

4D Optical LLC

MicrobeScope Terms of Sale

IF YOU DO NOT ACCEPT THESE TERMS OF SALE PLEASE DO NOT ORDER PRODUCTS ONLINE FROM 4D OPTICAL LLC.

TERMS OF SALE

Please review these Terms of Sale (“Terms”) carefully, as they govern your purchases on www.microbescope.com, including its webstore (collectively, the “Website”), and constitute a binding legal agreement between you and 4D Optical LLC (herein also referred to as “4D Optical,” “we,” “us,” or “our”). By ordering any products, including without limitation 4D Optical LLC’s MicrobeScope (a “Scope”) or any other products manufactured or supplied by 4D Optical LLC or its agents (collectively, the “Products”) through the Website, you signify your acceptance of these Terms. These Terms set out your rights and obligations with respect to your purchases, including important limitations and exclusions. All changes to these Terms are effective when posted on the Website. THESE TERMS CONTAIN LIMITATIONS ON LIABILITY; see Sections 10 - 12 for additional details.

1. Order Placement. 4D Optical accepts orders for Products through the Website. You may place your order on our Website at any time (subject to any planned or unplanned downtime). An order submitted by you constitutes a legally binding offer given by you to us to purchase Products subject to these Terms at the price and on the terms stated on the Website and in the order. Your order will not be considered accepted until we have both (a) shipped your Products to the address you specify and (b) received payment of the purchase price of your order through settlement of funds via your provided payment method. We may cancel your order at any time and for any lawful reason prior to our acceptance of your order. Your shipping address must be within the region associated with the “Buy Now” button clicked on our Website. All Products ordered from the Website will be delivered to the address you specified before you place your order. You must pay for the Products online at the time you place the order. If you entered a valid address and your order and payment are accepted by us, your order will be shipped pursuant to the terms below. 4D Optical may send an acknowledgement of our receipt of your order to the email address you provide (an “Order Acknowledgement”). 4D Optical may send proof of purchase information through the Website or to your email address after your payment for the order has been processed and accepted, so that you may print the information for your records. While we make every effort to ensure that Products appearing on the Site are available, we cannot guarantee that all items are in stock or immediately available when you submit an order. We may reject your order (without liability) if we are unable to process or fulfill it, in which case we will refund any prior payment that you have made for that item. If you have any questions regarding the ordering process, please contact 4D Optical by any means listed in the How To Contact Us section below.

2. Prices and Taxes. Product prices indicated on the Website are quoted in U.S. Dollars (the “Product Price”). Such prices do not include sales taxes where applicable. Any shipping and handling charges, sales, use, excise, value added, or similar sales taxes, customs duties and brokerage fees that may apply to your order at the time of shipping may be added to the Product Price during the checkout process (the “Total Price”). If the Total Price is incorrect, regardless of whether it is an error in a price posted on this Website or otherwise communicated to you, then we reserve the right, at our sole discretion, to cancel your order, notify you through the contact information you provided during the order process, and refund to you the amount that you paid, regardless of how the error occurred. Any customs duties, brokerage fees, or other taxes or duties that are imposed after the Product was shipped from our facility are the sole responsibility of the buyer. If the Product is returned to us by the carrier for any reason before delivery, we reserve the right to retain charges for shipping and handling. Examples of reasons for aborted delivery may include, non-payment of customs duties, incorrect address, customer relocation, and other reasons.

3. Payment Methods. 4D Optical uses a third-party payment processor (the “Payment Processor”) to bill you for your purchase of Products made on the Website. The processing of payments will be subject to the terms, conditions and privacy policies of the Payment Processor in addition to these Terms. We are not responsible for errors made by the Payment Processor. By choosing to place an order to purchase Products, you agree to pay us, through the Payment Processor, all charges at the prices then in effect for any Products you purchase in accordance with the applicable payment terms. You agree to make payment using that selected Payment Method. We reserve the right to correct any errors or mistakes that the Payment Processor makes even if it has already requested or received payment. Once your order has been placed on the Website and the amount owed is authorized by your Payment Method, the Payment Processor will send you confirmation to the email address you provided indicating that your order has been authorized.

4D Optical only accepts PayPal (subject to change without notice) with the billing address matching the shipping address. You represent and warrant that you have the right and are authorized to use the Payment Method you present to purchase Products and that the billing and related information you provide is accurate and truthful. If for any reason you have not authorized charges to be made to your Payment Method, or your Payment Method issuer does not pay 4D Optical for charges, 4D Optical reserves the right to immediately suspend or terminate the fulfillment of your order.

