

BEAVER-VISITEC INTERNATIONAL, Inc. (BVI)—STANDARD TERMS & CONDITIONS

1. **GENERAL:** These general terms and conditions of sale (“Terms and Conditions”) exclusively will govern the sale by Beaver-Visitec International, Inc. (“BVI”) of all goods (the “Products”) to Customer. No addition or modification of these Terms and Conditions will be binding on BVI unless agreed to in writing signed by an authorized representative of BVI. BVI objects to other terms and conditions that may be proposed by the Customer. Acceptance by BVI of Customer’s purchase order(s) is expressly conditioned on Customer’s assent to all of the Terms and Conditions contained herein.
2. **ORDERS:** BVI offers a variety of methods for tendering orders including Phone, Fax, Email, EDI.
 Phone: 866-906-8080, Option 1 Fax: 866-906-4304 E-mail: customersupport@beaver-visitec.com

BVI’s preferred EDI Method is Global Healthcare Exchange LLC (GHX) EDI. For other options email Customer Support. Electronic P.O. address overrides on drop ship to accounts are not accepted and may cause delays in processing your order. If you would like more information or implementation assistance with any of these Electronic Commerce services, please contact our EDI Manager at 781-906-7952.

3. **QUANTITY:** BVI reserves the right to alter orders where quantities are significantly higher than historical norms or in times of short supply. BVI will notify Customer of any change to order quantity prior to shipment.
4. **PRICING POLICY:** Orders will be priced and invoiced at the agreed Customer pricing. BVI may increase prices at any time, unless there written agreement stating otherwise. Orders received into BVI’s order fulfillment system prior to 5:59 p.m. EST will be invoiced at the price within BVI’s system on that calendar date. Orders received at 6:00 p.m. EST or later will be invoiced at the price within BVI’s system on the next business day.

NOTE: Orders placed that contain future dated lines with a requested delivery date that exceeds standard order cycle time and carries over into the new year will be reviewed and those lines will be priced at the adjusted new year price accordingly.

5. **PAYMENT TERMS:** Payment terms are net 30 days from date of invoice. Credit cards are accepted (AMEX, Mastercard and VISA). Remit payment to Beaver-Visitec International, Inc., P.O. Box 842837, Boston, MA 02284. A/R FAX: 781-658-2352. A/R Contact: AR@beaver-visitec.com. Interest on late payments shall accrue daily and compound monthly at [LIBOR] plus 3% per annum in the currency in which payment is required, but in no event to exceed the highest lawful rate of interest, calculated from the date such amount was due until the date payment is received by BVI.
6. **SHIPPING and MINIMUM ORDER POLICY:** BVI will accept orders of any size and value on standard products. Custom products may require a minimum order quantity. Shipping and handling charges will be applied where applicable.

Orders under \$2,500.00 will carry a shipping/handling charge, based on the [Shipping and handling fee schedule below](#).

- Shipping & Handling will be waived for orders greater than \$2,500 (ground shipping only).
- Customers using a 3rd Party Freight Collect Account may be charged a \$10 Handling Fee per order.
- Endo Optiks® System orders will follow pricing and freight charges according to the system quotation provided prior to order placement.

Type	Definition	Shipping Fee
Ground	3-5 days delivery by 5:00 p.m.	\$17.00
3rd Day	Rush 3 days delivery by 5:00 p.m.	\$22.00
2 nd Day	Rush 2 days delivery by 5:00 p.m.	\$30.00
Overnight	Rush 1 day by 5:00 p.m.*	\$45.00
Priority Overnight	Rush 1 day delivery by 12:00 p.m.*	\$65.00
Overnight Early AM	Rush 1 day delivery by 8:30 a.m.*	\$110.00
Saturday Delivery	Overnight Saturday delivery*	\$125.00

*If offered in the destination zip code.

If special delivery is required (i.e., next day or second day delivery), shipments are made F.O.B. shipping point; freight will be prepaid and charged at the time of invoicing. All Customer directed air shipments will be assessed the shipping and handling charges. Direct shipments, including drop shipments, will be assessed shipping and handling charges.

