

Appendix F

Equipment and Product Terms

J&J Vision Equipment Terms and Conditions

This Agreement applies to: (a) persons or entities obtaining the Equipment directly from AMO Canada Company (“**J&J Vision**”); (b) persons or entities obtaining such the Equipment pursuant to a financing arrangement with any financing entity authorized by J&J Vision; and (c) persons or entities who intended to finance the Equipment through J&J Vision or an authorized third-party financing and whose financing failing to fund (each of the foregoing in (a)-(c), a “**Customer**”). For purposes hereof, “**Agreement**” means the cover page, these Terms and Conditions, and any exhibits or schedules that are referenced on the cover page or signed by the parties.

1. General. This quotation supersedes all prior quotations submitted by J&J Vision and, unless otherwise indicated on the face hereof, shall remain valid for a period of thirty (30) days from the date of submission to Customer. Upon execution by Customer, this quotation shall be deemed to be Customer’s order to purchase the Equipment exclusively on the terms and conditions stated herein. Customer’s order shall not become a binding contract to furnish the Equipment unless and until accepted in writing by an authorized representative of J&J Vision. Equipment orders may not be cancelled without J&J Vision’s written consent. J&J Vision may, in J&J Vision’s sole discretion, reject any Equipment order prior to shipment and, in such case, will return any deposit monies paid by Customer.

2. Ordering by Customer; Acceptance by J&J Vision. Customer may order the Equipment by phone, fax, e-mail or other electronic means, or purchase order. J&J Vision’s offer to Customer to purchase the Equipment is expressly made conditional upon (1) the cover page hereof being signed by an authorized representative from J&J Vision, and (2) Customer’s acceptance of these Terms and Conditions and upon exclusion of any different or additional terms and conditions stated by Customer in connection herewith unless specifically agreed to in writing by J&J Vision. As such, J&J Vision specifically disclaims any terms and conditions appearing on a purchase order or similar document issued by Customer, which shall not be binding on J&J Vision (regardless of when received by J&J Vision), unless agreed to in writing by J&J Vision. If there is any conflict between these Terms and Conditions or any purchase order, these Terms and Conditions shall control even if (i) J&J Vision agreed to accept the terms of such purchase order after this quotation was fully executed or accepted by Customer, (ii) J&J Vision shipped any goods and/or equipment following receipt of Customer’s purchase order; (iii) such purchase order provides that the terms and conditions therein shall supersede any other agreement between J&J Vision and Customer, or (iv) Customer’s purchase order incorporates any implied Uniform Commercial Code terms. Any acceptance of the Equipment or payment therefore constitutes an acceptance by Customer of these Terms and Conditions.

3. Software License. J&J Vision shall at all times retain title to the software components of the Equipment and other software, including any subsequent updates, upgrades, enhancements, modifications or replacements (individually and collectively, the “**Software**”) as well as all copyrights, patents, trade secret rights and other intellectual property rights in the Equipment and the Software (individually and collectively, the “**Additional IP**”) and such transfer of the Equipment and Software does not convey any license, expressly or by implication, to manufacture, duplicate, reverse engineer or otherwise copy or reproduce any of the Equipment, Software or any Additional IP. Customer acknowledges that the Software and Additional IP is licensed, rather than sold. Subject to Customer’s compliance with this Agreement, J&J Vision hereby grants to Customer a non-exclusive, non-transferable license to use the Software and Additional IP for the purposes for which it has been approved for marketing by the regulatory body of the country in which the Equipment is installed (the “**Software License**”). No right of use of the Software or Additional IP is granted or implied under the Software License except as specifically provided herein, and J&J Vision reserves all rights not expressly granted. J&J Vision does not claim that the Software is free from defects and shall have no obligation to supply software upgrades (i.e., new versions, or new, or in-line releases); provided, however, that this limitation will not apply to required corrective actions.

