

PRELIMINARY SUBSTANTIVE TERMS FOR COMPANY TERMS AND CONDITIONS OF SALE

1. Scope of Terms.

- a. This is a legally binding agreement (this “Sales Agreement”) between you and Eyecare Service Partners and its parents, subsidiaries, representatives, affiliates, officers, and directors (collectively, “Eyecare Service Partners,” “we,” “us,” “our”), which governs your purchase of Eyewear and other products and services offered and sold by Eyecare Service Partners (“COMPANY PRODUCT”) through the CZV Platform.
- b. PLEASE BE ADVISED: THIS SALES AGREEMENT CONTAINS PROVISIONS THAT GOVERN HOW CLAIMS BETWEEN YOU AND EYECARE SERVICE PARTNERS CAN BE BROUGHT ([SEE SECTION 11 BELOW](#)). THESE PROVISIONS WILL, WITH LIMITED EXCEPTION, REQUIRE YOU TO SUBMIT CLAIMS YOU HAVE AGAINST COMPANY TO **BINDING AND FINAL ARBITRATION ON AN INDIVIDUAL BASIS**, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS, GROUP OR REPRESENTATIVE ACTION OR PROCEEDING.
- c. By placing an order or otherwise purchasing any COMPANY PRODUCT through the CZV Platform, you agree, on behalf of yourself and all members of your household and others who access the CZV Platform under your account, to all terms and conditions of this Sales Agreement.

2. This Sales Agreement governs your purchase of COMPANY PRODUCTS from Eyecare Service Partners through the CZV Platform and does not constitute an agreement with Carl Zeiss Vision Inc. (“CZV”). CZV is not responsible for your purchase of COMPANY PRODUCTS through the CZV Platform. Your relationship with CZV, including but not limited to your right to access to, and use of, the CZV Platform is subject to additional terms and conditions in CZV’s Terms of Use and Privacy Policy and Data Protection (URLs located in the Platform).

- a. Eyecare Service Partners reserves the right to modify the terms and conditions of this Sales Agreement, and such modifications shall become effective upon posting of the modified terms on the CZV Platform, except for modifications to the arbitration provisions in Section 11, to which you will be bound only upon your written acceptance of such modified terms and conditions.

3. Communications.

- a. By entering into this Sales Agreement, you agree to receive communications from us, including via e-mail, text message, calls, and push notifications. You agree that texts, calls or prerecorded messages may be generated by automatic telephone dialing systems. Communications from Eyecare Service Partners may include but are not limited to: operational communications concerning your account or order(s) of COMPANY PRODUCT, updates concerning new and existing features of COMPANY PRODUCT, communications concerning promotions and discounts run by us or our third-party partners, and news concerning Eyecare Service Partners and industry developments. Standard text messaging charges applied by your cell phone carrier will apply to text messages we send. You agree that all electronic communications that we send to you satisfy any legal requirement that such communications be in writing.
- b. To opt out of promotional calls, texts, emails, send an email with “Opt Out” in the subject line to support@espmgmt.com.

4. Your Information. You understand and agree that you will be required to provide certain personal information in order to place an order for or purchase COMPANY PRODUCTS through the CZV Platform (“Personal Information”). You authorize us to use your Personal Information in connection with your purchase of COMPANY PRODUCTS through the Platform and our advertising and promotional activities related to our products and services. For more information on how your personal data is used and disclosed by Eyecare Service Partners, see [Eyecare Service Partners’ Privacy Policy](#). In addition, you authorize us to grant to CZV a license and right to use your Personal Information in connection with the operation of the CZV Platform. For more information on how your personal data is used and disclosed by Eyecare Service Partners, see Eyecare Service Partners’ Privacy Policy and Consent to Collect, Use and Disclose Personal Information (“CZV Privacy Policy and CZV Data Protection” located at <https://www.zeiss.com/data-protection/us/home.html>. <https://www.zeiss.com/data-protection/int/home.html?vaURL=www.zeiss.com/data-protection>

