PURCHASE ORDER TERMS AND CONDITIONS

**SECTION 1. DELIVERY AND ACCEPTANCE.** Seller shall tender for acceptance only items that conform to the requirements of this contract. Buyer may require repair or replacement of nonconforming supplies or performance of nonconforming services at no increase in contract price.

**SECTION 2. PAYMENT.** Seller shall be paid upon submission of properly prepared invoices containing the following information; order number, item number, description of articles, sizes, quantities, unit prices and extended totals. Invoices submitted hereunder will be Net 30 Days and paid within thirty (30) days after receipt of invoices or final acceptance of delivered items by the Buyer, whichever occurs later, unless otherwise specified on the face of this Order. Adjustments in Sellers invoices due to shortages, late delivery, rejections, or other failure to comply with the requirements of this Order may be made by Buyer before payment.

**SECTION 3. WARRANTY.** Seller warrants that the items furnished or delivered hereunder (1) will comply with all applicable specifications; (2) will be free from defects in material and workmanship; (3) will be merchantable and fit for any particular purpose described in this purchase order. All the representations and warranties of Seller together with its service warranties and guarantees, if any, shall run to Buyer and Buyers customers. The foregoing warranties shall survive delivery, inspection, acceptance or payment by Buyer.

**SECTION 4. CHANGES AND SUSPENSION.** Buyer may, by written notice to Seller at any time before complete delivery is made under this order, make changes within the general scope of this order in any one or more of the following: (a) drawings, designs or specifications; (b) quantity; (c) delivery; (d) method of shipment or routing; and (e) make changes in the amount of Buyer-furnished property; and Buyer for any reason may direct Seller to suspend, in whole or in part, delivery of goods or performance of services hereunder for such period of time as may be determined by Buyer to be necessary or desirable. If any such change or suspension causes a material increase or decrease in the cost of, or the time required for the performance of any part of the work under this order, and equitable adjustment shall be made in the order price or delivery schedule, or both, provided Seller shall have notified Buyer in writing of any claim for such adjustment within thirty days from the date of such notice from Buyer or from the date of any act of Buyer which Seller considers constitutes such a change. No such adjustment or any other modification of the terms of this order will be allowed unless authorized by Buyer by means of a purchase order revision. Seller shall proceed with the work as changed without interruption and without awaiting settlement of any such claim.

**SECTION 5. TAXES.** Except as may be otherwise provided in this order, the price(s) set forth herein include all applicable Federal, State and local taxes and duties.

**SECTION 6. USE OF DESIGNS, DATA, ETC.** Seller agrees that it will keep confidential the features of any equipment, tools, gauges, patterns, designs, drawings, engineering data or other technical or propriety information furnished by Buyer and use such items only in the production of items under this order or other orders from Buyer and not otherwise, unless Buyer's written consent is first obtained. Upon completion or termination of this order, Seller shall return all such items to Buyer or make such other disposition thereof as may be directed or approved by Buyer.

**SECTION 7. RESPONSIBILITY FOR SUPPLIES.** Except as otherwise provided in this Purchase Order, Seller shall bear the risk of loss of, or damage to, the supplies covered by this Purchase Order until delivered to Buyer's Plant (or to such other place as may be designated on the face of this Purchase Order) and accepted by Buyer. Seller shall also bear the risk of loss of, or damage to rejected supplies after receipt of Buyer's notice of rejection, provided, however, that Buyer shall bear such risk as to loss or damage caused by the willful or negligent acts of its officers, agents or employees acting within the scope of their employment. Buyer shall have a reasonable time after delivery to inspect and to accept or reject.

**SECTION 8. RELEASE OF INFORMATION.** Seller will not participate in any publication or advertisement which makes reference to this order or to Buyer, without prior written permission of Buyer.

**SECTION 9. INFRINGEMENT INDEMNITIES.** (a) Seller shall at its expense indemnify and defend Buyer and Buyer's successor in interest to the goods (collectively called "Buyer'') against any claim, suit or proceeding (collectively called "suit") brought against Buyer which is based upon a claim, whether rightful or otherwise, that the goods or services, or any part thereof, furnished under this order, or Buyer's use (including resale) thereof, constitutes an infringement of any patent, trademark or copyright in the United States, if Seller is given reasonable notice of such suit; and Seller shall pay all damages and costs awarded against and reasonable expenses incurred by Buyer in connection with such suit. In case the goods or services or use thereof is in such suit held to constitute infringement and the use thereof is enjoined, Seller shall at its expense and at its option either procure for Buyer the right to continue the use of such goods or services; or in a manner acceptable to Buyer make replacement or modification to avoid infringement; (b) The foregoing indemnity shall not apply, and Buyer shall indemnify and defend Seller if given notice and in the same manner and extent as provided in Paragraph (a) above where such goods or services are allegedly infringing as a result of Seller's compliance with specified written instructions by Buyer directing use by Seller of a feature not customarily used by Seller

**SECTION 10. PATENTS AND DATA.** (a) If any experimental, developmental or research work is called for or required hereunder, Seller agrees to and does grant to Buyer an irrevocable, non-exclusive, fully transferable, royalty-free license to make, have made, use and sell any invention, improvement or discovery (whether or not patentable) that Seller conceives or first actually reduces to practice in the performance of this order. (b) Seller agrees to and hereby does grant to Buyer (i) an irrevocable, non-

exclusive, fully transferable, royalty- free license to reproduce, translate, publish, use and dispose of; and to authorize others so to do, any copyrighted or copyrightable material ordered as articles or incorporated in or supplied as a supplement with, any article; and (ii) the right to reproduce, use and disclose for any purpose all or any part of the reports, drawings, blueprints, data and technical information delivered or specified to be delivered by Seller to Buyer under this order.

