

fielmann usa | befitting **svs** VISION Shopko Optical.

Vendor Partnership Manual

Vendor Partnership Manual

1. Purpose of the Vendor Partnership Manual

Fielmann USA Inc., its affiliates and subsidiaries ("Fielmann") has been a leading provider of quality eye care services to communities for over 50 years.

The purpose of the Vendor Partnership Manual is to keep you, our valued vendor partner, better informed. We recognize that by developing comprehensive terms such as this, the benefits can only be fully realized when both parties are committed to their side of the two-way street. These terms are intended to communicate Fielmann's requirements.

It is imperative that you review the manual and implement whatever changes are necessary to meet our business requirements. Failure to meet these requirements can result in delays in getting your product to our customers, data integrity issues with our on-hand inventory, or delays in issuing payment to you for your products.

2. Vendor's Acknowledgement

The Vendor Acknowledgement is a form Fielmann requires all vendors to complete, sign, and return prior to vendor set up. Please return this Vendor Acknowledgement to us at the address indicated on the form.

3. Initial Setup Form

The Vendor Setup Form must be completed for all vendors.

The vendor should provide accurate address information to ensure that purchase orders, merchandise returns, correspondence and checks are sent to the correct address.

Vendor Setup Form Instructions:

- This form must be filled out electronically.
- All areas of this form must be completed for a new vendor and submitted to merchandising@shopko.com
- If additional vendor addresses are needed, use a second form.

Any changes to these forms must be submitted in writing to merchandising@shopko.com

- A vendor number will be assigned to each vendor to identify them within the system.
- The vendor number appears on all checks and should be referred to when corresponding with Accounts Payable
- Verify the Pay-To Information on vendor terms set up form is correct; this is where checks will be sent.
- Submit W9 with forms

4. Certificate of Insurance

A Certificate of Insurance is required and must be submitted with the Vendor Setup form.

*** Please note: General Liability Occurrence Limits must be at least \$2,000,000 and Fielmann USA, Inc., and its affiliates must be named as an additional insured.**

Upon expiration of your existing insurance, a new form is required.

This form should be mailed to the following address:

Fielmann USA, Inc.
700 Pilgrim Way
Green Bay WI 54304
Attn: Treasury Services

5. Terms and Conditions of Purchase Order

The following Terms and Conditions will govern all transactions with Fielmann USA, Inc., its affiliates and subsidiaries ("Fielmann") unless expressly agreed by the parties to the contrary. These Terms and Conditions are incorporated by reference into all written Fielmann Purchase Orders and electronic orders as if expressly set forth therein.

- 1. Purchase Order Authority.** Fielmann purchases goods through the medium of written purchase orders and electronic orders. These orders are not valid unless signed by at least one person authorized by Fielmann (hard copy) (written purchase orders and valid electronic orders are sometimes collectively referred to in these Terms and Conditions as "Purchase Order(s)"). Verbal orders will not be valid unless confirmed by our Purchase Order. Vendor acknowledges receipt and approval of Fielmann's Vendor Partnership Terms ("Vendor Terms"), the terms and conditions of which are incorporated herein by this reference.
- 2. Notification of Non-Acceptance of Order.** If the Vendor finds it impossible to fulfill all of the terms and conditions of a Purchase Order, Vendor must notify Merchandising@shopko.com in writing within five (5) days of receipt of the Purchase Order. Failure to so object shall constitute Vendor's acceptance of the Purchase Order in its entirety. Any acceptance of the Purchase Order is limited to acceptance of the express terms contained thereon and in these Terms and Conditions. Absent a specific written agreement between Vendor and Fielmann, additional terms on Vendor's acceptance forms are objected to and rejected, but such proposals shall not operate as a rejection of this offer unless such variances are in the terms of the description, quantity, price or delivery schedule of the goods, but shall be deemed a material alteration hereof, and this offer shall be deemed accepted by Vendor without such additional or different terms. If the Purchase Order is an acceptance of a prior offer by Vendor, this acceptance is limited to the express terms contained thereon and in these Terms and Conditions. Additional or different terms or any attempt by Vendor to vary in any degree any of the terms of the Purchase Order shall be deemed material and are objected to and rejected but the Purchase Order shall not operate as a rejection of Vendor's offer unless it contains variances in the terms of the description, quantity, price or delivery schedule of the goods.
- 3. Unauthorized Early or Late Shipments.** Unless expressly approved in writing by Fielmann's Replenishment Department, for orders where a "Ship Window" or "Ship Date" is supplied all orders must be shipped within the "Ship Window Dates" or on the "Ship Date" on the face of the Purchase Order. For orders where an "Arrival Window" or "Arrival Date" is supplied, all orders must arrive within the "Arrival Window Dates" or on the "Arrival Date" on the face of the Purchase Order. On all orders which are not shipped within such ship window/date or do not arrive within such arrival window/date, Fielmann reserves the right (without authorization from Vendor, and without limiting its rights to seek further