5. Ordering the COMPANY PRODUCT.

- a. In some cases, we make prescription Eyewear based on the Prescription Data provided by you. If you are providing your own lens prescription, it is your obligation to upload your current lens prescription in the ordering process on the CZV Platform and confirm the accuracy and validity of your Prescription Data when you place your order. Your order will be processed only after you have uploaded your Prescription Data and confirmed its accuracy and validity. In other cases, you can use the CZV Platform if one of our Practice Locations already has a copy of your valid lens prescription from a recent eye exam, or to schedule an eye exam to obtain a lens prescription if you don't already have one. In any of these cases your order will be processed after we have confirmed the accuracy and validity of your lens prescription.
- b. Once we receive your order, we will provide you with an email order confirmation. The order confirmation is not an acceptance of your order, nor does it constitute confirmation of our offer to sell the COMPANY PRODUCT to you; we are simply confirming that we received your order. Eyecare Service Partners reserves the right at any time after receiving your order to accept or decline your order for any reason. If you have not provided us with the proper Prescription Data or your prescription values indicate that a correction of your prescription for a COMPANY PRODUCT is advisable, we will contact you before proceeding further.
- c. Until we have confirmed the Prescription Data for your order, your order has not been accepted. We will send you another email to let you know that your order has been accepted and that the COMPANY PRODUCT will be manufactured and prepared for shipping.

6. Payment.

- a. You authorize Eyecare Service Partners (and any third-party payment processor) to charge your payment card for all purchases you make. Completion of a payment transaction is contingent upon: (a) you providing complete personal, credit or debit card and other information needed to charge your account for your purchase, (b) authorization of the payment by your credit or debit card company, and (c) acceptance of your payment. You may cancel your payment prior to your final submission of it to us. We may, in our sole discretion, cancel your payment at any time by providing notice to you through your contact information or by a notice when you attempt to make a payment. We may cancel a payment or prevent you from initiating future payments for any reason.
- b. If we cancel an order after you have already paid, we will refund the paid amount through original method of payment.

7. Shipping and Delivery.

- a. Please review the [Shipping & Pickup](#) page to learn about how and when you will receive the COMPANY PRODUCT you purchased from the CZV Platform.
- b. Since the actual delivery of your order can be impacted by many events beyond Eyecare Service Partners' control once it leaves our facilities, Eyecare Service Partners cannot be held liable for late deliveries. We will, however, work with you to ensure a smooth delivery. The risk of loss of, or damage to, a COMPANY PRODUCT shall pass to you when you, or a person designated by you, acquires physical possession of the COMPANY PRODUCT. Title to a COMPANY PRODUCT shall pass to you when the COMPANY PRODUCT is picked up by you at one of Eyecare Service Partners' Practice Locations or is picked up by your designated carrier from our supplier.
- c. COMPANY PRODUCTS purchased through the CZV Platform will only be shipped to Eyecare Service Partners' Practice Locations or your addresses within the U.S. and are subject to U.S. and foreign export control laws and regulations. COMPANY PRODUCTS must be purchased, sold, exported, re-exported, transferred, and used in compliance with these export laws and regulations.

8. Returns.

- a. For any undamaged COMPANY PRODUCT, simply return it in its original packaging along with the original receipt within 30 days of the date you receive the product. Upon our receipt and inspection of the returned product, we will exchange or replace defective product.
- b. Any COMPANY PRODUCT containing Prescription Data that was incorrectly provided by you is not eligible for return, refund, or exchange.

9. Disclaimer of Warranties.

- a. Disclaimers herein apply to Eyecare Service Partners and its affiliates, subsidiaries, parents, successors and assigns and each of their respective officers, directors, employees, agents, and shareholders.