4. Product Descriptions; All Sales Final. We attempt to describe and display the items offered on the Website as accurately as possible; however, we do not warrant that the quotations, anticipated delivery dates, and descriptions made or referred to on the Website are accurate, complete, reliable, current or error-free. The prices, quotations and descriptions made on the Website are subject to availability and may be withdrawn or revised at any time prior to our express acceptance of your order. All Product specifications, illustrations, drawings, particulars, dimensions, performance data and other information on the Website or otherwise made available by us or any third party distributor are intended to represent no more than a general illustration of the Products and do not constitute a warranty or representation by us that the Products will conform with the same. Unless we provide you with information to the contrary, and subject to the Warranty (as described below), all Product sales are final, non-cancelable and non-refundable.

5. Payment Disputes. Subject to our Warranty (as described below), if you dispute any charge for purchases of Products made on the Website, you must notify 4D Optical in writing within sixty (60) days of any such charge. Failure to so notify 4D Optical shall result in the waiver by you of any claim relating to such disputed charge. Charges shall be calculated solely based on the purchase and payment records maintained by 4D Optical.

6. Changes. In the event 4D Optical agrees to a modification of a Product purchase transaction, 4D Optical reserves the right to revise prices, dates of delivery, and warranties with respect thereto.

7. Shipment and Delivery. You must pay for Product shipping costs to your designated location during the ordering process prior to shipment of such Products. Once we have accepted your order, the Products will be shipped to the valid physical address provided by the Payment Processor. Please note that addresses provided in languages other than English may present a problem. You must check the Delivery Address on any Order Acknowledgement provided and notify the Payment Processor of any errors or omissions as soon as possible. You acknowledge and agree that exact shipping dates are unknown at the time you place the order and may exceed 30 (thirty) days after your order is accepted, and any delivery dates indicated in the Order Acknowledgement or otherwise are estimates only. 4D Optical will notify you via e-mail if any order is estimated to take longer than 90 (ninety) days to ship from the date you place your order. In such circumstances, 4D Optical will specify your options as they relate to that order. Products may be shipped by 4D Optical or direct from one of our independent contractors. All claims of shortages or damages suffered in transit must be submitted directly to 4D Optical within the period stated below. 4D Optical reserves the right to make partial shipments; any defect in any such partial shipment shall not entitle you to repudiate your order as a whole nor to cancel any subsequent partial shipment. 4D Optical is not bound to deliver any Products for which you have not provided shipping instructions, which include a valid email where you may be reached. Products may not be returned without the prior written consent of 4D Optical

through our Return Merchandise Authorization (“RMA”) process stated below. Unless otherwise provided in these Terms, risk of loss of or damage to the Products passes to you upon our delivery of such Products to the carrier.

8. Inspection. Subject to the Warranty stated below, Products are deemed accepted by you no later than the fifteenth (15th) day following delivery of Products unless the parties otherwise agree in writing; after acceptance is deemed completed, you waive any right to reject Products for nonconformity herewith.

9. Applicability of the Privacy Policy. You agree and understand that it is necessary for 4D Optical to collect, process and use the information you submit to 4D Optical, including personally identifiable information, in order to sell Products and confirm compliance with applicable laws in respect of your transaction. By submitting your information, including personally identifiable information, to us in relation to your order, you consent to such information being processed to fulfill your order and in accordance with our Privacy Policy located at www.microbescope.com/terms.html. The Privacy Policy is hereby incorporated by reference and is made part of these Terms.

10. 30-DAY LIMITED WARRANTY (“Warranty”)

In the event that you purchase a Product, 4D Optical warrants to you that your MicrobeScope will under normal use operate substantially in accordance with the MicrobeScope documentation (www.microbescope.com/user-information) for a period of thirty (30) days from date of delivery. Your sole and exclusive remedy, and 4D Optical’s sole and exclusive responsibility under this warranty will be, at 4D Optical’s option, to replace the defective Product during the thirty (30) day limited warranty period so that it performs substantially in accordance with the MicrobeScope documentation (www.microbescope.com/user-information). Any replacement may be, at the option of 4D Optical a new or remanufactured Microbescope.

