



## TERMS AND CONDITIONS OF CONSIGNMENT

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These intraocular lens ("IOL") Terms and Conditions of Consignment ("**Terms and Conditions of Consignment**") combined with the terms and conditions included in the ZEISS Terms and Conditions of Sale – Consumable Products ("**Terms and Conditions of Sale**"), which are available at <https://www.zeiss.com/meditec/us/imprint/terms-and-conditions.html> and incorporated herein, the Consignment Agreement ("**Consignment Agreement**"), or like document, and related quote, if any, together constitute an agreement ("**Agreement**") with Carl Zeiss Meditec USA, Inc. ("**ZEISS**") in which the purchaser named on a Consignment Agreement ("**Customer**", "**You**", "**Your**"), or similar document, will receive consigned products from ZEISS. In the event that the terms and conditions contained in the Terms and Conditions of Sale specifically conflict with these Terms and Conditions of Consignment, the terms of the Terms and Conditions of Sale will govern.

1. Consignment Defined: Products Consigned. Consignment means that ZEISS will leave the consigned inventory ("Consigned Inventory"), at the Customer address identified on the Consignment Agreement, without transferring ownership to the Customer until the Customer withdraws a product from the Consigned Inventory. Pricing and quantity of the consigned products will be listed on a quote, inventory request, or like document, which may be changed from time to time by mutual agreement between Customer and ZEISS. The total number of IOLs consigned and the models that are consigned is directly related to the estimated number of implants performed. This Agreement does not obligate the Customer to implant the IOLs, and it does not obligate ZEISS to maintain the Consigned Inventory should Customer choose not to implant the consigned IOLs within a designated period of time. The number and specific spread of IOLs consigned is outlined specifically in the packing slip that comes with the original consignment. Customer is responsible for the total number of IOLs that were shipped in the original consignment order along with any subsequent additions to the consignment. Following Customer's execution of the Consignment Agreement, and after execution of a quote, inventory request, purchase order, or like document, ZEISS will deliver the Consigned Inventory. Absent notification by Customer to ZEISS, within ten (10) days of shipment, of any discrepancies between the delivery note and IOLs delivered, Customer shall be deemed to have received the number of IOLs that are indicated on the original packing slip.

2. Shipping and Handling Charges. ZEISS will pay the shipping and handling charges related to the initial shipment of Consigned Inventory. Thereafter, Customer shall pay all shipping and handling charges associated with replacement IOLs. In the event ZEISS requests return of Consigned Inventory, ZEISS shall pay all shipping and handling charges in connection with said request. All shipping related claims for shortages, shipping errors, lost, stolen or damaged IOLs must be made to the ZEISS Customer Service Department within ten (10) days of receipt of shipment.

3. Implant Billing and Invoice Terms. Consigned Inventory shall be sold and paid for by the parties in accordance with the Terms and Conditions of Sale, and the terms of the quote, or similar document, including, but not limited to, pricing, quantity, and volume commitment, if any. The initial Consigned Inventory will be accompanied by a packing sheet specifying the lenses and serial numbers consigned. The Customer is responsible for verifying the accuracy of the shipment at time of receipt and to immediately report any discrepancies back to ZEISS. When IOLs are implanted, Customer must report the model number and power of the IOL that was implanted along with its serial number directly to the ZEISS Customer Service Department. ZEISS will then ship replacement IOLs back to replenish the Consigned Inventory. ZEISS will then invoice Customer per the agreed upon terms and pricing for all implanted IOLs. It is the responsibility of the Customer to pay the invoice per ZEISS's normal terms of Net 30 days. ZEISS will periodically reconcile Consigned Inventory against Customer's volume commitment and associated promotional pricing, if any.

4. Consignment Management.

4.1 Customer Managed Inventory. Customer is responsible for keeping Consigned Inventory. Customer will issue a no-charge purchase order for the initial requested inventory. Should Customer subsequently require additional inventory, such additional inventory will be invoiced to Customer at the Customer's contracted price at the time of shipment of the order. Customer is responsible for designating a storage location prior to sending ZEISS a purchase order. Customer is responsible for managing expiration dates for the Consigned Inventory and shall provide ZEISS with written notice of impending expiration at least six (6) months prior to date of expiration on any Consigned Inventory. Customer must (a) identify all Consigned Inventory as being the property of ZEISS, (b) separate Consigned Inventory from other property of Customer, and (c) maintain complete and accurate records concerning the Consigned Inventory.

4.2 Audits; Adjustments to Consigned Inventory. ZEISS shall review all Consigned Inventory par levels stocked at Customer's location periodically. ZEISS may, in its sole and reasonable discretion, require Customer's cooperation and collaboration in order to complete review of the Consigned Inventory. ZEISS shall have the right to conduct an audit of the physical Consigned Inventory at any time during the course of this Agreement, and Customer shall permit ZEISS reasonable access to its premises in order for ZEISS to complete the audit. Should ZEISS conduct an audit of the Consigned Inventory and determine that a shortfall exists due to Customer damage, use, loss, or otherwise, Customer agrees to provide ZEISS with implant information (if applicable) and a purchase order for payment of the implanted, damaged, lost or otherwise unaccounted lenses.

4.3 Implant Inventory Maintenance. The Customer shall provide written notice to the ZEISS Customer Service Department, within five (5) business days, specifying (a) all IOLs that were implanted from the Consigned Inventory and (b) will issue a purchase order for replacement IOLs for all IOLs that were implanted.

