

# Product and Service Purchase Agreement (Terms and Conditions)

## Standard Terms and Conditions of Sales

These terms and conditions govern the sale of products ("Product" or "Products" or "Service") by GEIS LLC ("Company") to ("Buyer" or "Seller"). These terms and conditions ("Agreement") take precedence over Buyer's supplemental or conflicting terms and conditions to which notice of objection is hereby given. Neither Seller's commencement of performance or delivery shall be deemed or construed as acceptance of Buyer's supplemental or conflicting terms and conditions. Seller's failure to object to conflicting or additional terms will not change or add to the terms of this Agreement. Buyer's payment for the Products from Seller shall be deemed to constitute acceptance of the terms and conditions contained herein.

1. **Orders:** All orders placed by Buyer are subject to acceptance by Company. Orders may not be cancelled or rescheduled without Seller's written consent. All invoices will identify the products, unit quantities, part numbers, applicable prices and order dates of the Products being purchased. Unless otherwise agreed, all materials will be shipped no later than one year from the date that Company accepts the purchase order. Company may in its sole discretion allocate Product among its Customers. All Purchases are designated as non-cancelable, non-returnable, and non-refundable.
2. **Prices:** The prices of the Products are those prices specified on the front of the invoice. Pricing for undelivered Products may be increased in the event of an increase in Company's cost, change in market conditions or any other causes beyond the Seller's reasonable control.
3. **Taxes:** Unless otherwise agreed to in writing by Company, all prices quoted are exclusive of transportation costs, duties, and all taxes including federal, state and local sales, excise and value added, goods and services taxes, and any other taxes. Buyer agrees to indemnify, defend and hold Company harmless for any liability for tax in connection with the sale, as well as the collection or withholding thereof, including penalties and interest thereon. When applicable, transportation and taxes shall appear as separate items on Company's invoice.
4. **Payment:** Payment may be made by debit card, credit card, PayPal or wire transfer (all related fees are borne by the Buyer and are hereby automatically

added to the applicable invoice). A surcharge of 3% for debit and credit card sales and 4% for sales via PayPal will be assessed except for sales shipped to these states: New York, Texas, Colorado, Connecticut, Florida, Kansas, Maine, Massachusetts and Oklahoma. In the event of default by Buyer, including any late payments, Company shall be entitled to costs, fees, and expenses, including but not limited to recovery of attorney fees, court costs and fees, and collections costs. Buyer, and/or the individual signing on behalf of Buyer, as applicable, hereby confirms and warrants that he/she is at least eighteen (18) years of age and duly authorized by the applicable payment provider to make any purchases hereunder.

5. **Delivery and Title:** The estimated, but not guaranteed, delivery period is four (4) to six (6) weeks from the date of payment acceptance by Company. Title and risk of loss pass to the Buyer upon delivery of the Product to the carrier. Company's delivery dates are estimates only and Seller is not liable for delays in delivery or for failure to perform due to causes beyond the reasonable control of the Company, nor shall the carrier be deemed an agent of the Company. A delayed delivery of any Product within an Order does not entitle Buyer to cancel any purchase order or future shipments.
6. **Returns, Refunds and Exchanges:****Returns:** No returns shall be permitted for any Products for any reason at any time, except upon the written consent of Company, which consent may be granted or; denied in Company's sole and absolute discretion; **Exchanges:** No Product exchanges shall be permitted for any Products for any reason at any time, except upon the written consent of Company, which consent may be granted or denied in Company's sole and absolute discretion; **Non-Cancelable and Non-Returnable Items:** All Products have NC/NR status (Non-cancelable and Non-Returnable); **Refunds:** No refunds shall be provided for any Products for any reason at any time, except upon the written consent of Company, which consent may be granted or denied in Company's sole and absolute discretion.
7. **Lense Replacement or Frame Maintenance:** Eyewear frames or lenses can not be heated, cooled, or modified in any way for lens replacement or frame maintenance. For any frame adjustment or lens replacements (for prescription lenses, etc.), Buyer must consult the following organization:

itFit Optical Laboratory

[750 SW 12th Avenue, Pompano Beach, FL](#)

[33069](#)

[\(561\) 938-4644](#)

Company shall have no responsibility or liability for any effort to conduct any lens replacement or frame maintenance by itFit Optical Laboratory or any other organization or person. Frame maintenance is currently Four Hundred and Fifteen Dollars (\$415.00) per year. Buyer may exchange up to three (3) individual standard component frame parts within one (1) year from the date of successful payment to Seller.