The forgoing warranty is limited to MicrobeScope and is not applicable to: (i) consumables such as pipets, cleaning supplies, diffusers or mounts; (ii) normal wear and tear; (iii) defects or damage caused by misuse, accident (including without limitation; collision, fire and immersion in liquid), neglect, abuse, alteration, unusual stress, modification, improper or unauthorized repair or improper storage (iv) used not in accordance with the MicrobeScope documentation; (v) damage caused by or to the equipment with which the MicrobeScope is used; and (vi) the effects of dust infiltration.

To obtain warranty service for any Microbescope that is subject to the foregoing warranty, all the following conditions must be met:

1. An RMA must be requested from our customer service team within thirty (30) days of your delivery date. To request an RMA, go to: www.microbescope.com/RMA
2. The serial number of your MicrobeScope must be verified by 4D Optical for date of purchase and delivery. The serial number can be found on the exterior of the MicrobeScope. If the serial number cannot be found then please contact customer support at: microbescope@4doptical.com
3. Once a MicrobeScope’s serial number has been submitted to 4D Optical for RMA request, that MicrobeScope will no longer qualify for any other warranty.
4. Returned Product must be in good physical condition (not physically broken or damaged) and in original packaging.
5. All accessories originally included with your MicrobeScope must be included with your return.
6. The MicrobeScope must be shipped with a MicrobeScope RMA Authorization Number included inside the box.
7. Only one (1) Product per RMA request. Only one (1) Product per RMA shipping package. If more than one (1) Product is included with the RMA request or shipping package then only one (1) Product will be replaced.

You shall bear the cost of shipping your MicrobeScope to 4D Optical and assume all risk of loss or damage to the MicrobeScope while in transit to 4D Optical. 4D Optical will offer you a replacement MicrobeScope upon receipt and verification of returned product. 4D Optical shall bear the cost of shipping a replacement MicrobeScope to you.

Warranty and Remedy Terms & Conditions:

If you return your MicrobeScope to 4D Optical (a) without an RMA authorization or (b) without all parts included in the original package or (c) with multiple products in one return package; 4D Optical retains the right to either refuse delivery of such return or refuse replacement.

Shipping and handling charges are not refundable unless 4D Optical determines that: (1) the charges requested are legitimate and reasonable; and (2) the MicrobeScope is inoperable and/or contains material defects in materials and workmanship under normal use and service through no fault of the original consumer purchaser or through no fault of a third person or otherwise fails to operate substantially in accordance with the MicrobeScope documentation through no fault of the original purchaser or through no fault of a third person, including the limitations and/or disqualifying actions expressed in the 4D Optical 30-Day Limited Warranty.

The limited warranty and remedy extends only to you and is not assignable or transferable to any subsequent purchaser or user.

THE LIMITED WARRANTY AND REMEDY SET FORTH ABOVE IS PROVIDED IN LIEU OF ALL OTHER WARRANTIES AND REMEDIES AND 4D OPTICAL HEREBY DISCLAIMS ALL OTHER WARRANTIES AND REMEDIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, NON-INFRINGEMENT, QUALITY AND TITLE. 4D OPTICAL DOES NOT WARRANT THAT THE PRODUCT IS ERROR FREE OR THAT IT WILL FUNCTION WITHOUT INTERRUPTION.

To the extent 4D Optical may not, as a matter of applicable law, disclaim certain implied warranties and remedies, the duration of any such implied warranty and remedy shall be limited to the shorter of the thirty (30) day limited warranty period or the minimum time period permitted under such law. Some jurisdictions do not allow limitations on the duration of implied warranties and remedies, so the above limitation may not apply to you. This limited warranty and remedy gives you specific legal rights, and you may also have other rights that vary from jurisdictions to jurisdictions.

11. Limitation of Liability. IN NO EVENT WILL 4D OPTICAL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR REVENUES, LOSS OF DATA, LOSS OF USE OF THE PRODUCT(S) OR ANY ASSOCIATED EQUIPMENT, COST OF ANY REPLACEMENT GOODS OR SUBSTITUTE EQUIPMENT, LOSS OF USE DURING THE PERIOD THAT THE PRODUCT(S) IS/ARE BEING REPAIRED, CLAIMS OF ANY THIRD PARTIES, OR ANY OTHER DAMAGES ARISING FROM 4D OPTICAL'S BREACH OF THIS AGREEMENT, INCLUDING THE LIMITED WARRANTY, OR THE USE OF THE PRODUCT, REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE THEORY, EVEN IF 4D OPTICAL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL 4D OPTICAL'S TOTAL CUMULATIVE LIABILITY EXCEED THE PRICE PAID BY THE ORIGINAL CONSUMER PURCHASER FOR THE PRODUCT(S) PURCHASED BY THAT ORIGINAL CONSUMER PURCHASER.