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recourse) to return the shipment at Vendor's expense, including incoming and outgoing freight and handling charges where applicable.

4. **Partial Shipments, Backorders, Overshipments.** Partial shipments, backorders and over shipments will not be accepted without Fielmann's written authorization, unless specifically authorized on the face of the Purchase Order. All authorized backorders, partials and over shipments will arrive on a prepaid basis, FOB Fielmann's dock. Partial shipments and over shipments when accepted must be shipped within indicated Ship Window dates or on the Ship date when supplied, or the order must arrive within the Arrival Window dates or on the Arrival date when supplied, unless otherwise approved in writing by Fielmann. Vendor shall be responsible for all transportation charges resulting from goods being forwarded in more than one shipment. Fielmann reserves the right (without authorization from Vendor, and without limiting its rights to seek further recourse) to return any or all over shipments at Vendor's expense, including incoming and outgoing freight and handling charges where applicable.
5. **Warranty, Indemnification and Insurance Provisions.** Vendor warrants that the goods and services covered under a Purchase Order will conform to applicable specifications, instructions, drawings, data and samples and will be merchantable, of good quality and workmanship, free from defects and fit and sufficient for purposes intended, as determined by Fielmann. All goods and services shall meet all federal, state, county and local laws regulating such goods or services, including without limitation all applicable testing, labeling and packaging requirements and requirements of the Fair Labor Standards Act and Consumer Product Safety Improvement Act of 2008. All goods and services will be provided in strict accordance with the terms and conditions of these Vendor Terms. These warranties shall be in addition to all other warranties, expressed, implied or statutory. Payment for, inspection of, or receipt of goods or services shall not constitute a waiver of any breach of warranty.

Vendor agrees to defend, indemnify and hold Fielmann harmless from and against all suits, losses, claims, causes of action, judgments, damages, penalties, costs, disbursements, expenses, and attorney's fees which may be asserted, alleged, demanded, claimed, recovered, or otherwise incurred or sustained by Fielmann as a result of Fielmann's use, purchase or sale of any of the Items, including without limitation, suits, losses, claims, causes of action, judgments, damages, penalties, costs, disbursements, expenses and attorney's fees related to or alleging: personal injury; property damage; infringement of any third party's United States patent, copyright, trade secrets, trademark or other intellectual property right; or violations of any federal, state or local laws, rules, ordinances, or regulations including those with respect to product safety, labeling, packaging, weight, quality and consumer protection.

If, for any reason whatsoever, a court of competent jurisdiction or governmental agency issues an order or injunction, whether final, preliminary or temporary, that prevents Fielmann from using, purchasing or selling all or part of any of the Items, Vendor, at its expense, shall at least take one of the following actions within thirty (30) days after issuance of such an order: (a) procure for Fielmann the right to continue using, purchasing or selling the Item (b) replace or modify the Items so that they can again be used, purchased or sold by Fielmann, provided that such modification or replacement does not materially degrade the quality of the Items, (c) after reasonable attempts have been made with respect to the foregoing alternatives, refund the purchase price paid to Vendor by Fielmann for remaining Items, less a reasonable allowance for use, if appropriate.