- b. COMPANY PRODUCTS ARE PROVIDED “AS AVAILABLE” AND “AS IS” WITH NO REPRESENTATIONS OR WARRANTIES OF ANY KIND. EYECARE SERVICE PARTNERS DISCLAIMS TO THE FULLEST EXTENT PERMITTED BY LAW ALL WARRANTIES, EXPRESS, IMPLIED AND STATUTORY, INCLUDING ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. EYECARE SERVICE PARTNERS DOES NOT WARRANT THAT ANY COMPANY PRODUCT WILL BE IN STOCK, SAFE, DEFECT-FREE, CONFORM WITH WRITTEN OR VERBAL SPECIFICATIONS, GUARANTEES, REPRESENTATIONS, WARRANTIES OR PROMISES, OR THAT COMPANY PRODUCTS WILL NOT BE LOST OR DAMAGED IN SHIPMENT.

EYECARE SERVICE PARTNERS MAKES NO REPRESENTATION, WARRANTY, GUARANTEE OR PROMISE THAT THE COMPANY PRODUCTS, CZV PLATFORM OR SERVICES WILL MEET YOUR REQUIREMENTS OR ACHIEVE ANY PARTICULAR RESULTS. EYECARE SERVICE PARTNERS MAKES ALL DISCLAIMERS IN THIS SECTION ON BEHALF OF ITSELF AND ITS LICENSORS AND SUPPLIERS.

10. Limitation of Liability.

- a. Limitations herein apply to Eyecare Service Partners and its affiliates, subsidiaries, parents, successors and assigns and each of their respective officers, directors, employees, agents, and shareholders.
- b. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EYECARE SERVICE PARTNERS BE LIABLE TO YOU UNDER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE, OR ANY OTHER LEGAL OR EQUITABLE THEORY FOR: (1) ANY LOST PROFITS, DATA LOSS, COST OF PROCUREMENT OF SUBSTITUTE EYEWEAR OR OTHER PRODUCTS OR SERVICES, OR DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, COMPENSATORY OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE, USE, OR INABILITY TO USE, COMPANY PRODUCTS, OR ANY CONTENT ON THE CZV PLATFORM REGARDING COMPANY PRODUCTS; OR (2) ANY DIRECT DAMAGES IN EXCESS OF (IN THE AGGREGATE) THE GREATER OF (I) THE FEES YOU PAID TO US FOR THE APPLICABLE COMPANY PRODUCTS, OR (II) \$100.00 (US).
- c. You expressly acknowledge and agree that the prescription information for Eyewear that you provide on the CZV Platform is a valid prescription and represents your current lens prescription, and has not been altered, modified, or changed in any way (“Prescription Data”). You expressly acknowledge and agree that in no event will Eyecare Service Partners or CZV be liable to you under any legal or equitable theory arising from any errors in Prescription Data that you provide on the CZV Platform. If you incorrectly confirm your Prescription Data to be valid and accurate, you, and not Eyecare Service Partners or CZV, will be solely financially responsible, including for the costs of new Eyewear or any other product or service you should choose to obtain. As set forth herein, neither Eyecare Service Partners nor CZV is liable for any injuries that you or any third party sustains based on or arising from invalid or inaccurate Prescription Data, any injuries any other persons sustain from using Eyewear made based upon your Prescription Data, or from any faulty Eyewear or other product or service that you purchased through the CZV Platform.
- d. YOU EXPRESSLY WAIVE AND RELEASE ANY AND ALL RIGHTS AND BENEFITS UNDER SECTION 1542 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA (OR ANY ANALOGOUS LAW OF ANY OTHER STATE), WHICH READS AS FOLLOWS: “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”
- e. Certain jurisdictions may not allow the exclusion or limitation of certain warranties and damages. Accordingly, some or all of the above disclaimers, exclusions, or limitations may not apply to you, and you may have additional rights. The disclaimers, exclusions, and limitations of liability under this Agreement will not apply to the extent prohibited by applicable law.

