and all deliveries or provision of services under any other agreement between the Customer and any other member of the Supplier's Group until all outstanding amounts have been paid in full; and

(c) the Supplier will be entitled to terminate the Agreement in accordance with Section 18.2(c).

10. PRODUCT WARRANTY

10.1 The Supplier warrants to the Customer that on Delivery and for a period of six (6) months thereafter, the Products will be free from defects in design, materials or workmanship. The Supplier will not be liable for a breach of this warranty where:

(a) the Customer allows any further use of such Products after giving notice of any defects to the Supplier under this Section; or

(b) the defect arises because the Customer has breached its obligations under this Section or Section 11.1 (Compliance with Instructions and Guidelines).

10.2 If the Customer identifies that the Products do not comply with the warranty in Section 10.1, it will notify the Supplier within five (5) Business Days and return the Products to the Supplier for inspection. If the Supplier confirms the defect in the relevant Products, the Supplier will, subject to Section 10.3, rectify the defect by replacing the defective Products with the same or substantially similar products as soon as reasonably possible. Any replacement Products supplied to the Customer in accordance with this Section, will be subject to the terms of the Agreement.

10.3 If, having used commercially reasonable efforts, the Supplier is unable to provide replacement Products under Section 10.2, then the Supplier will (in its sole discretion) refund the Price paid for the defective Products or provide the Customer with a credit note.

10.4 Except as provided in Sections 10.2 and 10.3, the Supplier shall have no liability to the Customer for any failure of the Products to comply with the warranty set out in Section 10.1.

10.5 Any claim under the warranty in accordance with this Section 10 will not entitle the Customer to cancel or refuse delivery of or payment for any other Order, delivery or instalment.

11. SAFETY AND PRODUCT RECALL

11.1 Compliance with Instructions and Guidelines The Customer will comply at all times with, and will refer its employees, customers and/or end users to, any information, instructions or guidelines provided by the Supplier concerning the storage, application, handling, treatment, maintenance and use of the Products. The Customer will not modify or in any way interfere with the Products (including by opening, tampering with, splitting up, re-packaging the Products or altering any Label), except in accordance with the Supplier's express written instructions.

11.2 The Supplier will not be liable to the Customer for any loss or damage caused by any failure to store or otherwise handle the Products in accordance with information, instructions or guidelines provided by the Supplier.

11.3 In this Section 11, serious incident and incident will have the meanings given to them in the MDR. The Customer will, or will otherwise procure that any end user supplied with the Products by the Customer will, notify the Supplier by email to qualityreturns@coopervision.co.uk immediately of any serious incident or incident (or suspected serious incident or incident) relating to the Products together with details of the incident, the name(s) of any affected end user(s), and the country into which the Products were sold. The Customer agrees to co-operate with the Supplier at all times with monitoring the safety, performance and recall of the Products. The Customer will maintain a list which contains details of the Products sold by the Customer, the name and address of the end user(s) (if applicable) and the country into which the Products have been sold. This list will be made available to the Supplier promptly on request and the Customer will obtain all necessary consents from the end users in advance so it is able to provide the list, in accordance with Data Protection Laws.

11.4 Complaints The Customer will immediately notify the Supplier of any complaints or other reports concerning the Products and will comply with all instructions from the Supplier regarding such complaints or reports. Any notification to a Competent Authority as a result of a quality or safety issue relating to the Products (including any serious incident or incident) will be made by the Supplier, except where the Customer does so in accordance with explicit written instructions from the Supplier.

11.5 Recall Process The Supplier may at its sole discretion:

(a) recall any of the Products already sold to the Customer or its customers (and either refund or credit the Price paid or replace the Products with the same or substantially similar products); or

(b) issue a notice to the Customer about the manner and use of any Product already sold to the Customer or its customers; and

in each case, the Customer will fully and promptly cooperate with the instructions of the Supplier in the notice. The Customer will only be entitled to initiate a recall with its customers or any end users where it is acting on the express written instructions of the Supplier.

12. CONFIDENTIALITY

12.1 Each Receiving Party will hold all Confidential Information of the Disclosing Party which it obtains under the Agreement, in strict confidence and will not disclose or authorise the disclosure of any Confidential Information except:

(a) to its personnel and advisers who need to know such information for the purposes of exercising the Receiving Party's rights or carrying out its obligations under the Agreement; or

(b) where and to the extent authorised to do so by the Disclosing Party; or

(c) as required to do so by law, a court of competent jurisdiction or any governmental or regulatory authority.

