

KARL STORZ Endovision, Inc.
91 Carpenter Hill Road
Charlton, MA 01509

KARL STORZ Imaging, Inc.
175 Cremona Drive
Goleta, CA 93117

PURCHASE ORDER TERMS AND CONDITIONS

The following Purchase Order Terms and Conditions ("Terms and Conditions") are agreed to between ("Buyer"), and ("Seller").

1. AGREEMENT – These Terms and Conditions, together with any purchase order issued subsequent to the Effective Date set forth below (collectively, a "Purchase Order"), contain all of the terms of this transaction and constitute the entire agreement between Buyer and Seller with respect to the subject matter of the Purchase Order. These Terms and Conditions do not supersede any existing nondisclosure agreements between Buyer and Seller. Any additional or conflicting terms and conditions contained in any acknowledgement of any Purchase Order or in any other Seller document are of no force or effect and shall not alter or expand the obligations of Buyer or Seller. Any terms, conditions, and provisions of a Purchase Order which by their nature must, in order to give their intended effect, survive delivery and performance, or acceptance of any payment hereunder shall be deemed to survive such delivery and performance, or acceptance of payment. No waiver of or exception to any of the terms, conditions or provisions contained in a Purchase Order shall be valid unless specifically agreed to in writing. Buyer's remedies set forth in these Terms and Conditions shall be cumulative and in addition to any further remedies provided under applicable law.

2. DELIVERY – Purchase Orders are subject to the delivery date set forth on the applicable Purchase Order unless changed by written agreement. If orders cannot be filled as indicated, Seller must promptly notify Buyer in writing as soon as commercially reasonable after determination that orders will not be filled as indicated. Buyer reserves the right to cancel any portion of a Purchase Order if timely shipment is not made as specified. Goods shipped to Buyer in advance of the schedule or in excess of the amount specified on a Purchase Order may be returned to Seller at Seller's expense. Buyer reserves the right to terminate a Purchase Order as to stated items not yet shipped or services not yet rendered. If Seller is not able to provide items ordered by the date of performance stated in the Purchase Order, Buyer shall have the right to cancel the Purchase Order, in whole or in part, and to order substitute items from another supplier, in addition to any other rights of Buyer arising under these Terms and Conditions or by law. Seller shall reimburse Buyer for the additional reasonable cost so incurred. All deliveries must be accompanied by packing slips and be marked, tagged or otherwise identified with Buyer's Purchase Order number, name and address.

3. PACKING FOR SHIPMENT AND TRANSPORTATION - All goods ordered hereunder shall be suitably packed for shipment and no charge shall be made for container, wrapping materials, ESD packaging, packing, crating, delivery, drayage or storage unless specifically authorized in writing. Transportation charges on goods shall be paid, goods must be shipped, and title to goods shall pass per instruction on Purchase Order. No insurance charges will be allowed unless authorized by Buyer. Seller shall be responsible for loss or damage resulting from improper loading, blocking or staying of goods for transit.

4. TERMS OF PURCHASE - Terms of payment for invoices rendering merchandise ordered shall be per instructions on Purchase Order. Seller shall pay any taxes which may be imposed upon the goods or labor or services rendered hereunder or by reason of the sale, delivery or performance thereof. Payment for any good or service shall not be deemed as acceptance.

5. CONFIDENTIAL INFORMATION – In furtherance of, and related to, the purpose of any Purchase Order, each of Buyer and Seller may receive (the "receiving party") from the other party (the "disclosing party") certain technical, financial, marketing or other proprietary information or data, including but not limited to specifications, drawings, sketches, models, samples and manufacturing methods or processes, and, further, including confidential information as such term may be defined in any existing nondisclosure agreement between the parties, and relating, but not limited, to the disclosing party's (and, if applicable its affiliated companies) business not generally known outside of the disclosing party's company or by those with whom said company establishes a business relationship (individually and collectively, the "Confidential Information"). The fact that Seller has agreed to furnish Buyer the goods, labor or services ordered under any Purchase Order, and the specific terms of any Purchase Order, shall also constitute Confidential Information. It is the intent of Buyer