Some states do not allow the exclusion or limitation of incidental or consequential or other damages, so the above limitation or exclusion may not apply to you. If you have any questions concerning this statement of limited Warranty please email 4D Optical at microbescope@4doptical.com.

12. Indemnification. You agree to defend, indemnify and hold harmless 4D Optical, its members, affiliates, partners, and their officers, directors, partners, shareholders agents, licensees and employees from and against all claims, actions, liabilities, losses, expenses, damages and costs, including but not limited to attorneys' fees that may, at any time, arise from or relate to (a) any Products purchased through our Website, including, without limitation, for any causes of action arising from your misuse of the Products, or (b) the violation of Section 16 of these Terms by you.

13. Excuse of Performance. 4D Optical shall not be liable for any failure or delay in performance due in whole or in part to any cause beyond the reasonable control of 4D Optical or its contractors, agents or suppliers, including but not limited to utility or transmission failures, power failure, strikes or other labor disturbances, acts of God, acts of war or terror, floods, sabotage, fire, natural or other disasters.

14. Governing Law; Dispute Resolution. These Terms are governed by the laws of the State of Washington, United States, without giving effect to its conflict of law rules, and you agree to the exclusive jurisdiction and venue of the federal and state courts located in Snohomish County, Washington, United States, and waive any objection to such jurisdiction or venue. In the event of a dispute or controversy between 4D Optical and you arising out of or in connection with your purchase, the parties shall attempt, promptly and in good faith, to resolve any such dispute. If we are unable to resolve any such dispute within a reasonable time (not to exceed thirty (30) days), then the parties shall be free to pursue any right or remedy available to them under applicable law. The application of the United Nations Convention on Contracts for the International Sale of Goods does not apply to these Terms.

15. Export Control. You may not use or otherwise export or re-export the Products purchased via the Website except as authorized by the laws of the jurisdiction in which the Products were obtained. In particular, but without limitation, the Products may not be exported or re-exported in violation of export laws, including if applicable export or re-export into any US-embargoed countries or to anyone on the US Treasury Department's list of Specially Designated Nationals or the US Department of Commerce Denied Person's List or Entity List. By using the Website, you represent that you are not located in any country or on any list where the provision of Product to you would violate applicable law. You also agree that you will not use Products for any purposes prohibited by applicable law.

16. General Provisions. These Terms constitute the entire agreement between the parties and supersedes all other communications between the parties relating to the subject matter of the Terms. We reserve the right, in our sole discretion, to modify or replace any of these Terms, or change, suspend, or discontinue the sale of Products at any time by posting a notice on the Website. Your continued use of the Website following modification of any changes to these Terms, including without limitation any purchase of Products, constitutes acceptance of those changes. If any provision of these Terms is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that these Terms will otherwise remain in full force and effect and enforceable. Our failure to enforce any part of these Terms shall not constitute a waiver of our right to later enforce that or any other part of these Terms. Waiver of compliance in any particular instance does not mean that we will waive compliance in the future. In order for any waiver of compliance with these Terms to be binding, we must provide you with written notice of such waiver through one of our authorized representatives. These Terms are personal to you, and are not assignable, transferable or sub-licensable by you except with our prior written consent. We may assign, transfer or delegate any of our rights and obligations hereunder without consent. The rights that accrue to 4D Optical by virtue of these Terms shall inure to the benefit of 4D Optical's successors and assigns. Other terms may govern services purchased from 4D Optical. Please contact us through any means listed below or review those terms as presented on the Website or as otherwise provided to you by 4D Optical.

17. Notices. 4D Optical may give you all notices (including legal process) that 4D Optical is required to give by any lawful method, including by posting notice on the Website or by sending it to any email or mailing address that you provide to 4D Optical. You agree to check for notices posted on the Website. You agree to send 4D Optical any notice by mailing it to 4D Optical's address for legal notices which is:
4D Optical LLC, 8821 Main Street, Edmonds, WA 98026 U.S.A.
Attention: Legal

*PLEASE NOTE: All returned Products must follow the RMA return process above, and not shipped to the Notice address in this section.

18. How to Contact Us. If you have any questions about any Product or these Terms or would like to learn more about 4D Optical, please write to us at 4D Optical LLC, 8821 Main Street, Edmonds, WA 98026 U.S.A. or email us at microscope@4doptical.com.

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