Each Receiving Party will not use the Disclosing Party's Confidential Information for any other purpose.

12.2 The obligations with respect to Confidential Information will continue for a period of three (3) years following the termination or expiry of the Agreement.

13. DATA PROTECTION

13.1 The Parties share the opinion that for the purposes of Data Protection Laws and in connection with the Agreement:

(a) the Customer and the Supplier are independent controllers of personal data collected by the Customer and provided to the Supplier under Sections 11.3 and 11.4, and the transfer of that data will be on a controller to controller basis; and

(b) the Supplier will be the processor of the Customer (as controller) for any personal data of an end user received from the Customer and processed by the Supplier to deliver the Products directly to those end users (where applicable) or allow the Customer to identify an Order (**Customer Personal Data**).

A detailed description of the data processing activities, including the Customer Personal Data concerned, is set out below:

Details	Description
Subject matter, nature and purpose of the Personal Data processing:	**Subject Matter:** Processing of Customer Personal Data to the extent necessary for the delivery of the Products to the end user or the Customer; and aggregation/anonymisation of Customer Personal Data by the Supplier to perform analytics, including to improve the delivery services to end users. **Nature:** Processing activities including acquiring, processing, storing, aggregating, anonymising and analysing will be undertaken by the Supplier. **Purpose:** To enable the delivery of the Products to end users, for the Customer's identification of Orders or to improve the delivery services to end users.
Duration of the Personal Data processing:	For the Term or as otherwise contemplated by the Agreement.
The type of Personal Data processed:	Identifying data including titles, names, addresses and postal codes. If tracking system is offered, contact information including email addresses and telephone numbers. Information regarding the end user's ophthalmic health (including optical prescription and optical products used).
The categories of data subject:	The end users who purchase the Products from the Customer.

13.2 The Customer shall ensure that:

(a) all personal data disclosed or transferred to, or accessed by, the Supplier from the Customer is accurate and up-to-date; and

(b) all fair processing notices have been given, and (as applicable) all necessary consents have been obtained, by the Customer in accordance with Data Protection Laws, to allow the Customer to disclose any personal data to the Supplier as envisaged under the Agreement.

13.3 The Customer and Supplier each agree to comply with their obligations under Data Protection Laws with respect to the processing of personal data under or in connection with the Agreement.

13.4 If a Party receives any complaint, notice or communication which relates to any actual or alleged non-compliance with Data Protection Laws with respect to the processing of personal data under or in connection with the Agreement, that Party shall without undue delay notify the other Party in writing and the Parties shall cooperate with one another to resolve the same.

13.5 Where the Supplier acts as a processor of the Customer (as contemplated by Section 13.1(b), the Supplier shall:

(a) only process the Customer Personal Data on the documented instructions of the Customer to perform its obligations under the Agreement, save that the Supplier may process the Customer Personal Data if required to do so by any law to which the Supplier is subject and, in such a case, the Supplier shall (to the extent permitted by European law) inform the Customer of that legal requirement. Without prejudice to this Section 13.5(a), the Supplier (and/or its Group) shall be permitted to use aggregated / anonymised Customer Personal Data for its own lawfully permitted purposes;

(b) be permitted to process Customer Personal Data in accordance with the Agreement outside the Permitted Area, if the requirements of Article 44 to 48 of the GDPR are met or if an exception pursuant to Article 49 of the GDPR applies;

(c) immediately inform the Customer if, in the Supplier's opinion, the Customer's instruction breaches Data Protection Laws;

(d) at the request of the Customer (and at the Customer's expense), provide to the Customer such reasonable assistance as is contemplated by Article 28(3)(e) and (f) of the GDPR;

(e) ensure that appropriate technical and organisational measures are in place to safeguard against the unauthorised or unlawful processing of the Customer Personal Data and against accidental loss or destruction of, or damage to, the Customer Personal Data and such measures shall, at a minimum, meet the requirements of Article 32 of the GDPR;

(f) ensure that any of its personnel who are authorised to process the Customer Personal Data are bound by a duty of confidence to maintain the confidentiality of the Customer Personal Data;

(g) on conclusion of the Customer Personal Data processing activities contemplated by the Agreement, the Supplier will (as directed by the Customer) securely return or securely destroy the Customer Personal Data and all copies held by or on behalf of the Supplier, unless the Supplier is required to keep such Customer Personal Data for its compliance with Applicable Laws; and

(h) provide the Customer with all information reasonably requested to demonstrate compliance with this Section 13 and allow for audits by the Customer or the Customer's designated auditor. Any costs and expenses incurred by the Supplier in assisting the Customer with each audit shall be borne by the Customer.