and Seller that all disclosures of Confidential Information under any Purchase Order be subject to continuing obligations of confidentiality. Therefore, in addition to the obligations of confidentiality set forth in any existing nondisclosure agreement between the parties, each party agrees that, without the prior written consent of the disclosing party to the receiving party, the receiving party shall only use the Confidential Information in furtherance of such Purchase Order and shall not at any time itself use such Confidential Information, except as provided in such Purchase Order, or disclose, publicize, in any manner advertise or otherwise publish, reveal or make available, directly or indirectly, any Confidential Information to any firm, person or entity whatsoever, except for a disclosure which is required, if at all, by statute, order of court or otherwise by law, or as reasonably required in order to discharge the receiving party's obligations pursuant to such Purchase Order, and then only after first advising the disclosing party of such intent to make disclosure with reasonably sufficient advance notice so as to afford the disclosing party an opportunity to object or otherwise seek a protective order. Information shall not be considered Confidential Information, or shall cease to be same, when: (a) at the time of or after its disclosure by the disclosing party, it is published, known publicly or becomes part of the public domain through no fault of the receiving party or anyone associating with the receiving party who had access to the Confidential Information; (b) it is or becomes available to the receiving party on an unrestricted basis from a third party who does not, to the reasonable knowledge of the receiving party, knowingly breach a confidential relationship; or (c) it is developed independently by the receiving party (or an affiliate of receiving party) without use of, or reference to, information disclosed by the disclosing party. Each party hereto (and affiliates of receiving party) will take reasonable steps to assure that the Confidential Information is controlled as required herein; this obligation shall be met if a party applies controls similar to those to protect its own Confidential Information. For breach of this provision, in addition to any other right and remedies to which Buyer may be entitled, Buyer shall also have the right to cancel any or all Purchase Orders without any obligation to accept delivery or performance after the date of cancellation or to make any further payments thereunder except for completed goods delivered or labor services performed prior to such cancellation. The obligations of confidentiality arising hereunder shall survive fulfillment, termination or cancellation of a Purchase Order.

6. BUYER'S PROPERTY - Unless otherwise agreed in writing, all tools, dies, molds, patterns, jigs, fixtures and any other property furnished to Seller by Buyer, or unconditionally appropriated to the contract, or specifically paid for by Buyer, remains the property of Buyer, must be maintained in good condition by Seller, must be used only in filling orders from Buyer, shall be subject to return upon Buyer's instructions (in which event, Seller shall prepare such property for shipment and shall redeliver the same to Buyer in as good condition as when received by Seller, reasonable wear and tear excepted), and shall be held at Seller's sole risk. Each item of such property shall be plainly marked or otherwise adequately identified as Buyer's property and shall be kept separate and segregated from Seller's property. Seller hereby grants to Buyer a security interest in all such property furnished, appropriated to the contract or paid for by Buyer, and Seller is required to execute and deliver such documents, as requested by Buyer, to perfect Buyer's security interest(s).

7. QUALITY AND INSPECTION –

- (a) Except as otherwise agreed in writing, acceptance of all materials or services will be subject to Buyer inspection. Material and workmanship must be free from any and all defects and must comply with applicable specifications, tolerances, and quality standards. If for any reason specifications are omitted, incomplete or changed according to Seller practices, Seller shall so advise Buyer before the order is processed. Buyer shall determine whether Seller's proposed change may affect the quality of finished goods. Seller further agrees that, without the prior written consent of Buyer, Seller will not change either: (i) the manufacturer, the location of manufacture, or source of any goods or components thereof; or (ii) the goods specifications in a manner that would materially affect the specifications or functionality of any goods.
- (b) Seller must comply with Buyer's quality notes referenced in the Purchase Order. Any deviations to referenced quality notes must be approved in writing in advance and be noted on the specific Purchase Order affected.
- (c) All goods or services furnished hereunder may be subject to inspection by means of either statistical sampling, utilization of material, or functional testing or use. If, through failure to satisfy this inspection, material is found to require additional inspection, Seller shall be liable for those

expenses incurred by the added inspection and for the corrections made to the material at destination, as deemed necessary by Buyer provided that such corrections are required as a result of Seller's failure to meet agreed-upon criteria. Buyer additionally reserves the right to return in whole or part for full credit, at expense and risk to Seller, any shipments failing to meet Buyer inspection criteria. Material replacement shall be optional with Buyer. Buyer reserves the right to inspect applicable raw, in process, or finished materials at Seller's plant or operation, with minimum prior verbal or written notice of twenty-four (24) hours.

8. WARRANTIES -

- (a) Seller warrants, for a period of twelve (12) months from the date of shipment, that the goods shall be of the kind and quantity designated or specified herein, and shall conform to the specifications provided by Buyer, and shall be free from defects in materials and workmanship.
- (b) The sole and exclusive remedies for breach of warranty is for Seller (a) at Buyer's option, to repair or replace or issue a credit or, at Buyer's option, a refund for such goods found in fact to be nonconforming or defective and (b) to reimburse Buyer, subject to the limitations set forth in Section 12, below, for the cost of components added to such goods and related assembly/labor charges incurred prior to discovery of such defect. If a credit issued by Seller pursuant to clause (a) of the preceding sentence is not used by Buyer within thirty (30) days following issuance of such credit, Seller, shall, at Buyer's option, issue a refund in lieu of such credit.
- (c) Except as set forth in this section, Seller expressly disclaims all warranties of any kind, whether express or implied, including, but not limited to, warranties of design, merchantability, fitness for purpose or use, against intellectual property infringement, or otherwise.
- (d) Seller makes NO WARRANTY with respect to any goods that have damage, nonconformity, or failures resulting from accident, disaster, neglect, abuse, misuse, alteration, modification, improper handling, testing, storage or installation occurring after passage of title to Buyer.
- (e) The provisions of this Section 8 do not apply to "suspect/counterfeit parts," as defined in Section 9.