**SECTION 11. CALIFORNIA LAW TO GOVERN.** The Order shall be governed by, subject to and construed according to the laws of the State of California, a uniform commercial code state.

**SECTION 12. NON-WAIVER OF RIGHTS.** The failure of Buyer to insist upon strict performance of any of the terms and conditions in the Purchase Order or to exercise any rights or remedies, shall not be construed as a waiver of its rights to assert any of same or to rely on any such terms or conditions at any time thereafter. The invalidity in whole or in part of any term or condition of this order shall not affect the validity of other parts hereof.

**SECTION 13. ON TIME DELIVERY.** Time is of the essence as to the parts and/or services under this purchase order. Seller must deliver on time in accordance with this purchase order. Seller agrees to inform Buyer immediately of any actual or anticipated failure to ship all or any part of an Order or the exact parts and/or services called for in this purchase order on the shipment date specified.

**SECTION 14. RoHS COMPLIANCE.** Seller is required to provide a Certificate of Compliance regarding the European Union Directive 2015/863/EU on the restriction of the use of certain hazardous substances in electrical and electronic equipment (“RoHS”) that took effect on June 4, 2015. The RoHS Directive restricts the sale of electronic equipment containing certain hazardous substances in the European Union including:

* Cadmium (Cd): 0.01%
* Mercury: 0.1%
* Lead (Pb): 0.1%
* Hexavalent chromium (Cr6+): 0.1%
* Polybrominated biphenyls (PBB): 0.1 %;
* Polybrominated diphenyl ethers (PBDE): 0.1 %
* Bis(2-Ethylhexyl) phthalate (DEHP): 0.1% (added in 2015);
* Benzyl butyl phthalate (BBP): 0.1% (added in 2015);
* Dibutyl phthalate (DBP): 0.1% (added in 2015);
* Diisobutyl phthalate (DIBP): 0.1% (added in 2015)

Any product delivered under a Purchase Order, to an SOC drawing, requiring product that must meet all requirements of RoHS in accordance with the European Union’s Directive must not contain any amount of the banned materials above the defined “Maximum Concentration Values”. Seller must flow down this requirement to all of their vendors supplying any articles used to manufacture articles delivered under the Purchase Order.

**SECTION 15.NON-CONFORMING MATERIAL.** Seller is not authorized to deliver nonconforming materials without the authorization from the Buyer. Departures from drawings and specifications shall be approved by the Buyer prior to shipment. Supplier to submit a Supplier Deviation Request to the Buyer for Material Review Board processing at the Buyer’s facility.

Receive nonconforming product report and respond to Supplier Corrective Action requests.

**SECTION 16. ENTIRE AGREEMENT.** Upon acceptance of this Order, Seller agrees to the following terms and conditions and Seller further agrees that the provisions under this Order including said terms and conditions and including all documents incorporated herein by reference, shall constitute the entire Agreement between the parties hereto and supersede all prior agreements relating to the subject matter hereof. This contract may not be modified or terminated orally, and no modification or any claimed waiver of any of the provisions hereof shall be binding unless in writing and signed by the party against whom such modification or waiver is sought to be enforced.

# SECTION 17. ADDITIONAL GENERAL PROVISIONS.

IF A U.S. GOVERNMENT CONTRACT NUMBER IS CITED ON THE FACE OF THIS ORDER, THEN THE ATTACHED “SUPPLEMENTAL TERMS AND CONDITIONS FEDERAL CONTRACTS” SHALL APPLY.

Supplier is prohibited from trafficking persons including the trafficking-related activities of forced labor, employee

recruitment fees, fraudulent practices during recruitment, and/or sex trafficking. Any suspected violations shall be

immediately reported to Ethics- Office@surfaceoptics.com.

# Suppliers must:

Notify buyer of nonconforming product.

Receive nonconforming product disposition instructions and respond to Supplier Corrective Action Requests.

Notify buyer of changes to product and/or processes, changes of suppliers, changes of manufacturing facility location. Receive and respond to flow down requirements to the supply chain applicable requirements.

Prevent the use of counterfeit parts.

Ensuring that persons are aware of:

* their contribution to product or service conformity;
* their contribution to product safety;
* the importance of ethical behavior.

Suppliers must retain transaction records for 5 years.

Allow access to Surface Optics Corporation, their customers and associated regulatory to the applicable areas of all facilities, at any level of the supply chain, involved in the order and to all applicable records.