13.6 The Customer consents to the Supplier appointing third-party processors of Customer Personal Data. The Supplier shall inform the Customer of any intended changes concerning the addition or replacement of other third-party processors, thereby giving the Customer the opportunity to object to such changes. The Supplier confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement providing equivalent protection to the Customer Personal Data. The Supplier shall remain responsible for the acts and omissions of its sub-processors.

14. INTELLECTUAL PROPERTY RIGHTS

14.1 Licence from the Supplier The Supplier grants to the Customer a non-exclusive, non-transferable right in the Permitted Area to use the Supplier's name, the Supplier Trademarks and the Supplier's IPR in the Packing Specification (including on the Labels where relevant) (the **Supplier Licensed IPR**) during the Term on any sales literature, point of sale material and advertisements for the promotion of the Products provided such use is strictly in accordance with the terms of the Agreement and any brand guidelines made available by the Supplier.

14.2 Except as permitted under the Agreement, or expressly authorised in writing by the Supplier, the Customer will not (and will not allow or encourage others to) use, register or attempt to register the Supplier Licensed IPR or any other name or trade mark similar to those of the Supplier or its Group.

14.3 Supplier Warranties The Supplier warrants to the Customer that:

(a) it is fully entitled to grant the licence of the Supplier Licensed IPR in Section 14.1; and

(b) the use of the Supplier Licensed IPR in accordance with the Agreement will not infringe any third party IPR.

14.4 Use of the Supplier Licensed IPR The Customer will not, except with the prior written consent of the Supplier:

(a) alter, add to, deface or remove in any manner any packaging or Labels for the Products or any reference to the Supplier Licensed IPR, the Supplier or to any other name whether attached or affixed to the Products or their packaging or Labels; or

(b) use, in relation to the Products, any trade marks other than the relevant Supplier Licensed IPR.

14.5 The Customer will:

(a) at the Supplier's reasonable expense, take all such steps as the Supplier may reasonably require to assist the Supplier in maintaining the validity and enforceability of the Supplier Licensed IPR during the Term; and

(b) promptly and fully notify the Supplier of any actual, threatened or suspected infringement of any Supplier Licensed IPR which comes to the Customer's notice, and/or of any claim by any third party coming to its notice that the importation of the Products into the Permitted Area, or their sale in the Permitted Area, infringes the rights of any other person. The Customer will at the reasonable request and expense of the Supplier do all such things as may be required to assist the Supplier in taking or resisting any proceedings in relation to any such infringement or claim.

15. LIABILITY

15.1 Subject to Sections 15.4 and 15.5, the Supplier's total liability to the Customer in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, and including loss of data or data breaches, shall in no circumstances exceed the amounts paid to the Supplier (i) over the three (3) months preceding the date the liability arose, or (ii) up to the point that the liability arose if such liability occurs before the Agreement has been in existence for three (3) months.

15.2 Except as expressly set out in the Agreement, all other conditions, warranties or other terms which might be implied or incorporated into the Agreement, whether by statute, common law or otherwise, including the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care are excluded.

15.3 Neither Party nor its Group will be liable to the other Party whether in contract, tort (including negligence or breach of statutory duty) or otherwise arising out of, or in relation to, the Agreement, for any:

(a) direct or indirect loss of profit, revenue, business, goodwill or anticipated savings; or

(b) indirect or consequential loss,

provided that nothing in the Agreement will operate to limit the Supplier's right to recover payment of any properly rendered invoice.

15.4 The limits of liability set out in Sections 15.1 and 15.3 will not apply to any indemnity under Section 16.

15.5 Nothing in the Agreement will limit or exclude either Party's liability:

(a) for fraud or fraudulent misrepresentation;

(b) death or personal injury caused by negligence;

(c) under section 12 of the Sale of Goods Act 1979 (or section 12 of the Sale of Goods Act 1893 (Ireland) (as amended)) or section 2 of the Supply of Goods and Services Act 1982; or

(d) where such limitation or exclusion would contravene applicable law.