8. **Limited Warranty: Company** will transfer to Buyer any Product warranties and indemnities authorized by the manufacturer, including any transferable warranties and indemnities for intellectual property infringement. Company warrants to Buyer that Products purchased hereunder will conform to the applicable manufacturer's specifications for such products and that any value-added work performed by Company on such Products will conform to applicable Buyer's specifications. If Company breaches this warranty, Buyer's remedy is limited to (at Seller's election) (1) refund of Buyer's purchase price for such Products (without interest), (2) repair of such Products, or (3) replacement of such Products; provided that such Products must be returned to Company, along with acceptable evidence of purchase, within 20 days from date of delivery, transportation charges prepaid. No warranty will apply if the Product has been subject to misuse, static discharge, neglect, accident or modification, or has been soldered.

EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS AND CONDITIONS, ALL IMPLIED WARRANTIES, TERMS AND CONDITIONS (WHETHER STATUTORY OR OTHERWISE) ARE EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW. IN PARTICULAR, SELLER MAKES NO WARRANTY RESPECTING THE MERCHANTABILITY OF THE PRODUCTS OR THEIR SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS AND WARRANTIES AGAINST LATENT DEFECTS, AND NO REPRESENTATIVE OF Company IS AUTHORIZED TO GIVE ANY ADDITIONAL WARRANTY.

9. **Limitation of Liabilities:** BUYER SHALL NOT BE ENTITLED TO, AND Company SHALL NOT BE LIABLE FOR, LOSS OF PROFITS OR REVENUE, PROMOTIONAL OR MANUFACTURING EXPENSES, OVERHEADS, BUSINESS INTERRUPTION COST, LOSS OF DATA, REMOVAL OR REINSTALLATION COSTS, INJURY TO REPUTATION OR LOSS OF BUYERS, PUNITIVE DAMAGES, IP INFRINGEMENT, LOSS OF CONTRACTS OR ORDERS OR ANY INDIRECT, EXEMPLARY, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE. BUYER'S RECOVERY FROM Company FOR ANY AND ALL CLAIMS HEREUNDER SHALL NOT EXCEED IN THE AGGREGATE ONE THOUSAND DOLLARS (\$1,000.00) IRRESPECTIVE OF THE NATURE OF THE CLAIM WHETHER IN CONTRACT, TORT, WARRANTY, OR

OTHERWISE. BUYER WILL INDEMNIFY, DEFEND AND HOLD Company HARMLESS FROM ANY CLAIMS BASED ON (a) Company'S COMPLIANCE WITH BUYER'S DESIGNS, SPECIFICATIONS, OR INSTRUCTIONS, (b) MODIFICATION OF ANY PRODUCTS BY ANYONE OTHER THAN Company, or (c) USE IN COMBINATION WITH OTHER PRODUCTS.