4. No Additional Rights. The Customer may only use the Equipment in accordance with J&J Vision instructions and specifications in effect from time to time, or as otherwise expressly approved by J&J Vision in writing. J&J Vision reserves all rights not expressly granted under this Agreement. No rights or forbearances with respect to the Equipment (or any intellectual property rights associated therewith) are granted, or may arise by implication, estoppel or otherwise, except as specifically provided herein. The Customer may not modify, loan, rent, lease, sell, license, sublicense, assign or otherwise transfer, create derivative works of or otherwise modify or tamper with, the Equipment, or perform any act with respect to the Equipment not expressly authorized hereunder (each of the foregoing, a “**Prohibited Act**”) without J&J Vision’s prior written consent (which may be withheld at J&J Vision’s sole discretion), and any attempt to do so will render this Agreement null and void and use of the Equipment unauthorized. Customer shall hold J&J Vision harmless against any liability, loss or expense, whether direct or indirect, arising out of a Prohibited Act.

5. Prices, Taxes and Deposits. All shipping and handling charges and applicable taxes arising out of the sale or lease of the Equipment (other than income taxes), shall be separately stated in J&J Vision's invoice and shall be paid by Customer in addition to the quoted prices for the Equipment. A non-refundable deposit may be required to accompany orders in accordance with the terms on the face hereof. If the delivery date of any Equipment is delayed at Customer's request prior to commencement of manufacture of such Equipment, the price quoted herein is subject to adjustment to the price offered to customers of similar equipment for approximately the same delivery date.

7. Payment. Payments to J&J Vision may be made by electronic bank transfer, or to the extent authorized by J&J Vision, by check, direct debit, or credit card. Cash payments will not be accepted. For any payments that are past due under the terms of this Agreement, at J&J Vision's discretion, interest at the lesser of (1) 1.5% per month, or (2) the maximum rate then allowed by law may be assessed until payment in full is made. In the event of non-payment, the Customer agrees to pay, in addition to the principal amounts due, all collection charges incurred by J&J Vision, including charges made by a collection agent, and in the event of suit, reasonable attorney's fees and court costs.

7. Shipment. Delivery of Equipment will be made FOB Origin. Freight Prepaid and Added to invoice. The carrier shall not be construed to be an agent of J&J Vision, and J&J Vision shall not be held responsible for any delay or inability of the carrier to make deliveries for any reason. Shipments will be sent prepaid. Prices quoted do not include transportation charges which will be added as a separate item to the invoice in addition to the quoted prices for the Equipment. Shipping, delivery and installation dates are approximate and based on prompt receipt of all necessary information and executed agreements from Customer, and availability of Equipment. J&J Vision reserves the right to make partial deliveries.

8. Loss, Damage or Delay. J&J Vision shall not be liable for loss, damage, detention, or delay resulting from causes beyond its reasonable control ("**Force Majeure Events**") such as acts of God, fire, flood, explosion, earthquake or other natural forces, war, civil unrest, accident, destruction or other casualty, any act, inaction or delay of any government or government agency, any lack or failure of transportation facilities, any lack or failure of supply of raw materials, any strike or labor disturbance, or any other event similar to those enumerated above. Acceptance of delivery of the Equipment by Customer shall constitute a waiver of all claims for delay. Delivery and/or other dates of any order shall be extended for the entire period that the respective Force Majeure Event caused the shipment and/or installation to be delayed.

9. Changes Requested by Customer. The Equipment to be provided by J&J Vision shall be as specified in the order accepted, in writing, by J&J Vision. Should J&J Vision agree (in its sole discretion) to any request by Customer which involves extra cost to J&J Vision, such extra cost may be charged by J&J Vision and shall be paid for by Customer, and the scheduled delivery and/or completion other dates shall be extended to the extent required.