Vendor shall carry product liability insurance covering injury or damages to person(s), or property caused by or resulting from use of the Items with liability limits of not less than Two Million Dollars (\$2,000,000) per person, per occurrence, and Five Hundred Thousand (\$500,000) for property damage. Prior to delivery of any Item to Fielmann, Vendor shall deliver to Fielmann a Certificate of Insurance evidencing that the foregoing insurance is in full force and effect; that "Fielmann, LLC and its affiliates" are named upon the insurance policy as an additional insured; that the coverage under said policy and the proceeds thereof shall be effective, in the event of any claim, as of the date of sale of any Item(s) causing injury or damages notwithstanding that as of the date of injury or damage said policy may have been canceled or coverage reduced. Should any of the above-described policies be cancelled before the expiration date thereof, notice will be delivered to Fielmann in accordance with the policy provisions. Upon receipt of any such notice, Fielmann, at its option, may cancel any purchase order.

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placed with Vendor for which delivery has not been made.

6. **Prices.** The prices appearing on the face of a Purchase Order hereof (hard copy order), shall be binding on Vendor in the event Vendor accepts the Purchase Order and ships the goods, notwithstanding that the goods shipped is received and accepted at the destination with accompanying documents indicating prices in excess of the prices herein stated, unless prior to such shipment Fielmann has been advised of any such price increase(s) and has consented thereto in writing. Fielmann's acceptance of the goods shipped at prices in excess of the prices herein stated shall not be construed to be an acceptance of a counteroffer. Vendor warrants the prices at which it has agreed to sell product or services to Fielmann shall not reflect any purchaser directed cost increases, also known as "external loading" or "overbilling." In no event will the Vendor increase prices at the request of the purchaser in order to provide funding for other programs offered to Fielmann. Fielmann shall be given adequate advance notice of Vendor price changes in order to effectively manage order levels prior to a price change. Fielmann reserves the right to collect price protection for goods on hand or in transit at the time of a price decrease. In the event of a price increase, Fielmann shall be given a minimum of 60 days' advance notice in writing. If this written notice is not given, Fielmann reserves the right to purchase at the previous lower price for 60 days after the price increases.
7. **Packing and Marking Instructions/Case pack Variance.** Vendor shall mark all cartons with the Vendor's name and goods return address, Fielmann's store number and location (if applicable), and the Purchase Order number. The number of cartons in each shipment must be shown on the packing slip included with each shipment. The packing slip must be securely fastened to the outside of the cartons and clearly identified by the notation "Packing Slip/List". The packing slip is to be completed at the same level of detail as the Purchase Order. Carton marking, packing list detail and/or packing list instructions not followed may result in delays in payments.
8. **Invoicing Instructions.** A separate invoice is required for each shipment. Each invoice must show the Vendor number, the Purchase Order number and the number of cartons shipped under each invoice. The invoice is to be completed at the same level of detail and same sku sequence as the Purchase Order. Hard copies of invoices are to be sent to the ship-to address as shown on the Purchase Order. (NOTE: At this time, unless otherwise noted, Fielmann does not accept electronically transmitted invoices.) Failure to follow these instructions may result in non-payment of invoices.

In addition, Fielmann reserves its right to deduct amounts from any invoice related to non- performance as appropriate.

Upon completion of the set-up process Vendor can select your preferred payment method from our payment partner CorPay (NvoicePay). Vendor will need the Fielmann assigned vendor number prior to visiting <https://vendors.nvoicepay.com/enroll/Fielmann>. Vendor will then be able to select from one of the following payment methods; check, ACH or credit card.