9. SUSPECT/COUNTERFEIT PARTS - Seller represents and warrants that it has policies and procedures in place to ensure that none of the supplies or materials furnished under any Purchase Order are "suspect/counterfeit parts" and certifies, to the best of its knowledge and belief, that no such parts have been or are being furnished to Buyer by Seller. "Suspect/counterfeit parts" are (i) parts that may be of new manufacture, but are misleadingly labeled to provide the impression they are of a different class or quality or from a different source than is actually the case; (ii) refurbished parts, complete with false labeling, that are represented as new parts; or (iii) any parts that are designated as suspect by the U.S. Government, such as parts listed in Safety Alerts for Human Medical Products published by the Food and Drug Administration. If Buyer reasonably determines that Seller has supplied suspect/counterfeit parts to Buyer, Buyer shall promptly notify Seller and Seller shall immediately replace the suspect/counterfeit parts with parts acceptable to Buyer. Notwithstanding any other warranty, liability limitation, indemnification or other provision contained herein (including the limitations of liability set forth in Section 12), Seller shall be liable for all costs incurred by Buyer to remove and replace the suspect/counterfeit parts, including without limitation Buyer's external and internal costs of removing such suspect/counterfeit parts, of sourcing, purchasing and reinserting replacement parts and of any testing necessitated by the reinstallation of Seller's goods after suspect/counterfeit parts have been exchanged. In addition, Buyer may unilaterally terminate any or all Purchase Orders depending on the impact of the delivery of suspect/counterfeit parts on Seller's overall performance on the Purchase Order under which the suspect/counterfeit parts were delivered. Seller's warranty against suspect/counterfeit parts shall survive any termination or expiration of any Purchase Order relating to such suspect/counterfeit parts.

10. INDEMNIFICATION -

- (a) **Infringement.** Seller shall defend, indemnify and hold harmless Buyer from and against all claims

UNDER SECTION 10, ABOVE, NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE EXTENT OF LIABILITY OF SELLER (EXCEPT AS TO TITLE) FOR BUYER'S DIRECT DAMAGES ARISING OUT OF SAID GOODS, OR SERVICES, OR THEIR USE (WHETHER USED SINGLY OR IN COMBINATION WITH OTHER PRODUCTS), INCLUDING ANY ADDITION OF VALUE BY BUYER TO PRODUCTS PURCHASED FROM SELLER, WHETHER ARISING FROM WARRANTY, CONTRACT, NEGLIGENCE OR OTHERWISE, SHALL NOT IN ANY CASE EXCEED, IN VALUE, ONE HUNDRED THOUSAND DOLLARS (\$100,000) PER LOT DELIVERED PER PURCHASE ORDER.

EXCEPT WITH RESPECT TO BUYER'S RIGHT TO OBTAIN SUBSTITUTE PRODUCTS PURSUANT TO SECTION 2, ABOVE, ANY BREACH OF ANY OBLIGATION OF CONFIDENTIALITY ARISING UNDER SECTION 5, ABOVE, ANY REIMBURSEMENT OBLIGATION OF SELLER ARISING UNDER SECTION 8(B), ABOVE, THE FURNISHING OF ANY SUSPECT/COUNTERFEIT PARTS UNDER SECTION 9 ABOVE OR ANY INDEMNITY OBLIGATION RELATED TO THIRD PARTY CLAIMS ARISING UNDER SECTION 10, ABOVE, UNDER NO CIRCUMSTANCES SHALL EITHER BUYER OR SELLER BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR INCIDENTAL DAMAGES, WHETHER ARISING OUT OF ANY EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, OR ANY OTHER THEORY OF LIABILITY.

13. COMPLIANCE WITH LAWS – Seller shall comply with all applicable provisions of the Fair Labor Standards Act, the Fair Packaging and Labeling Act, and rules, regulations and orders thereunder, and with all other applicable federal, state and local laws, rules and regulations, including, without limitation, all federal, state, or local laws with respect to taxes on income or payroll or otherwise payable to any governmental entity. Seller is in compliance with Executive Order 11246. Seller shall, upon request of the Buyer, furnish to Buyer a certificate relating to compliance with all applicable federal, state and local laws, rules and regulations in such form as Buyer may from time to time require. Seller shall indemnify and hold Buyer harmless from any and all liability arising from the failure of seller to comply with any of the aforesaid laws, rules and regulations.