10. Installation; Performance. All prices include standard installation and routine maintenance. All necessary labor and materials for electrical wiring or other site preparation shall be supplied by Customer, at Customer's expense, prior to installation and connection by J&J Vision. Customer shall obtain all permits and licenses required by any Federal, state or local authorities in connection with the installation and operation of the Equipment and shall bear any expenses in obtaining same or complying with any related rules, regulations, ordinances and statutes. J&J Vision shall not be responsible for performance figures given in any source other than the specifications provided in the Operator Manual for each item of Equipment.

11. Training and Educational Services. In connection with the purchase or rental of the Equipment, J&J Vision will, at no additional cost, provide Customer with initial system operator and physician training to the extent required by regulatory requirements and/or as reasonably requested by Customer for all system operators and physicians who intend to use the Equipment. As part of the initial system operator training, J&J Vision will provide activators, at no additional charge, in an amount determined by J&J Vision necessary to conduct such training (not to exceed ten (10) activators per system). Business Development Manager services may be available upon request by Customer at date(s) and time(s) of mutual convenience for a reasonable number of consultation hours (to be determined by J&J Vision). Other than the foregoing, any additional training (whether for additional system operators, physicians, or otherwise) will be subject to availability of J&J Vision training personnel, and subject to at J&J Vision's standard charges therefor. All training, clinical education, activators and Business Development Manager services provided under this Section 11 are included in the purchase price of the Equipment. J&J Vision will not provide any Business Development Manager services that reduce Customer's practice overhead.

12. Equipment Operation; Limitation of Use; Indemnification. Customer agrees that all Equipment purchased hereunder shall be operated exclusively by a licensed practitioner in a safe and reasonable manner in accordance with the J&J Vision's written instructions and for the purpose for which the Equipment was intended. Customer further agrees to operate the Equipment in compliance with the standards and regulations of Health Canada and the Standards Council of Canada, as revised from time to time. Except as approved in writing by J&J Vision, Equipment or products sold under this Agreement shall not be used by Customer (1) for any commercially funded research or study, or (2) to support, gain approval for, or establish claims for any commercial dry eye products or therapies, all except as approved in writing

by J&J Vision. Customer may not transfer or resell the Equipment without J&J Vision' prior written approval. Customer agrees to indemnify and hold J&J Vision and its affiliates, officers, and directors and employees harmless from and against all claims, demands, actions, causes of action, judgments, and costs including reasonable attorney's fees, arising out of or in conjunction with the misuse or unintended use of Equipment by Customer or its use with another manufacturer's equipment.

13. Equipment Warranty. J&J Vision warrants that the Equipment shall be free from any defects in materials and workmanship which may appear under proper and normal use within a period of one (1) year from the date of delivery of the Equipment ("**Warranty Period**"). Customer shall provide prompt written notice to J&J Vision of any defect or defects. Customer shall permit J&J Vision to have access to the Equipment within a reasonable time after notification of any defect. In the event Customer does not give J&J Vision prompt notification of a defect or access to the Equipment within a reasonable time after notification, J&J Vision is hereby released from all liability with reference to such defect and subsequent damage, if any, resulting from the inability of J&J Vision to correct such defect. In the event of a breach by J&J Vision of this warranty during the Warranty Period, J&J Vision's sole and exclusive liability to Customer and Customer's sole and exclusive remedy shall be limited, at J&J Vision's option, to either (1) the repair or replacement of the Equipment, or (2) a refund of the purchase price paid by Customer for the Equipment (which may be conditioned upon returning the Equipment.) THE FOREGOING SETS FORTH THE SOLE WARRANTY, AND THE SOLE REMEDY FOR ANY BREACH OF WARRANTY, WITH RESPECT TO THE EQUIPMENT AND IS IN LIEU OF ANY AND ALL OTHER REMEDIES. Warranty service will be performed either on-site or at J&J Vision's facilities, as may be determined by J&J Vision in its discretion, during J&J Vision's normal weekday business hours, excluding local and national holidays. The Equipment may contain refurbished components, in which case the foregoing warranty will nevertheless apply.