If Vendor has questions about the enrollment process or subsequent payments, please reach out to NvoicePay's support vendorsupport@nvoicepay.com or 866-626-6332.

9. Steps to Ensure Timely Payment.

- Enroll on NvoicePay.com as set forth in Section 8, above.
- Be sure all the information listed in the previous Invoicing Instructions appears on the Invoice.
- Only one Purchase Order per invoice is acceptable.
- Only one location (final "ship to" location) per invoice is acceptable.
- Non-PO invoices or invoices from In-store vendors should be left at the respective store at the time of delivery.
- Do not send duplicate invoices.

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- Do not reuse invoice numbers.
 - Make certain prices are the same as on the Purchase Order, the quantity shipped matches the invoice quantity, and the line order of items on the invoice is the same as the PO. Communicate all **cost** and **case pack** differences to your respective Fielmann buyer/replenishment specialist prior to shipment.
 - Make certain the correct Purchase Order Number is clearly indicated on each shipment.
 - Include a Packing Slip with UPC/SKU number, quantity, description, number of cartons, and shipment type (DC or Direct to Store).
 - Do not substitute items without advanced buyer/replenishment specialist approval.
 - Ship complete on each PO.
- 10. Termination.** Fielmann reserves the right to refuse shipment, terminate the Purchase Order or delay delivery or acceptance of any of the goods ordered for its convenience. In such event, Vendor shall immediately stop all work and observe any instruction from Fielmann as to work in progress.
- 11. Product Regulatory & Quality.** Each item purchased by Fielmann must meet all governmental regulations, industry standards and the standards set forth in these Vendor Terms. If the goods delivered do not meet the specifications or otherwise do not conform to the requirements of the Purchase Order, Fielmann shall have the right to reject or return such goods for full credit. Nothing contained in the Purchase Order shall relieve in any way the Vendor from the obligation of independent testing, inspection and quality control. It is understood that Fielmann's right to return goods shall apply to all goods prior to resale or after resale. Upon the return of the goods, Fielmann shall have the right to charge back to Vendor the cost of such goods, a 10% consolidation fee plus any in or outbound freight charges.
- 12. Confidentiality.**
- In the course of business dealings with Fielmann, Vendor may obtain information or data with respect to Fielmann's business operations, which may include, without limitation, information about Fielmann's business, customers, sales and other financial performance, financial projections, descriptions of Fielmann's strategic plans, the identity of one or more other parties with whom Fielmann does business, descriptions of non-public transaction structure proposals, description of Fielmann's and other entities' business operations, financial performance figures, financial projections, business, customers computer systems, inventory systems, distribution networks, strategies, store operations, billing and receivable operations, systems development, healthcare information including claims, strategies, systems development, and software, technical systems and product development methodologies and strategies, marketing and operational procedures and strategies, financial information and projections, business plans, client lists and other similar information. Any such information, whether provided before or after the date of Vendor's acknowledgment, will hereinafter be referred to as the "Confidential Information." Confidential Information is proprietary to Fielmann. Any disclosure or unauthorized use thereof may cause irreparable harm and loss to Fielmann.
- a. Vendor shall hold all of the Confidential Information in strict confidence, and, except as expressly set forth herein, will not disclose such Confidential Information to any third person(s) (which term as used in this Agreement will be broadly interpreted to include without limitation any corporation, vendor, group, partnership, agency, or individual).
- b. Vendor shall: (i) use the Confidential Information only in connection with goods and services provided to Fielmann; (ii) disclose the Confidential Information only to its officers, directors, and/or employees who need to know the Confidential Information to accomplish the Permitted use; and (iii) safeguard the Confidential Information with the same degree of care to avoid unauthorized disclosure as Vendor uses to protect its own Confidential Information of a similar nature; but in no case less than reasonable care. It is Vendor's responsibility to ensure that any officers, directors, or employees who have access to the Confidential Information will, prior to being provided with any or all of the Confidential Information, agree to be bound by the terms of this Agreement. Vendor shall not use the Confidential