16. INDEMNITIES

16.1 Indemnification by Supplier The Supplier will indemnify the Customer and its directors, officers, employees, sub-contractors and agents (the **Customer Indemnified Parties**) against any and all claims, liabilities, damages, losses, expenses and costs (including legal costs on a full indemnity basis), that the Customer Indemnified Parties sustain or incur as a result, directly or indirectly, of any action, claim or proceeding that the Supplier Licensed IPR infringes the IPR of any third party.

16.2 Indemnification by Customer The Customer will indemnify the Supplier, the Supplier's Group and their respective directors, officers, employees, sub-contractors and agents (the **Supplier Indemnified Parties**) against any and all claims, liabilities, damages, losses, expenses and costs (including legal costs on a full indemnity basis), that the Supplier Indemnified Parties sustain or incur as a result, directly or indirectly, of any action, claim or proceeding that arises as a result of a breach by the Customer of its obligations under Sections 4.1, 4.4, 6.2, 6.3, 11, 13, 20.2 or 20.3.

17. FORCE MAJEURE

17.1 A Party will not be liable for any failure or delay in fulfilling any obligation under the Agreement to the extent that such failure or delay is the consequence of a Force Majeure Event.

17.2 The Party unable to fulfil its obligations as a result of the Force Majeure Event will, as soon as reasonably practicable:

(a) notify the other Party of the nature and extent of the Force Majeure Event; and

(b) use commercially reasonable efforts to commence performing such obligations as soon as possible or otherwise mitigate the effects of the Force Majeure Event by finding a workaround to perform the obligation despite the Force Majeure Event.

17.3 If a Party is prevented from performing its obligations due to a Force Majeure Event for ninety (90) days or more, then the other Party will have the right to terminate all or part of the Agreement in accordance with Section 18.1(c).

18. TERMINATION

18.1 Mutual Termination Rights Without limiting any other rights or remedies it may have, either Party may terminate the Agreement immediately by giving written notice to the other Party, if that other Party:

(a) commits a material breach of the Agreement which is irremediable or, if capable of remedy, fails to remedy the same within thirty (30) days of being required in writing by that Party to do so;

(b) suffers an Insolvency Event; or

(c) suffers a Force Majeure Event for ninety (90) days or more.

18.2 Supplier Termination Rights Without limiting any other rights or remedies it may have, the Supplier may terminate the Agreement:

(a) at any time for convenience (including during the Initial Term) by giving at least three (3) months' written notice to the Customer;

(b) by giving thirty (30) days' written notice to the Customer if the business and assets of the Customer (or the majority of them) are acquired by a third party or if the Customer undergoes a Change of Control; or

(c) by giving fourteen (14) days' written notice to the Customer where the Customer fails to pay any amount due under the Agreement by the Payment Date and has still not made payment within fourteen (14) days of being notified in writing to do so.

18.3 Consequences of Expiry or Termination On the expiry or termination of the Agreement for any reason:

(a) if requested by the Supplier, the Customer will at its own expense within thirty (30) days return to the Supplier or otherwise dispose of in accordance with the Supplier's directions all fitting banks, materials, documents and papers whatsoever sent to the Customer and relating to the business of the Supplier which the Customer may have in its possession or under its control; and

(b) the Supplier will be entitled to cancel any Orders placed by the Customer before the expiry or termination date, whether or not the Supplier has accepted such orders, without incurring any liability to the Customer. For outstanding Orders which are not cancelled, the Supplier may, at its discretion, request payment from the Customer in advance of delivery of the Products.

19. LAW AND JURISDICTION

19.1 The Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed with the laws of England and Wales to the exclusion of the United Nations Convention on Contracts for the International Sales of Goods. Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Agreement, its subject matter or formation (including non-contractual disputes or claims).

20. GENERAL

20.1 General Compliance Each Party will, and will procure that any of its Group, agents and sub-contractors will, perform its obligations and exercise its rights pursuant to the Agreement in accordance with all Applicable Laws.

20.2 Anti-Bribery and Corruption Each Party will comply with its obligations under the Anti-Bribery and Corruption Laws and, in any event, will not act in such a way which may breach the other Party's responsibilities under the Anti-Bribery and Corruption Laws. The Customer shall comply with the Supplier's anti-bribery and corruption policy as notified to the Customer from time to time.