14. Limitations. The warranty set forth in this Agreement does not apply to (1) delays (or failure) in rendering any service herein described; (2) correction of operator problems related to environmental conditions beyond the control of J&J Vision; (3) Customer-induced damage, neglect, misuse, tampering or improper operation, unauthorized repair or modification of the Equipment (other than performing the Customer maintenance described in the operator and technical manuals); (4) operation outside of the environmental specifications of the Equipment; (5) physical, electrical, or telecommunications infrastructure external to the Equipment; (6) use of the Equipment in connection with activators, consumables or other items other than those manufactured and distributed by J&J Vision; (7) use of the Equipment in a manner that contravenes the instructions provided by J&J Vision or outside the specifications therefor; (8) use of the Equipment in a manner for which it was not intended; (9) Equipment which has been moved, repaired or serviced, except by J&J Vision personnel; (10) Force Majeure Events (as defined in [Section 7](#)); (11) used equipment unless otherwise expressly stated herein; or (12) any other activity with respect to the Equipment outside the scope of this Agreement. The warranty applies only to the end user who is the original Customer of the Equipment, and only so long as the Equipment is used in the country to which it was originally shipped by J&J Vision.

15. Service. Unless set forth on the cover page or agreed to in writing between the parties, no service is included beyond the Warranty Period. Any services beyond the warranty or services specified herein must be under a separate service contract between the parties.

16. Credit. Customer acknowledges that J&J Vision shall have the right, but not the obligation, to verify Customer's credit references and/or credit resources and that this Agreement shall not be deemed accepted by J&J Vision until J&J Vision is satisfied with such financial information. Customer agrees to fully cooperate with J&J Vision and to execute any and all documents J&J Vision deems necessary in this regard.

17. Security Agreement. Customer hereby grants to J&J Vision a security interest in the Equipment for the purpose of securing payment of any amounts due to J&J Vision in connection with the Equipment. In the event that Customer defaults in the payment of said indebtedness, J&J Vision has the option of declaring the entire indebtedness immediately due and payable, and shall have all the rights and remedies of a secured party under the Uniform Commercial Code. Customer shall pay to J&J Vision on demand all expenses and expenditures of J&J Vision including, without limitation, reasonable attorneys' fees, incurred or paid by J&J Vision in protecting, enforcing or exercising its interests, rights or remedies created by the security interest granted hereunder. Customer agrees to execute any documents, including a uniform commercial code financing statement, which may be necessary to protect J&J Vision's security interest in the Equipment.

18. Financing. J&J Vision retains all right, title and interest in and to the Equipment until: (1) the financing agreement (if applicable) has been executed; and (2) Customer has provided all documentation, made any payment, or performed any other act required to fund the financing. If any Equipment has been delivered to the Customer, and: (1) the financing agreement between Customer and the financing entity is not executed within thirty (30) days from Equipment delivery or is terminated for any reason; or (2) the Customer fails within thirty (30) days from Equipment delivery to provide the financing entity with documentation, payment or other information required to fund the financing arrangement, the Customer agrees that the transaction contemplated by the financing arrangement will automatically convert to a direct transaction between J&J Vision and the Customer, who will be required to pay J&J Vision directly for the total price of the Equipment, plus taxes or transportation charges (if any).

19. Confidentiality. The pricing terms of this Agreement are confidential to J&J Vision, and are to remain confidential, except to the extent disclosure is required pursuant to judicial or government action, with advance notification to the other party in order to enable it to oppose such disclosure and/or seek a protective order with respect thereto.

20. No Resale to Competitors. Customer acknowledges that the Equipment contains Software that is of a propriety nature to J&J Vision and that if a Competitor (as defined below) obtains the Software, J&J Vision could suffer substantial economic injuries. To prevent such economic harm, Customer agrees not to sell, assign, lease, or otherwise transfer the Equipment to a Competitor without J&J Vision's written consent. The term "Competitor" shall mean any person or entity that engages in, or owns or controls a significant interest in any entity that sells, distributes or manufactures any equipment or products for use in connection with the management and/or treatment of dry eye.

21. Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, J&J VISION DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, OR GUARANTEES WITH RESPECT TO THE EQUIPMENT, WHETHER EXPRESSED OR IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, OR THAT THE OPERATION OF THE EQUIPMENT WILL BE UNINTERRUPTED OR ERROR FREE. J&J VISION SHALL NOT BE RESPONSIBLE FOR ANY ACTS OF COMMISSION OR OMISSION OF ANY PERSON OTHER THAN ITS OWN EMPLOYEES. J&J VISION AND ITS AFFILIATED COMPANIES SHALL NOT BE LIABLE, UNDER ANY THEORY OF WARRANTY OR OTHERWISE, FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF REVENUE, LOSS OF DATA, LOSS OF BUSINESS OR BUSINESS OPPORTUNITY OR OTHER FINANCIAL LOSS ARISING OUT OF OR IN CONNECTION WITH THE SALE, INSTALLATION, PERFORMANCE, FAILURE, USE OR INTERRUPTED USE OR UNAUTHORIZED USE OF THE EQUIPMENT OR OF CUSTOMER'S PRODUCTS. J&J VISION'S (AND ITS AFFILIATED COMPANIES') AGGREGATE LIABILITY FOR ANY LOSS OR DAMAGE ARISING OUT OF OR RESULTING FROM THIS AGREEMENT OR ITS PERFORMANCE OR BREACH, OR OTHERWISE IN CONNECTION WITH THE FOREGOING, WILL IN NO CASE EXCEED THE PRICE OF THE SPECIFIC EQUIPMENT WHICH GIVES RISE TO THE CLAIM.

22. Legal Interpretation and Enforcement; Assignment; Entire Agreement. This Agreement shall be construed and enforced in accordance with the laws of the Province of Ontario without regard to any principles regarding choice or conflict of laws. J&J Vision and Customer consent to the jurisdiction of all federal and state courts in Ontario and agree that venue shall be in Toronto, Ontario. Customer may not assign any right or delegate any obligation under this Agreement, or transfer this Agreement, without the prior written consent of J&J Vision. Any change of control of Customer shall be deemed an attempted transfer of this Agreement, which shall be void without J&J Vision's prior written consent. J&J Vision may assign this Agreement to any a subsidiary or affiliate of Johnson & Johnson Surgical Vision, Inc. without Customer's consent. This Agreement, contains the entire understanding between J&J Vision and the Customer and supersede all prior understandings, written or oral regarding the subject matter of this Agreement. The Equipment will be sold pursuant to J&J Vision's standard invoice Terms and Conditions of Sale as set forth on the applicable invoice ("**Invoice Terms and Conditions**"), subject only to the provisions of this Agreement, which will prevail in the event of any inconsistency between this Agreement and the Invoice Terms and Conditions. If any provision of this Agreement is found to be unenforceable, it will not affect the validity of the remainder of this Agreement, which shall remain valid and enforceable according to its terms. No modifications to this Agreement shall be binding unless agreed to in writing and signed by both Customer and J&J Vision. Each Party acknowledges that an original signature or a copy thereof transmitted electronically, by facsimile or by PDF shall constitute an original signature for purposes of this Agreement.

Appendix G

Service Terms and Conditions

J&J VISION OBLIGATIONS: During the term of this Agreement, J&J Vision agrees (subject to the conditions set forth in this Agreement) to provide the following:

SERVICE: At Customer's request, J&J Vision will perform all required field service for the purpose of making necessary repairs and adjustments to the Equipment to maintain performance within factory specifications. J&J Vision will use best efforts to provide service within 48-hours upon receipt of the Customer's service request, subject to weather conditions and other matters beyond J&J Vision's reasonable control, including, without limitation, employee and transportation availability. All service calls will be scheduled at a time mutually agreed upon by J&J Vision and Customer. Customer acknowledges that J&J Vision engineers will require uninterrupted access to the Equipment being repaired and Customer shall be responsible for providing a safe place in which to perform service. If reasonable and safe access is not provided, Customer will be billed at J&J Vision's then current hourly rates for the time the J&J Vision engineer is denied access to the Equipment. Prior to the Equipment being serviced, Customer shall back-up, remove, protect and restore (as applicable) any and all programs, data, and removable storage media contained in the Equipment. J&J Vision DISCLAIMS ALL LIABILITY WITH RESPECT TO DATA CONTAINED IN THE EQUIPMENT OR IN ANY PRODUCT RETURNED TO J&J Vision FOR REPAIR. Except for J&J Vision holidays, service will be performed between 8:00 a.m. to 8:00 p.m. Monday through Friday Requested service outside of these hours or on J&J Vision holidays is subject to availability and will be billed at J&J Vision's then current overtime rates.

PARTS: J&J Vision will repair or replace any parts that are necessary (as determined by J&J Vision) to maintain performance of the Equipment within factory specifications. If any J&J Vision parts are determined by J&J Vision to be defective and not field repairable, a replacement part will be substituted for the original. The decision to repair or replace any parts of the Equipment will be made by J&J Vision in its sole discretion. Replacement or repair to the Equipment may be made with new or refurbished parts. All replacement components or parts will be provided on an exchange basis, with the exchanged components or parts becoming the property of J&J Vision.

HAND PIECE DISCOUNT (CATARACT CUSTOMERS ONLY): During each Service Year (as defined below) occurring during the term of this Agreement, Customer may purchase up to two (2) ELLIPS Phaco Hand Pieces at a discounted price of Two Thousand Five Dollars (\$2,500.00) per hand piece. Such pricing does not include applicable taxes and shipping, which will be invoiced separately. If Customer purchases more than two (2) ELLIPS Phaco Hand Pieces during any Service Year, then each such additional hand piece will be invoiced at J&J Vision's then current list price (plus applicable taxes and shipping) regardless of whether Customer purchased fewer than two (2) ELLIPS Phaco Hand Pieces during any prior Service Year. For purposes of this Agreement, "Service Year" means the first twelve (12) month period commencing on the Effective Date and each successive twelve (12) month period thereafter.

PREVENTIVE MAINTENANCE CALLS: J&J Vision will make maintenance calls, on a periodic basis as determined by J&J Vision to be appropriate for the Equipment, for the purpose of inspection, adjustment, and/or repair of the Equipment. As part of each maintenance call, J&J Vision will repair or replace (in its discretion) any parts to the extent necessary to ensure that the Equipment is operating within factory specifications. Customer acknowledges that no credit of any kind will be provided if Customer elects to forego any preventative maintenance calls during the term of this Agreement.

SOFTWARE: J&J Vision may, from time to time and in its sole discretion, elect to make software upgrades, software updates, or additional software available to existing customers at no extra charge (a "**Special Release**"). In the event a Special Release becomes commercially available during the term of this Agreement, and Customer's payments are current, J&J Vision will make available and install such Special Release at the same time other services or scheduled preventative maintenance are being performed on the Equipment, subject to availability of J&J Vision personnel needed to install such Special Release. J&J Vision will inform the Customer if the Special Release requires training, and schedule training at the Customer's site immediately following installation. Such training shall be invoiced to the Customer at J&J Vision's then-standard rates. Notwithstanding anything to the contrary, Software that provides new clinical application(s), or which J&J Vision has elected, in its sole discretion, to make available to Customers at an additional charge, may not constitute a Special Release, but may be available from time to time at an additional charge. Notwithstanding anything to the contrary, J&J Vision may require Customer to enter into a separate patent license, and/or pay additional patent license fees, in order to use all or a portion of the capabilities provided by a Special Release.