11. Agreement to Arbitrate Disputes and Waiver of Class Actions.

- a. YOU AND EYECARE SERVICE PARTNERS MUTUALLY AGREE TO WAIVE OUR RESPECTIVE RIGHTS TO RESOLUTION OF DISPUTES IN A COURT OF LAW BY A JUDGE OR JURY AND AGREE TO RESOLVE ANY CLAIM OR DISPUTE AGAINST EACH OTHER ON AN INDIVIDUAL BASIS IN ARBITRATION. This will prohibit you from bringing any class, collective, or consolidated action against Eyecare Service Partners or any of its affiliates, subsidiaries, parents, successors or assigns and any of their respective officers, directors, employees, agents, or shareholders, and will also prohibit you from participating in or recovering relief under any current or future such actions brought against Eyecare Service Partners by someone else. Arbitration is more informal than a lawsuit in court: there is no judge or jury in arbitration; discovery in arbitration may be more limited than discovery in litigation; and court review of an arbitration award is limited.
- b. You and Eyecare Service Partners agree that any dispute, claim, or controversy, whether based on past, present or future events, arising out of or relating to: this Sales Agreement and prior versions thereof; content regarding COMPANY PRODUCTS currently or previously available on or through the CZV Platform; any COMPANY PRODUCT or other product or service currently or previously available on the CZV Platform; your relationship with Eyecare Service Partners; your Prescription Data; your Personal Information if applicable; payments made by you or any payments made or allegedly owed to you; and any other federal and state statutory and common law claims (collectively, “Disputes”) will be settled by binding arbitration, except that each party retains the right to bring an individual action in small claims court and the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of a party’s copyrights, trademarks, trade secrets, patents or other intellectual property rights (“Arbitration Agreement”). All disputes concerning the arbitrability of a Dispute (including disputes about the scope, applicability, enforceability, legality, revocability, or validity of the Arbitration Agreement) will be decided by the arbitrator, except as expressly provided herein. YOU UNDERSTAND, ACKNOWLEDGE, AND AGREE THAT YOU AND EYECARE SERVICE PARTNERS ARE EACH WAIVING THE RIGHT TO SUE IN COURT OR HAVE A JURY TRIAL FOR ANY AND ALL DISPUTES, EXCEPT AS EXPRESSLY OTHERWISE PROVIDED IN THIS ARBITRATION AGREEMENT.
- c. Prohibition of Class Actions and Non-Individualized Relief. You acknowledge and agree that you and Eyecare Service Partners are each waiving the right to a trial by jury or to participate as a plaintiff or class in any purported class, collective, or consolidated proceeding in connection with any Dispute. Further, unless both you and Eyecare Service Partners otherwise agree in writing, the arbitrator may not consolidate more than one person’s claims and may not otherwise preside over any form of any class, collective, consolidated or representative proceeding.
- d. Arbitration Procedures.
 - i. Arbitration Rules and Governing Law. Any arbitration commenced pursuant to this Section of the Agreement will be administered by the American Arbitration Association (“AAA”) in accordance with the Consumer Arbitration Rules (the “AAA Rules”) then in effect, except as modified by this Agreement. The AAA Rules are available at adr.org or by calling the AAA at 1-800-778-7879 or any subsequent applicable telephone number. The Federal Arbitration Act (“FAA”) will govern the interpretation and enforcement of this Arbitration Agreement. It is your and Eyecare Service Partners’ intent that the FAA and AAA Rules will preempt all state laws to the fullest extent permitted by law. If the FAA and AAA Rules are found to not apply to any issue that arises under this Arbitration Agreement or the enforcement thereof, then that issue will be resolved under the laws of the State of California. This Agreement governs to the extent it conflicts with the AAA Rules or FAA.
 - ii. Arbitration Process. A party who desires to initiate arbitration must provide the other party with a written Demand for Arbitration as specified in the AAA Rules. The AAA provides a form Demand for Arbitration and a separate form for California residents at adr.org. The arbitrator will be either a retired judge or an attorney licensed to practice law in the state of California and will be selected by the parties from the AAA’s roster of consumer dispute arbitrators. If the parties are unable to agree upon an arbitrator within seven (7) days of delivery of the Demand for Arbitration, then the AAA will appoint the arbitrator in accordance with the AAA Rules.
 - iii. Arbitration Location and Procedure. You and Eyecare Service Partners agree that the arbitration will be conducted at the AAA office located in San Diego, California. If your claim does not exceed \$10,000, then the arbitration will be conducted solely on the basis of documents you and Eyecare Service Partners submit to the arbitrator, unless you request a hearing or the arbitrator determines that a hearing is necessary. If your

claim exceeds \$10,000, your right to a hearing will be determined by the AAA Rules. Subject to the AAA Rules, the arbitrator will have the discretion to direct a reasonable exchange of information by the parties, consistent with the expedited nature of the arbitration.