RUSH ORDERS: Rush orders (overnight, second day or third day) need to be placed by 4:00 p.m. (EST).

DROP SHIPMENTS: Drop shipments will be accepted in order to ensure uninterrupted customer service. However, there will be a Minimum Drop Shipment Surcharge of \$35.00. BVI will invoice distributors for all air freight or special handling requirements.

7. **CANCELLATION.** To cancel an order, contact customer service at 866-906-8080m Option 1.
Note: Orders for custom made products or orders in excess of \$1,000.00 per order may not be cancelled without written consent of BVI.
8. **RETURN OF PRODUCTS:** Any return of Products must comply with the BVI Return Policy.
9. **TAXES:** Customers shall be responsible for any and all Federal, State and Local taxes.
10. **REPORTS:** BVI requires end-user tracing information for Distributor Rebate and/or sales reporting purposes. Sales tracing report formats must be pre-approved by BVI.
11. **REPORTING OF DISCOUNTS:** The value of any rebates, discounts, incentives, or product provided at no charge to customer may constitute a “discount or other reduction in price” under Section 1128B(b)(3)(A) of the Social Security Act [42 U.S.C. Sec. 1320a-7b(b)(3)(A)]. Customer shall satisfy any and all requirements imposed on Customers relating to discounts or reductions in price, including, when required by law, to disclose all discounts or other reductions in price received from BVI and to accurately report under any state or federal health care program the net cost actually paid by customer.

- 12. CLAIMS:** Report all discrepancies (shipping, shortages, overages, missing documents, damages, pricing, billing charge etc.) within fifteen (15) calendar days of physical delivery date via phone call, email and/or debit memo notification. Failure to provide notification within fifteen (15) calendar days of the physical receipt will be grounds for denial of the claim.

When reporting claims please have available the following information:

- a. Purchase information (Purchase Order and Invoice number)
 - b. Type of discrepancy
 - c. Product Information (Material Reference Number)
 - d. Quantity of Material
 - e. Contact Information (Contact Name, Telephone and Fax Number)
- 13. EXPORT LAW COMPLIANCE:** U.S. law regulates the export, re-export or other transfer of the products that are sold by BVI and purchased under the terms set forth herein. Any required U.S. and non-U.S. government authorization must be obtained prior to shipment, and diversion contrary to U.S. and non-U.S. law is prohibited. By ordering these products from BVI, the recipient agrees to comply fully with all applicable export control laws and regulations of the United States and applicable foreign governments, and expressly assumes responsibility for determining whether a subsequent transaction requires U.S. and non-U.S. government authorization and, if so, for obtaining such authorization before shipping or otherwise transferring the products to another party. Customer shall not knowingly use, resell or distribute any BVI product directly or indirectly for the development, production or proliferation of weapons of mass destruction (nuclear, chemical, or biological) or missile delivery systems, and/or for terrorist activities.
- 14. WARRANTY AND LIMITATION OF LIABILITY:** BVI represents and warrants that the Products (excluding Endo Optiks® Ophthalmic Micro Endoscopes*) shall be free from material defects in materials and workmanship for one (1) year from the date of purchase. The foregoing warranty shall be void if the Product has been misused, neglected, improperly stored or handled, altered, abused or used for any purpose other than the one for which it was manufactured or if the Product's failure to conform to the foregoing warranty was due in whole or in part to other conditions beyond the control of BVI. BVI's liability for failure of the product to conform with the foregoing warranty shall be limited to the replacement of such Product. Customer must notify BVI of any defect promptly after the defect first comes to the customer's attention. Any replacement Products shall be at BVI's option. This warranty is not transferable and is subject to limitations herein.