TERM: The initial term of this Agreement ("Initial Term") shall be twelve (12) months commencing as of the Effective Date. After the Initial Term, this Agreement will automatically renew for twelve (12) month periods (each period individually being referred to as a "Renewal Term"), unless either party provides written notice to the other of such party's intent not to renew at least thirty (30) days prior to the expiration date of the Initial Term or then current Renewal Term (as applicable). J&J Vision may increase service fees for any of the Equipment after the Initial Term by providing Customer with at least sixty (60) days advance written notice. J&J Vision agrees that any such service fee increase will not exceed three percent (3%) of the service fee previously in effect for such Equipment and shall not occur more than once during any twelve (12) month period.

TERMINATION: J&J Vision may terminate this Agreement if Customer is in breach of any obligation under this Agreement (or any other agreement between J&J Vision and Customer) and such obligation remains uncured to the reasonable satisfaction of J&J Vision within thirty (30) days of the date upon which J&J Vision provides notice of such breach to Customer. Notwithstanding the foregoing, any payment related default must be cured within fifteen (15) days. J&J Vision may also terminate this Agreement if Customer (1) ceases doing business as a going concern, (2) becomes insolvent, (3) is generally unable to pay its debts as they become due, (4) makes an assignment for the benefit of its creditors, (5) files a voluntary petition or answer seeking any reorganization, arrangement, composition, readjustment,

liquidation, dissolution or similar relief under any present or future federal or state statute, law or regulation, (6) admits, consents to or acquiesces in the appointment of a receiver or trustee of any property, or (7) commits any act of dissolution or liquidation. Either party may terminate this Agreement without cause at any time during the Term by providing the other party with at least thirty (30) days advanced written notice. Upon termination of this Agreement without cause, (i) Customer will be required to pay all amounts due under this Agreement, as of the termination date, including any unpaid service fees and (ii) any unused service fees paid by Customer will be returned to Customer.

PAYMENT TERMS: All amounts due under this Agreement will be invoiced and paid within thirty (30) days of the applicable invoice date. The service price on the cover page and other prices quoted in this Agreement do not include applicable taxes, which will be invoiced separately.

LIMITED WARRANTY: J&J Vision warrants to Customer that all replacement parts shall be free from defects in materials and workmanship during the term of this Agreement. This warranty is null and void if (i) Customer attempts to service, modify, repair, or move the Equipment itself (other than performing the maintenance described in the operator and technician manuals), (ii) the Equipment is serviced, modified, or moved by any person who is not certified by J&J Vision to perform such service, or (iii) the Equipment is used in a manner not provided for in the documentation provided by J&J Vision for the Equipment. If any replacement parts are found to be defective due to defective materials and/or workmanship during the time this Agreement is in effect and payments are current, J&J Vision will, at its option, repair or replace the defective parts without charge. THE EXPRESS WARRANTY ABOVE IS THE SOLE REMEDY FOR ANY BREACH OF ANY WARRANTY WITH RESPECT TO THIS AGREEMENT AND IS IN LIEU OF ANY AND ALL OTHER REMEDIES. EXCEPT FOR THE EXPRESS WARRANTY PROVIDED ABOVE, J&J Vision EXPRESSLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS.

LIMITATION OF LIABILITY: J&J Vision SHALL NOT BE LIABLE UNDER ANY THEORY TO CUSTOMER OR ANY THIRD PARTY FOR INJURY OR DAMAGE TO ANY PERSON OR PROPERTY, NOR SHALL J&J Vision HAVE ANY LIABILITY FOR ANY INCIDENTAL, PUNITIVE, CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF REVENUE, LOSS OF DATA, LOSS OF BUSINESS OR BUSINESS OPPORTUNITY OR OTHER FINANCIAL LOSS ARISING OUT OF OR IN CONNECTION WITH THE SALE, INSTALLATION, SERVICE, PERFORMANCE, FAILURE, USE OR INTERRUPTED USE OF THE EQUIPMENT, OR THE UNAUTHORIZED USE OF THE EQUIPMENT.