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Information in any respect to compete with Fielmann at any time or provide to a third party to compete with Fielmann.

c. Immediately after Vendor's use of the Confidential Information, or earlier upon written request by Fielmann, Vendor will return to Fielmann all of the Confidential Information, together with all copies, computer disks and/or summaries of the Confidential Information, without retaining any copy thereof.

d. Fielmann will use its best efforts to ensure the accuracy and completeness of the Confidential Information, but Fielmann does not make and will not be deemed to have made any warranty as to the accuracy or completeness of any of the Confidential Information. Fielmann will not be liable for any damages arising out of the use of the Confidential Information disclosed hereunder.

e. Vendor will assume the liability for all damages, losses, costs, or expenses which result from: (i) the use of the Confidential Information by Vendor for any purpose other than the Permitted Use; (ii) disclosure of the Confidential Information by Vendor to third parties or entities, or (iii) the use of the Confidential Information by any person or entity other than Vendor, caused by the unauthorized disclosure or dissemination of same by any employees, agents, or contractors of Vendor.

f. The foregoing obligations of Vendor will not apply to the extent that the Confidential Information: (i) at the time of its disclosure by Fielmann to Vendor, is part of the public domain or, after disclosure by Fielmann to Vendor, becomes part of the public domain by publication or otherwise through no action or fault of Vendor; (ii) Vendor can show was in its possession at the time of disclosure and was not acquired, directly or indirectly, from Fielmann; or (iii) was received by Vendor from a third party having a legal right to transmit the information (Vendor must show that such Confidential Information was rightfully in its possession at the time of execution of this Confidentiality Agreement and was not subject to a non-disclosure obligation to Fielmann).

g. In the event that Vendor or anyone to whom it transmits any Confidential Information becomes legally compelled to disclose any of the Confidential Information, Vendor will provide Fielmann with prompt written notice before such Confidential Information is disclosed so that Fielmann can seek a protective order or other appropriate remedy. In the absence of a protective order obtained by Fielmann or Fielmann's failure to quash the legal process requiring disclosure or other measures effectively removing the legal compulsion, Vendor shall have no duty to resist the production of Confidential Information, and the production thereof shall not constitute a breach of this Agreement.

Vendor acknowledges that these covenants are reasonable and necessary for the protection of the proprietary interests of Fielmann and that irreparable injury will result to Fielmann and its business if any provision of this Agreement is breached and agrees that if there should be any breach or threatened breach, Fielmann shall be entitled to an expert injunction prohibiting such conduct, in addition to any other remedies or damages available to it, and VENDOR will reimburse Fielmann for all court costs and legal fees, including reasonable attorney's fees, incurred in enforcing this Agreement or obtaining relief hereunder. Further, upon VENDOR'S breach of this Agreement, Fielmann shall be entitled to reasonable liquidated damages equal to an amount which is the greater of: (a) the amount of loss to Fielmann from the misappropriation of the Confidential Information, (b) the amount of gain by VENDOR or any third person(s) from the misappropriation of the Confidential Information, or (c) Fifty Thousand dollars (\$50,000.00).

All obligations undertaken respecting Confidential Information and other obligations of VENDOR hereunder prior to the date of such termination shall survive any termination of this Agreement and remain in effect for a period of five (5) years after disclosure of the Confidential Information.