4.4 Damaged Inventory. In the event an item in Consigned Inventory needs to be destroyed, Customer must complete the process outlined in the Customer Destruction Letter ("Letter") at **Attachment 1** and return a signed copy of the Letter to ZEISS within five (5) business days of destruction.

5. Title; Risk of Loss. While title to the Consigned Inventory will remain with ZEISS until implantation, the Customer assumes total responsibility for the safe storage and handling of the Consigned Inventory and, upon receipt of the Consigned Inventory, bears the risk of loss for the quantity and value of the Consigned Inventory. The Consigned Inventory must be stored in dry conditions between 0° C (32° F) and 45° C (113° F) and should be handled in

accordance with their directions for use; rough handling or excessive handling may damage the IOLs. Customer will be responsible for payment for damaged or lost IOLs from the Consigned Inventory while the IOLs are in Customer's care, custody, and control. For the avoidance of doubt, Customer accepts all risk of loss and full responsibility for the condition of, any shortages in and the payment for all Consigned Inventory which may be used, lost, expired, unreturned prior to expiration, or damaged.

6. Customer Use of Consignment. Customer agrees to inspect all product expiration dates prior to use and, as to each IOL style, power, and size, to use FEFO (First Expired, First Out) inventory management, namely the order in which the IOL will expire, with those IOLs with the shortest shelf life used before subsequently expiring IOLs. Customer agrees not to sell, trade, borrow, or exchange the Consigned Inventory with any doctor, hospital, or any other entity without ZEISS's prior written consent. Customer shall not move Consigned Inventory from its delivery location without ZEISS's prior written consent.

7. Return of Consigned Inventory. Upon termination of this Agreement, ZEISS agrees to accept all IOLs for return provided that all requirements identified at Section 7 of the Terms and Conditions of Sale are met. At any time during the course of this Agreement, ZEISS may, in its sole and reasonable discretion, request return of any and all of the Consigned Inventory.

8. Term and Termination.

8.1 Term. The Term shall be as outlined in the Consignment Agreement, or like document.

8.2 Termination by ZEISS. In addition to any remedies or termination rights that may otherwise be provided under this Agreement, ZEISS may terminate this Agreement, with notice and thirty (30) days' opportunity to cure, or immediately if, in ZEISS's sole and reasonable opinion, no cure is practicable, if Customer refuses to or is unable to perform its obligations under this Agreement or is in breach of any material provision of this Agreement.

8.3 Effect of Termination. Upon notice of termination, Customer agrees to return all Consigned Inventory within ten (10) days. ZEISS will invoice all Consigned Inventory not returned. The basis for these charges is agreed to be the current prices in effect on the date of the termination of this Agreement.

9. Miscellaneous.

9.1 Cooperation. Customer shall fully cooperate with ZEISS in the investigation and reporting of complaints and adverse events related to the Consigned Inventory, including by using its best efforts to retrieve, preserve and return any affected Consigned Inventory to ZEISS for investigation in accordance with ZEISS's instructions.

9.2 Waiver. The failure of either party 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 the party in writing. If either party fails to exercise a right or insist on strict performance under this Agreement on one (1) occasion, that party will not be precluded from exercising that right, or insisting on performance of that obligation on any other occasion; nor will this Agreement be modified in any way by such failure to exercise a right or insist on strict performance under this Agreement.

9.3 Entire Agreement. This Agreement constitutes the final and complete agreement between the parties and supersedes all prior agreements and understandings, whether written or oral, relating to the IOLs. The terms and conditions of this Agreement shall prevail over any variance with the terms and conditions of any order submitted by the Customer for the IOLs, regardless of any provisions to the contrary. No claimed additions to or modifications or amendments of this Agreement, nor any claimed waiver of any of its terms or conditions, shall be effective unless in writing and signed by the party against whom the same may be asserted.

9.4 Notice to ZEISS; Contact Information. Customer may contact the local ZEISS office serving Customer's country using the address information enclosed with the Consigned Inventory, or write to Customer Service: Carl Zeiss Meditec USA, Inc., 5300 Central Parkway, Dublin, CA 94568. Customer shall submit all orders, return requests, or customer service requests, by phone: 877-486-7473, via email at [consumables-orders@zeiss.com](mailto:consumables-orders@zeiss.com), or via fax: 925-557-4183.

**Attachment 1 to Terms and Conditions of Consignment**

**Customer Destruction Letter**

Center/Hospital: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Signature: \_\_\_\_\_

Address: \_\_\_\_\_

No. of Lenses Destroyed: \_\_\_\_\_

Date of Destruction: \_\_\_\_\_

This letter is to inform Carl Zeiss Meditec USA, Inc., and its affiliates (collectively, "ZEISS"), of the following lenses which were in our possession, and have been destroyed. These lenses WERE NOT used for implantation and did not come in contact with a patient.

We affirm that we have followed the recommended destruction process below:

1. Opened all boxes of product;
2. Removed all contents;
3. Attached a copy of the implantation label to the chart below;
4. Removed the intraocular lens from its primary packaging (Tyvek Pouch); and
5. Discarded the lenses in accordance with all applicable laws and regulations.

**Please Sign and Return via Fax or Email to:**

**Fax: (925) 557-4183**

**Email: [consumables-order@zeiss.com](mailto:consumables-order@zeiss.com)**

Place Patient Label Here	Place Patient Label Here	Place Patient Label Here
Place Patient Label Here	Place Patient Label Here	Place Patient Label Here
Place Patient Label Here	Place Patient Label Here	Place Patient Label Here
Place Patient Label Here	Place Patient Label Here	Place Patient Label Here