EXCLUSIONS FROM MAINTENANCE: J&J Vision shall have no obligation to provide maintenance services or replacement parts for the Equipment in connection with: (a) Repair, replacement, or maintenance arising from (i) any acts of negligence of Customer's employees, agents, or invitees or any third party not under the control of J&J Vision, (ii) attempts to repair, modify, or service the Equipment made by persons who are not J&J Vision certified to perform such service, (iii) use of special attachments, devices or disposables not provided by J&J Vision in connection with the Equipment, (iv) tampering in any way with any Treatment Card, Patient Interface, or any procedure counting mechanism in the Equipment, or (v) misuse of the Equipment including, without limitation, use of the Equipment for any application or function for which it was not designed; (b) Repairs or maintenance of accessories, attachments, supplies, machines, or other devices not furnished by J&J Vision, or of electrical work external to the Equipment; (c) Repairs or maintenance required by damage to the Equipment resulting from transportation by Customer, or causes (other than ordinary use) within the reasonable control of Customer, such as inadequate electrical power or environmental temperature control; (d) Repair, replacement, or maintenance arising from damage to or destruction of the Equipment as a result of or caused by fire or explosion of any origin, riot, civil commotion, aircraft, war, or any Act of God including but not limited to lightning, windstorm, hail, flood, or earthquake; (e) An unauthorized move of the equipment by persons who are not J&J Vision certified to perform such service; (f) Damage to the extent caused by using any femtosecond docking interfaces or accessories after the respective packaging sterilization date; or (g) Use of disposables other than those manufactured and distributed by J&J Vision or its affiliates or approved vendors.

LABOR: Any labor not covered by this Agreement will be invoiced at J&J Vision's then current service rate, inclusive of travel charges. J&J Vision reserves the right to adjust such rates and charges from time to time at its discretion, without notice to Customer. J&J Vision agrees to maintain Worker's Compensation Insurance as may be required by law covering its employees who perform the services.

ENTIRE AGREEMENT; SEVERABILITY; ATTORNEYS' FEES: This Agreement represents the entire agreement between the parties and supersedes any previous understanding or agreement between the parties with respect to maintenance and repair services for the Equipment. This Agreement may not be changed in any way except by written agreement signed by both parties. If any provision of this Agreement, or the application or enforcement thereof, shall for any reason and to any extent be held to be illegal, invalid, or unenforceable, the remainder of this Agreement, and (if appropriate) such provision to other persons or circumstances, shall remain in full force and effect and be interpreted so as best to reasonably effect the intent of the parties. Any ambiguities in this Agreement shall not be construed against either party, irrespective of which party may be deemed to have authored the ambiguous provision. Each Party acknowledges that an original signature or a copy thereof transmitted by facsimile or by PDF shall constitute an original signature for purposes of this Agreement. In any action on or concerning this Agreement the prevailing party shall be awarded its reasonable attorneys' fees, costs and disbursements, to be paid by the non-prevailing party.

ASSIGNMENT: Neither party may assign this Agreement without the other party's written consent; provided, however, that J&J Vision may assign this Agreement in connection with the sale or transfer of all or substantially all of its business without Customer's consent.

FORCE MAJEURE: A party shall not be responsible or liable for or deemed in breach or default hereof or be subject to any claim by another (including without limitation any claims to pay damages or penalties for delays) because of its failure or omission to perform or delay in the performance of its obligations hereunder due to force majeure or other event beyond the reasonable control of a party.

JURISDICTION; VENUE: This Agreement is entered into and shall be governed by the laws of the Province of Ontario, without regard to its conflict of law rules.

ENGLISH LANGUAGE: The parties have agreed that this Agreement and all related documents should be drawn up in the English language. While this Agreement may be translated into languages other than English for the sake of convenience, the English version of this Agreement shall govern, and shall be the sole version used in the interpretation of its terms.