* With respect to the Endo Optiks® Products, the one (1) year warranty is only applicable to Endo Optiks® systems and accessories only, and does not include the Endo Optiks® Ophthalmic Micro Endoscopes. The Endo Optiks® Ophthalmic Micro Endoscopes have a warranty against manufacturing defects, not including ordinary wear and tear, for four (4) or fewer uses. Damage or defect at any time to the Endo Optiks® Ophthalmic Micro Endoscopes, within the four uses, from wear and tear, cleaning, sterilization, misuse, improper storage or handling, negligence, accident, abuse or unsuitable or abnormal maintenance will immediately void this warranty. Any returned Products will be subject to inspection and will be determinative of usage. **All ENDO OPTIKS® Ophthalmic Micro Endoscopes must be sterilized by the user before returning to BVI.** For Endo Optiks® Endoscopy Systems, the following are not covered by this warranty: Onsite Service, Any component or part of the Endo Optiks® system which fails due to user error; and Preventative Maintenance.

THE WARRANTY SET FORTH ABOVE IS EXCLUSIVE REGARDING THE PRODUCTS AND IN LIEU OF ALL OTHER WARRANTIES EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ALL OTHER WARRANTIES WHETHER EXPRESS OR IMPLIED BY STATUTES OR OTHERWISE ARE HEREBY EXPRESSLY DISCLAIMED. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, CUSTOMER AGREES THAT BVI IS NOT RESPONSIBLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, OR BUSINESS DAMAGES), WHICH MAY BE SUFFERED AS A RESULT OF THE PURCHASE OR THE USE OF THE PRODUCTS, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, REVENUES OR USE, WHETHER ARISING IN CONTRACT (INCLUDING WITHOUT LIMITATION BREACH OF CONTRACT OR BREACH OF WARRANTY), IN TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE AND STRICT LIABILITY), OR ANY OTHER THEORY OF RELIEF, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF AS A RESULT ANY REMEDY ARISING HEREUNDER OR UNDER APPLICABLE LAW FAILS OF ITS ESSENTIAL PURPOSE.

BVI offers an extended warranty on certain Products. For information on purchasing an extended warranty, Customer should contact BVI Customer Service at 866-906-8080 or customersupport@beaver-visitec.com.

REPAIRS ON ENDO OPTIKS® ENDOSCOPY SYSTEMS/PRODUCTS. BVI will repair and/or exchange parts for the Endo Optiks® Endoscopy Systems/Products in accordance with the terms of the applicable warranty. During the applicable warranty period, such repairs and/or replacements shall be free of charge for manufacturing defects only. However, if the warranty period has expired or such repairs are not covered by the warranty, there will be a fee for the repairs, including parts and labor. A loaner unit will be provided upon request during the covered period while the warranted unit has been returned for repair. Ground shipping on warranted systems will be covered by BVI.

For information on repairs of the Endo Optiks® Endoscopy Systems/Products, contact BVI Customer Service at 866-906-8080 or claimsUS@beaver-visitec.com.

- 15. INDEMNIFICATION:** CUSTOMER shall indemnify and hold harmless BVI, its affiliates, directors, officers, employees, agents, successors and assignees from and against any suits, claims, losses, demands, liabilities, damages, costs and expenses (including costs, reasonable attorney's fees and reasonable investigative costs) in connection with any suit, demand or action by any third party to the extent such suit, demand, or action arises out of or results from its use or sale of the products purchased by CUSTOMER from BVI, except to the extent that such suit, demand or action arises out of the failure of such products to meet the warranty set forth above.

BVI shall indemnify and hold CUSTOMER, its successors, assignees, directors, officers, agents and employees harmless from and against any and all losses incurred or suffered by CUSTOMER that are caused by, arise out of, or relate to any defective product supplied by BVI; provided, however, BVI shall not have any obligation to indemnify CUSTOMER for any losses to the extent such losses are caused by, arise out of, or relate to the acts, negligence, willful misconduct or omissions of CUSTOMER.

Notwithstanding anything to the contrary contained herein, BVI shall be required to indemnify and hold harmless CUSTOMER only up to an amount not to exceed the purchase price of the product giving rise to the claim.

- 16. GOVERNING LAW AND JURISDICTION:** This agreement and all disputes arising hereunder and/or related to the BVI products purchased by Customer will be governed by and interpreted in accordance with the internal laws of the Commonwealth of Massachusetts. The parties also shall submit all such disputes to the exclusive jurisdiction of the courts of the State of Massachusetts.

- 17. MODIFICATIONS:** BVI reserves the right to modify these Terms and Conditions without prior notice.