14. GOVERNMENT CONTRACTS - If the material or products set forth in this order are to be used by Buyer in connection with a contract or subcontract with the United States government or any agency, department or branch thereof, or any corporation, either of the United States or controlled or wholly owned by the United States or under any lend-lease agreement with any foreign government:

- (a) Termination: Buyer may cancel this order upon written notice to Seller upon Buyer's governmental contract or subcontract being itself canceled. If after cancellation, Buyer receives compensation under Buyer's contract or subcontract for the uncompleted portion thereof., Buyer shall complete this order to Seller to the same extent that Buyer is allowed under its governmental contract or subcontract.
- (b) Equal Opportunity Clauses: Unless a regulatory or statutory exemption applies, Seller shall comply with the following clauses, which are set forth in full in the Office of Federal Contract Compliance Department of Labor or the United States Code of Federal Regulations and are hereby incorporated herein by reference:
 - (i) The equal opportunity clause set forth in 41 CFR Section 60-1.4 if this contract exceeds or may exceed \$10,000.
 - (ii) The equal opportunity clause for handicapped workers set forth in 41 CFR Section 60-741.5(a) if this contract exceeds or may exceed \$10,000.
 - (iii) The equal opportunity clause for disabled veterans, recently separated veterans, Armed Forces services medal veterans and other protected veterans set forth in 41 CFR Section 60-300.5(a) if this contract exceeds or may exceed \$100,000.

15. FORCE MAJEURE- Fire, labor trouble, embargo, explosion, riots, acts of terrorism, war, accidents, interruptions of or delay in transportation, partial or complete suspension of plant operations, and any occurrence beyond either party's reasonable control which in any way interferes with the performance under any Purchase Order shall release the affected party from any obligation to perform, but for force majeure

events affecting deliveries, Buyer may at its option either extend the delivery period and accept such deliveries or cancel such deliveries at no obligation to Buyer.

16. DEFAULT- Either party may terminate a Purchase Order in whole or in part at any time by written notice if the other party:

- (a) defaults in any delivery or performance under a Purchase Order, unless cured within any mutually agreed upon cure period,
- (b) fails to make progress under any Purchase Order so as to endanger complete performance,
- (c) ceases to conduct its operations in the normal course of business, becomes insolvent, or makes or attempts to make an assignment for the benefit of creditors, or
- (d) if any proceedings are commenced by or against a party under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law, or if a trustee, receiver, liquidator or conservator for a party or any portion of its properties is applied for or appointed.

17. ASSIGNMENT- Neither party shall assign or transfer any of its rights or obligations under any Purchase Order or these Terms and Conditions, in whole or in part, without the written consent of the other party, not to be unreasonably withheld. Any attempted assignment or transfer in violation of the provisions of this paragraph shall be void.

18. SEVERABILITY- Each provision of these Terms and Conditions is severable, and if any provision hereof shall at any time be held to be contrary to law or invalid or unenforceable, such provision shall be reformed to the extent possible to give its intended effect and/or meaning, and the remaining terms and provisions shall not be affected thereby and shall remain in full force and effect so long as the economic or legal substance of the Terms and Conditions is not affected in any manner materially adverse to either Buyer or Seller.

19. INTERPRETATION- Irrespective of the place of execution or performance, Purchase Orders shall be governed by and construed in accordance with the laws of Buyer's commercial domicile without regard to its conflict of laws principles.

20. AUDITS - Seller shall agree to audits and inspections to their facility by Buyer's representatives to:

- Verify the Seller's ability to meet Buyer's needs and expectations at the agreed upon price.
- Verify conformance to mutually agreed upon requirements by statistical evidence of process control.
- Measure performance on important requirements and setting priorities to identify and eliminate the root cause(s) of nonconformance.
- Accomplish the goal of reduced variability and continuous improvement on critical requirements.

21. NO EXPECTATION OF CONTINUED ORDERS – Neither the execution of these Terms and Conditions nor the issuance of any Purchase Order creates any rights to the Seller to expect continued order(s) from Buyer.

22. COUNTERPARTS - These Terms and Conditions may be executed by the parties hereto individually or in any combination, in one or more counterparts, each of which shall be an original and all of which shall together constitute one and the same agreement. Execution and delivery of these Terms and Conditions shall be legally valid and effective through: (i) executing and delivering the paper copy of the document; (ii) transmitting the executed paper copy of the document by facsimile transmission, or electronic mail, in "portable document format" (".pdf") or other electronically scanned format; or (iii) use of an electronic process associated with these Terms and Conditions, and executed or adopted by a party with the intent to execute these Terms and Conditions.