20.3 Sanctions

(a) The Customer represents and warrants that neither it nor any part of its Group, or their respective directors, officers, or ultimate beneficial owners are included on any list issued or maintained by a Sanctions Authority designating or identifying persons that are subject to Sanctions (as amended or substituted from time to time), including the UK Sanctions List, Consolidated List of Financial Sanctions Targets in the UK, the Consolidated United Nations Security Council Sanctions List and the OFAC Specially Designated Nationals and Blocked Persons list.

(b) Each Party will, at all times during the Term, comply with all Sanctions and, in any event, will not do, or omit to do, any act that will cause or lead the other Party to contravene any such Sanctions. Notwithstanding the above, the Customer will not sell Products to any individuals or other entities in any country if such sales are prohibited by Sanctions, unless the Customer receives written confirmation from the Supplier that it has obtained a valid license for the sale of those Products to such individuals or entities in such countries.

(c) If at any time during the Term the Customer is in contravention of Sections 20.3(a) or (b) above, the Supplier may at its discretion and without affecting any other right or remedy available to it: (i) immediately suspend deliveries of the Products and all deliveries or provision of services under any other agreement between the Customer and any other member of the Supplier's Group; and/or (ii) terminate the Agreement with immediate effect in accordance with Section 18.1(a).

20.4 Regulatory Notices If the Customer receives any communication from a Competent Authority or regulator which relates to the Agreement or the Products, then, to the extent permitted to do so, the Customer will immediately notify the Supplier in writing and provide a copy of the same.

20.5 Notices Any notice to either Party under or in connection with the Agreement will be in writing, in English and will be delivered personally or by first-class post at the address for that Party set out in the Agreement Details, or such other address as may be notified by a Party in writing from time to time.

20.6 Any notice will be deemed to have been received:

(a) if delivered personally at the time the notice is left at the proper address provided that it is left during business hours, otherwise at the time that business hours resume at the place where the notice has been left; or

(b) if sent by first-class post, at 9.00 am on the third Business Day after posting.

For the purposes of this Section, "writing" will not include email or other electronic communications. The provisions of this Section will not apply in relation to communications between the Parties which may be sent by email.

20.7 Assignment The Customer will not, without the prior written consent of the Supplier, assign, transfer, charge, mortgage, subcontract or deal in any manner with all or any of its rights or obligations under the Agreement.

20.8 The Supplier may at any time assign or novate all or any part of its rights and obligations pursuant to the Agreement, to any of its Group or to a successor. All references in the Agreement to the Supplier will be construed as including any Group company or successor to which such rights or obligations (or both, as applicable) are assigned or novated.

20.9 Waiver No failure or delay by either Party in enforcing or exercising any right, power or remedy under the Agreement or by law will constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy or of any breach will prevent or restrict the further exercise of any other right, remedy or any other succeeding breach. No waiver or discharge of any kind will be valid unless in writing and signed by an authorised representative of the Party against whom such waiver or discharge is sought to be enforced.

20.10 Severability If a court of competent jurisdiction or other competent body decides that any provision of the Agreement is void or otherwise unenforceable but would be valid and enforceable if appropriately modified then such provision will apply with the minimum modification necessary to make it valid and enforceable. If such a provision cannot be so modified, the provisions' invalidity or unenforceability will not affect or impair the validity or legal effect of any other provision of the Agreement.

20.11 Third Parties

(a) Unless expressly stated, the Agreement does not confer upon any third party any right or benefit, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

(b) If the Customer acquires the business and assets of a third party (or the majority or entirety of shares in such third party) (**Acquired Entity**), the Acquired Entity and/or all or part of their business shall only be added to, and entitled to order pursuant to and benefit from, the Agreement with the Supplier's prior written consent and when the Parties agree relevant Product prices and terms of supply for the Products to such Acquired Entity.

(c) Without prejudice to Section 20.11(b), if (i) the Customer or all or part of its business is incorporated into, merged or otherwise combined with (in whole or in part) another company or business; or (ii) another company or business forming part of the Customer's Group wishes to order Products from the Supplier (or is merged or otherwise combined with (in whole or in part) the Customer); then such company or business shall not be entitled to order pursuant to, and benefit from, the Agreement unless the Supplier provides its written consent and relevant Product prices and terms of supply for the Products have been agreed.