- iv. Arbitrator's Decision. The arbitrator will render an award within the time frame specified in the AAA Rules. The arbitrator's decision will include the essential findings and conclusions upon which the arbitrator based the award. Judgment on the arbitration award may be entered in any court having jurisdiction thereof. The arbitrator's award damages must be consistent with the terms of the "Limitation of Liability" section above as to the types and the amounts of damages for which a party may be held liable. The arbitrator may award declaratory or injunctive relief only in favor of the claimant and only to the extent necessary to provide relief warranted by the claimant's individual claim. The prevailing party in arbitration will be entitled to an award of attorneys' fees and expenses, to the extent provided under applicable law.
- v. Fees. Payment of all filing, administration and arbitrator fees will be governed by the AAA Rules.
- vi. Severability. If any portion of this Arbitration Agreement is found to be unenforceable or unlawful for any reason, (1) the unenforceable or unlawful provision will be severed from this Arbitration Agreement, (2) severance of the unenforceable or unlawful provision will have no impact on the remainder of the Arbitration Agreement or the parties' ability to compel arbitration of any remaining claims on an individual basis, and (3) to the extent that any Disputes must therefore proceed on a class, collective, consolidated or representative basis, such Disputes must be litigated in a civil court of competent jurisdiction and not in arbitration, and the parties agree that litigation of those claims will be stayed pending the outcome of any individual claims in arbitration. In any case in which the Dispute proceeds on a class, collective, consolidated or representative basis and there is also a final judicial determination that this Arbitration Agreement is unenforceable as to a portion (but not all) of such Dispute, then such portion of the Dispute will be severed from any remaining claims and the remainder will be enforced in arbitration on an individual basis as to all other Disputes to the fullest extent possible. Except as otherwise provided herein, this "Arbitration Agreement" section will survive any termination of this Agreement.
- vii. Changes. Notwithstanding the provisions above, if Eyecare Service Partners changes this Arbitration Agreement after the date you first accepted this Agreement (or accepted any subsequent changes to this Agreement), you may reject any such change by sending us a notice to support@espmgmt.com with "Legal" in the subject line within 30 days of the date such change became effective, as indicated above or in the date of Eyecare Service Partners' email to you notifying you of such change. By rejecting any change, you are agreeing that you will arbitrate any Dispute between you and Eyecare Service Partners in accordance with the provisions of this Arbitration Agreement as of the date you first accepted this Agreement (or accepted any subsequent changes to this Agreement). If you do not opt out by the deadline, you are agreeing to the arbitration process as set forth in the new Agreement.

12. General.

- a. Subject to the applicable terms and conditions in the CZV Terms of Use, this Sales Agreement constitutes the entire agreement between you and Eyecare Service Partners and supersedes all prior or contemporaneous communications and proposals with respect to the offer, purchase, or use of any COMPANY PRODUCT purchased through the CZV Platform.
- b. The laws of the State of California will govern the interpretation of this Agreement and the relationship between you and Eyecare Service Partners, without regard to California's conflicts of laws rules.
- c. If any provision of the Agreement is held to be invalid or unenforceable, you and Eyecare Service Partners agree that such provision shall be struck and the remaining provisions shall be enforced to the fullest extent under law. The failure of Eyecare Service Partners to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Eyecare Service Partners in writing. Any rights not expressly granted herein are reserved.
- d. To contact Eyecare Service Partners, you can email support@espmgmt.com.