10. **Use of Products:** Unless otherwise noted, Products sold by Seller are not designed, intended or authorized for use in life support, life sustaining, nuclear, or other applications in which the failure of such Products could reasonably be expected to result in personal injury, loss of life or catastrophic property damage. If Buyer uses or sells the Products for use in any such applications: (1) Buyer acknowledges that such use or sale is at Buyer's sole risk; (2) Buyer agrees that Company and the manufacturer of the Products are not liable, in whole or in part, for any claim or damage arising from such use; and (3) Buyer agrees to indemnify, defend and hold Company and the manufacturer of the Products harmless from and against any and all claims, damages, losses, costs, expenses and liabilities arising out of or in connection with such use or sale.
11. **Force Majeure:** Company is not liable for failure to fulfill its obligations for any accepted Order or for delays in delivery due to causes beyond Company's reasonable control including, but not limited to, acts of God, natural or artificial disaster, riot, war, strike, delay by carrier, shortage of Product, acts or omissions of other parties, acts or omissions of civil or military authority, Government priorities, changes in law, material shortages, fire, strikes, floods, epidemics, pandemics, quarantine restrictions, acts of terrorism, delays in transportation or inability to obtain labor, materials or Products through its regular sources, which shall be considered as an event of force majeure excusing Seller from performance and barring remedies for non-performance. In an event of force majeure condition, the Company's time for performance shall be extended for a period equal to the time lost as a consequence of the force majeure condition without subjecting Seller to any liability or penalty. Company may, at its option, cancel the remaining performance, without any liability or penalty, by giving notice of such cancellation to the Buyer.
12. **General:** (a) The laws of the State of Georgia, United States will exclusively govern any dispute between Company and Buyer, without regard to its conflicts of laws provisions, (b) Buyer may not assign this Agreement without the prior written consent of Company and any attempted assignment without such consent shall be void, (c) Company and/or its contractors and affiliates may perform the obligations under this Agreement, (d) this Agreement is binding on successor and assigns, (e) Products, including software or other intellectual property, are subject to any applicable rights of third parties, such as patents, copyrights and/or user licenses, (f) all amendments to this Agreement must be in

writing and executed by all parties, (g) except as otherwise provided herein, the remedies under this Agreement are cumulative and shall not exclude any other remedies to which any party may be lawfully entitled, (h) all disputes shall be exclusively settled by binding arbitration in front of a single arbitrator in the City of Atlanta pursuant to the Georgia Arbitration Code, (i) in the event that any dispute between the parties hereto should result in litigation, mediation, arbitration or any other legal or resolution proceedings, the prevailing party in that dispute shall be entitled to recover from the other party all reasonable fees, costs and expenses of enforcing any right of the prevailing party, including without limitation, reasonable attorneys' fees and expenses, (j) this Agreement constitutes the complete and exclusive statement of agreement between the parties with respect to its subject matter and supersedes all prior written and oral agreements or statements by and between the parties, (k) all section headings are inserted only for convenience of reference and are not to be considered in the interpretation or construction of any provision of this Agreement, (l) in the event any claim is made by any party relating to any conflict, omission or ambiguity in this Agreement, no presumption or burden of proof or persuasion shall be implied by virtue of the fact that this Agreement was prepared by or at the request of a particular party or that party's counsel, (m) if any provision of this Agreement or the application of that provision to any party or circumstance shall be held invalid, the remainder of this Agreement or the application of that provision to party or circumstances other than those to which it is held invalid shall not be affected, (n) the failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation, and (o) the failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.

13. **Additional Terms for Sellers/Vendors:**

- A. Enrollment: Company may allow individuals to provide glasses designs to Seller to incorporate into Products (each, a "Seller") in accordance with the terms hereof. To begin the enrollment process for the design submission program (the "**Program**"), Seller must complete the registration process as determined by Company in its sole discretion. Sellers are limited to parties that can lawfully enter into and form contracts under applicable law (for example, minors may not be permitted to enter into such agreements). As part of the application, Seller must provide Company with Seller's (or Seller's business') full legal name, address, phone number, attestation of

age of majority and e-mail address. Company may at any time cease the Program at our its discretion and without notice to Seller.

B. Program Fee Payments; Receipt of Sales Proceeds:

- i. Fee details will be posted on the website during the checkout process. Seller is responsible for all of Seller's expenses in connection with this Agreement. To use the Program, Seller must provide Company with valid credit card or debit card acceptable to Company (the "Designer Credit Card"). Seller may only use a name Seller is authorized to use in connection with the Program and will update all of the information provided to Company in connection with the Program as necessary to ensure that it at all times remains accurate, complete and valid. Designer hereby authorizes Company (and will provide Seller documentation evidencing Seller's authorization upon Company's request) to verify Seller information (including any updated information), to obtain credit reports about Seller from time to time, to obtain credit authorizations from the issuer of the Seller Credit Card, and to charge the Seller Credit Card or debit Seller's designate bank account (the "*Seller Bank Account*") for any sums payable by Seller to Company (in reimbursement or otherwise). All payments to Seller will be remitted to the Seller Bank Account through a banking network or by other means specified by Company.
- ii. If Company determines that Seller's actions or performance may result in returns, chargebacks, claims, disputes, violations of our terms or policies, or other risks to Company or third parties, then Company may in its sole discretion withhold any payments to Seller for as long as Company determines any related risks to it or third parties persist. For any amounts that Company determines Seller owes hereunder, Company may (a) charge the Seller Credit Card or any other payment instrument Seller provides to Company; (b) offset any amounts that are payable by Seller to Company (in reimbursement or otherwise) against any payments Company may make to Seller or amounts Company may owe Seller; (c) invoice Seller for amounts due to Company, in which case Seller will pay the invoiced amounts upon receipt; (d) reverse any credits to the Seller Bank Account; or (e) collect payment or reimbursement from Seller by any other lawful means. If Company determines that Seller's account(s) has(ve) been used to engage in any deceptive, fraudulent and/or illegal activity, then Company may in its sole discretion permanently withhold any payments to Seller. Except as