20.12 No Partnership or Agency Nothing in the Agreement is intended to create a joint venture, agency relationship or partnership between the Parties. Except as expressly authorised in the Agreement, neither Party has any authority to, and will not, act, make representations or contract on behalf of the other Party.

20.13 Variations Except as expressly set out in the Agreement, no variation or addition to the Agreement will be valid unless it is in writing and signed by authorised representatives of each Party.

20.14 Survival Any provision of the Agreement which expressly or by implication is intended to come into or continue in force on or after the expiry or termination of the Agreement will remain in full force and effect.

20.15 Entire Agreement Except in the case of fraud or fraudulent misrepresentation:

(a) the Agreement sets out the entire agreement between the Supplier and the Customer and supersedes all prior representations, negotiations, understandings or agreements between them relating to the supply of the Products and any such agreements will be deemed to have expired on the Start Date; and

(b) each Party acknowledges that, in entering the Agreement, it has not relied on any statement, representation, assurance or warranty other than those expressly set out in the Agreement.

20.16 Counterparts The Agreement may be executed in any number of counterparts, each of which is an original and all of which evidence the same agreement between the Parties.

21. DEFINITIONS

21.1 **Agreement** means the agreement between the Supplier and the Customer for the sale and purchase of the Products in accordance with the Agreement Details and these General Terms;

21.2 **Agreement Details** means the separate document signed by each of the Parties which sets out the commercial terms and any special conditions;

21.3 **Anti-Bribery and Corruption Laws** means the Bribery Act 2010, the Foreign Corrupt Practices Act 1977 and the Criminal Justice (Corruption Offences) Act 2018 and any other Applicable Law that relates to bribery, corruption or similar unlawful or unethical conduct;

21.4 **Applicable Laws** means any applicable law, regulation or professional codes in force from time to time that apply to one or both of the Parties and/or the Products, including the Opticians Act 1989, the Health and Social Care Professionals Act 2005 (as amended), the Medical Device Directive 93/42/EEC and the MDR;

21.5 **Business Day** means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;

21.6 **Change of Control** means the sale of all or substantially all of the assets of a Party; any merger, consolidation, amalgamation, acquisition or any other combination of a Party with, by or into another company; or any change in the ownership of more than fifty percent (50%) of the capital stock or other ownership interests of a Party; in each case in one or more related transactions;

21.7 **Competent Authority** means any ministry, governmental department or authority or other regulatory agency responsible for regulating the marketing or distribution of medical devices in the relevant territory, including the UK Medicines and Healthcare Products Regulatory Agency and the European Commission and, for the purposes of the Agreement, includes the Supplier's notified body;

21.8 **Confidential Information** means the existence of and terms of the Agreement, and all technical and pricing information relating to the Products (including know-how, designs and trade secrets) and all information relating to the Supplier's or the Customer's processes, plans, intentions, market opportunities, customers and business affairs, but will not include any information:

(a) that has been placed in the public domain other than through the fault of the Receiving Party;

(b) that was independently developed by the Receiving Party without reference to the Confidential Information of the Disclosing Party;

(c) that the Disclosing Party has approved in writing the particular use or disclosure of the information;

(d) which was already known by the Receiving Party prior to the disclosure without an obligation of confidentiality; or

(e) which is independently received from a third party without any obligation of confidentiality;

21.9 **Data Protection Laws** means all applicable data protection and privacy laws, including, where applicable, (i) the EU Regulation 2016/679 (the **GDPR**) and (ii) the GDPR as it forms part of the law of England and Wales by virtue of section 3 of the European Union (Withdrawal) Act 2018;

21.10 **Delivery** has the meaning set out in Section 6.8;

21.11 **Despatch Date** has the meaning set out in Section 6.7;

21.12 **Disclosing Party** means the Party disclosing Confidential Information to the Receiving Party;

21.13 **Force Majeure Event** means any circumstances not within a Party's reasonable control including:

(a) acts of God, fire, explosions, flood, drought, earthquake or other natural disaster;

(b) epidemic, pandemic, outbreak or crisis;