- 13. Default.** If Vendor fails to perform as specified herein, Fielmann may, without limitation, and in addition to other remedies set forth herein or provided at law or in equity, (a) cancel a Purchase Order in whole or in part by written notice to Vendor and Vendor shall be liable to Fielmann for all damages, losses and liability incurred by Fielmann directly or indirectly resulting from Vendor's breach, or (b) obtain the goods ordered herein from another source with any excess costs resulting therefrom chargeable

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to Vendor. Any sums payable to Vendor shall be subject to all claims and defenses of Fielmann USA, Inc., whether arising from this or any other transaction and Fielmann may off set and deduct any such sums against any present or future invoices or amounts owed to Vendor by Fielmann. If the amount owing to the Vendor is insufficient, the Vendor is to remit any such sums within 30 days to lockbox:

Fielmann USA, Inc.
700 Pilgrim Way
Green Bay, WI 54304

- 14. Records/Right to Audit.** Vendor shall maintain accurate and complete records reflecting Vendor's compliance with Fielmann's Terms and Conditions. Such records shall be made available to Fielmann for a period of four (4) years after Vendor's performance under this Purchase Order. Vendor agrees to include similar requirements in any subcontract Vendor enters into in furtherance of its performance hereunder.
- 15. Miscellaneous.** The Purchase Order and all terms and agreements set forth in these terms constitute the entire agreement between the parties and can only be modified by a writing signed by both parties. No part of the Purchase Order may be assigned or subcontracted without the prior written approval of Fielmann. Fielmann's failure or delay in insisting on any right shall not operate as a waiver of such right or any other right. Time is of the essence of a Purchase Order. The Purchase Order shall be governed by and construed in accordance with the laws of the State of Wisconsin. Vendor hereby agrees that any and all disputes arising under the Purchase Order shall be subject to adjudication only in the state courts of Brown County, Wisconsin or the United States District Court in Milwaukee, Wisconsin, and Vendor hereby consents to the exclusive jurisdiction of those courts.

6. Code of Conduct

See supplier Code of Conduct attached as Exhibit 1

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Vendor's Acknowledgement

As a duly authorized representative of [] ("Vendor"), a vendor of Fielmann USA, Inc., its affiliates and subsidiaries ("Fielmann") herein referred to as Fielmann), I hereby acknowledge receipt and approval of Fielmann's Vendor Partnership Terms (the "Terms") and certify that Vendor is and will remain in compliance with the standards and principles outlined therein.

Vendor acknowledges that these Terms contain important agreements regarding numerous aspects of Vendor's business relationship with Fielmann, including (without limitation) purchase order terms, indemnification, business ethics, and billing. Vendor's signature below shall constitute Vendor's agreement to comply with and be bound by all of the agreements, terms and conditions set forth herein. Vendor agrees that failure to comply with any provision contained in these Terms may result in, without limitation, Fielmann's termination or suspension of the business relationship between Fielmann and Vendor, termination of current production of Fielmann merchandise, cancellation by Fielmann of all outstanding orders with Vendor, refusal and return of any shipment of goods from Vendor and/or implementation of, or demands for, immediate corrective action.

Vendor acknowledges and agrees that Fielmann may amend, modify or otherwise revise these Terms from time to time and any amendments, modifications and revisions to these Terms as set forth on Fielmann's web site (www.Fielmann.com) shall be incorporated into and become a part of these Terms without further action by Vendor or Fielmann. Vendor further acknowledges and agrees that adherence to such amendments, modifications and revisions shall be the Vendor's responsibility.

Signed on this _____ day of _____, _____

Authorized Signature

Vendor Name: _____

Address: _____

Name Printed

Contact Name: _____

Address: _____

Title: _____

Telephone Number: () _____

Facsimile Number: () _____

After signing and completing this Vendor's Acknowledgement form, please return to:

Fielmann USA Inc.
700 Pilgrim Way
Green Bay, WI 54304
Attn: Merchandising

Or email to: merchandising@shopko.com

If you have any questions, call Buyers Assistant (920) 429-7810. Fielmann must have on file your Vendor's Acknowledgement, Vendor Setup form and Certificate of Insurance. The original copies (with ballpoint signature) of the Acknowledgement Agreement must be sent to Merchandising.

Notice: Any changes, revisions, modification and/or alterations to the Vendor Terms or this Acknowledgement made by the Vendor will not be accepted and will be returned to the Vendor.

Fielmann Use Only: Vendor Number _____