provided otherwise, all amounts contemplated in this Agreement will be expressed and displayed in U.S. Dollars and all payments contemplated by this Agreement will be made in U.S. Dollars.

- iii. In addition, Company may require that Seller pay other amounts to secure the performance of Seller's obligations under this Agreement or to mitigate the risk of returns, chargebacks, claims, disputes, violations of our terms or policies, or other risks to Company or third parties. These amounts may be refundable or nonrefundable in the manner Company determines, and failure to comply with terms of this Agreement, including any applicable program policies, may result in their forfeiture.
  - iv. As a security measure, Company may, but is not required to, impose transaction limits on some or all customers and sellers relating to the value of any transaction or disbursement, the cumulative value of all transactions or disbursements during a period of time, or the number of transactions per day or other period of time. Company will not be liable to Seller: (i) if Company does not proceed with a transaction or disbursement that would exceed any limit established by Company for a security reason, or (ii) if Company permits a customer to withdraw from a transaction because a Company site or service is unavailable following the commencement of a transaction.
- C. Term and Termination: The term of this Agreement will start on the date of Seller's completed registration and acceptance of service payment by Company. Company may terminate or suspend this Agreement or any service for any reason at any time by notice to Seller. Seller may terminate this Agreement or any service for any reason at the expiration date of service.
- D. License: Seller hereby grants Company a royalty-free, non-exclusive, worldwide, perpetual, irrevocable right and license to use, reproduce, perform, display, distribute, adapt, modify, re-format, create derivative works of, and otherwise commercially or non-commercially exploit in any manner, any and all of Seller's materials and any related intellectual property rights ("Your Materials"), and to sublicense the foregoing rights to Company's affiliates; *provided*, however, that Company will not alter any trademarks or service marks from the form provided by Seller (except to re-size marks to the extent necessary for presentation, so long as the relative proportions of such marks remain the same) and will comply with Seller's removal requests as to specific uses of such marks (provided Seller is unable to do so using standard functionality made available to Seller via

the applicable Company site or service); *provided* further, however, that nothing in this Agreement will prevent or impair Company's right to use Seller's Materials without Seller consent to the extent that such use is allowable without a license from Sller or Seller's affiliates under applicable law (e.g., fair use under United States copyright law, referential use under trademark law, or valid license from a third party).

- E. Representations: Seller represents and warrants to Company that: (a) if Seller is a business, it is duly organized, validly existing and in good standing under the laws of the country in which Seller's business is registered and that Seller is registering for the service(s) within such country; (b) it has all requisite right, power, and authority to enter into this Agreement, perform all obligations, and grant the rights, licenses, and authorizations in this Agreement; (c) any information provided or made available by Seller or Seller's affiliates to Seller or its affiliates is at all times accurate and complete; and (d) Seller and all of Seller's subcontractors, agents, and suppliers will comply with all applicable laws in performance of Seller's obligations and exercise of Seller's rights under this Agreement.
- F. IP Indemnification: Seller releases Company and agrees to indemnify, defend, and hold harmless Company, our affiliates, and our and their respective officers, directors, employees, representatives, and agents against any claim, loss, damage, settlement, cost, expense, or other liability (including, without limitation, attorneys' fees) (each, a "IP Claim") arising from or related to Seller's Materials, any actual or alleged infringement of any intellectual property rights relating thereto, and any personal injury, death, or property damage related thereto. Seller will use counsel reasonably satisfactory to Company to defend each indemnified IP Claim. If at any time Company reasonably determines that any indemnified IP Claim might adversely affect Company, Company may take control of the defense at Seller's expense. Seller may not consent to the entry of any judgment or enter into any settlement of an IP Claim without Company's prior written consent.
- G. Confidentiality: During the course of Seller's use of the services, Seller may receive information relating to Company or to the services that is not known to the general public ("Confidential Information"). Seller agrees that: (a) all Confidential Information will remain Company's exclusive property; (b) Seller will use Confidential Information only as is reasonably necessary for Seller's participation in the services; (c) Seller will not otherwise disclose Confidential Information to any other person or entity; and (d) Seller will take all reasonable measures to protect the Confidential Information against any use or disclosure that is not expressly permitted in