(c) war, hostilities, acts or threats of terrorism, riot, civil unrest, any law or action taken by a government or public authority;
(d) labour or trade disputes, strikes, industrial action, embargoes, blockades or shortages of necessary raw materials; and
(e) interruption or failure of utility service,

save that a failure to make payment when due will not amount to a Force Majeure Event;

21.14 **Group** means, in relation to a Party, that Party and its parent undertakings and any subsidiary undertakings (as those terms are defined in sections 1161 and 1162 of the Companies Act 2006) of such Party or its parent undertakings;

21.15 **Insolvency Event** means a Party:
(a) ceases to carry on its business;
(b) has a receiver, administrative receiver, administrator or similar officer appointed over all or any part of its assets or undertakings who is not discharged within fifteen (15) days of such appointment;
(c) makes an assignment for the benefit of, or a composition with its creditors generally or another arrangement of similar import;
(d) goes into liquidation or is the subject of a winding up order otherwise than for the purposes of a bona fide amalgamation or reconstruction; or
(e) if any similar event occurs under the law of any jurisdiction;

21.16 **IPR** (Intellectual Property Rights) means:
(a) copyright and related rights, database rights, design rights (whether registered or unregistered), rights in know how and Confidential Information;
(b) patents, rights to inventions, utility models, trademarks, trade names, IP addresses or IP address schemes, domain names and topography rights;
(c) applications for or registrations of any of the rights described in (a) or (b) above; and
(d) any other intellectual property having a similar nature or equivalent effect anywhere in the world;

21.17 **Label** means a physical overlabel in accordance with the Packing Specification or the design to be printed directly onto the Product packaging, as applicable;

21.18 **MDR** means the Medical Device Regulation (EU) 2017/745;

21.19 **Packing Specification** means the latest version of the packing specification relating to each Product as provided by the Supplier, or as amended from time to time pursuant to Section 6.1 and held on the Supplier's system for approved artwork, which may contain information regarding Labels, pack design, box size and shape, contact lens blister packs and associated labelling and any other details or information regarding the packaging or labelling for any Product;

21.20 **Products** means the products listed in the Agreement Details which bear the Supplier's names and/or the Supplier Trademarks and the Supplier's CE mark on the packaging and/or Labels;

21.21 **Receiving Party** means the Party to which Confidential Information is disclosed under the Agreement;

21.22 **Sanctions** means any laws or regulations relating to economic or financial, trade, shipping or other sanctions, export controls, trade embargoes or restrictive measures from time to time imposed, administered or enforced by a Sanctions Authority;

21.23 **Sanctions Authority** means (i) the United Nations, European Union, United Kingdom or United States of America and/or (ii) any other relevant governmental or regulatory authority with jurisdiction over either Party or the supply of the Products under the Agreement, and in each case their respective institutions, agencies, departments and authorities responsible for the implementation and enforcement of Sanctions (including regimes administered by the UN Security Council, United States Department of the Treasury, OFAC, and the UK HMTreasury);

21.24 **Supplier Trademarks** means the brand names of the Products and any other trademarks owned or controlled by the Supplier's Group;

21.25 **Term** means the period from the Start Date until the date of expiry or termination of the Agreement; and

21.26 **Year** means each twelve (12) month period from the Start Date.

Any other capitalised terms used in these General Terms will have the meanings given in the relevant Agreement Details.

22. INTERPRETATION

22.1 Except as otherwise provided in the Agreement or required by the context, the following principles will be applied in the interpretation of the Agreement:
(a) the singular includes the plural and vice versa;
(b) a reference to a statute or statutory provision is a reference to such statute or provision as modified or re-enacted from time to time (whether before or after the Start Date), and includes any subordinate legislation;
(c) references to persons or entities, includes a reference to natural persons, any body corporate, unincorporated association, trust, partnership or other entity or organisation;
(d) references to a person or entity, includes a reference to that person's or entity's successors or assigns;
(e) references to agreements or documents are references to those agreements or documents as respectively amended from time to time;
(f) the recitals and any other attachments to the Agreement form an integral part of the Agreement;
(g) the headings in the Agreement will not affect the interpretation of the Agreement;
(h) any reference to **writing** or **written** excludes email unless otherwise expressly stated; and
(i) whenever the words **include**, **includes**, **including** or **in particular** (or similar derivatives) are used, they are deemed to be followed by the words **without limitation**.

22.2 Words defined in Data Protection Laws shall have the same meaning when used in the Agreement.