this Agreement. Seller may not issue any press release or make any public statement related to the services, or use Company's name, trademarks, service marks, or logo, in any way (including in promotional material) without Company's advance written permission, or misrepresent or embellish the relationship between the parties in any way.

- H. Use of Company Transaction Information: Seller will not, and will cause Seller's affiliates not to, directly or indirectly: (a) disclose any Company transaction information (except that Seller may disclose that information solely as necessary for Seller to perform any obligations under this Agreement if Seller ensures that every recipient uses the information only for that purpose and complies with the restrictions applicable to Seller related to that information); (b) use any Company transaction information for any marketing or promotional purposes whatsoever, or otherwise in any way inconsistent with Company's privacy policies or applicable law; (c) contact a person or entity that has ordered a Seller product with the intent to collect any amounts in connection therewith or to influence that person or entity to make an alternative transaction; (d) disparage Company, Company's affiliates, or any of their respective products or services or any customer; or (e) target communications of any kind on the basis of the intended recipient being a Company site user. In addition, Seller may only use tools and methods that Company designates to communicate with Company site users regarding Seller's transactions, including for the purpose of scheduling, communicating, or cancelling the fulfillment of products. The terms of this Section 13.H do not prevent Seller from using other information that Seller acquires without reference to Company transaction information for any purpose, even if that information is identical to Company transaction information, provided that Seller does not target communications on the basis of the intended recipient being a Company site user.
- I. Suggestions and Other Information: If Seller elects to provide or make available suggestions, comments, ideas, improvements, or other feedback or materials to Company in connection with or related to any Company site or service (including any related technology), Company will be free to use, disclose, reproduce, modify, license, transfer and otherwise distribute, and exploit any of the foregoing information or materials in any manner. In order to cooperate with governmental requests, to protect Company systems and customers, or to ensure the integrity and operation of Company's business and systems, Company may access and disclose any information Company considers necessary or appropriate, including but

not limited to user contact details, IP addresses and traffic information, usage history, and posted content.

- J. Password Security: Seller is solely responsible for maintaining the security of Seller's password. Seller may not disclose Seller's password to any third party (other than third parties authorized to use Seller's account in accordance with this Agreement) and is solely responsible for any use of or action taken under Seller's password. If any password is compromised, Seller must immediately change Seller's password.
- K. Products and Product Information: Seller will provide in the format Company requires accurate and complete product information for each product or service that Seller offers through any Company site and promptly update that information as necessary to ensure it at all times remains accurate and complete. Seller will also ensure that Seller's products comply with all applicable laws (including all minimum age, marking and labeling requirements) and do not contain any sexually explicit, defamatory or obscene materials.
- L. Remittance of Proceeds: Except as otherwise stated in this Agreement, Company will remit to Seller's available balance on a monthly (30-day) (or at Company's option, more frequent) basis. Company may establish a reserve on Seller's account based on Company's assessment of risks posed by Seller's actions or performance, and Company may modify the amount of the reserve from time to time at its sole discretion. When Seller either initially provides or later changes Seller Bank Account information, the remittance calculation date may be deferred by up to fourteen (14) days.
- M. Effect of Termination: Upon termination of these terms, all rights and obligations of the parties hereunder will be extinguished, except that the rights and obligations of the parties with respect to transactions occurring during the term will survive the termination or expiration of the term.