
OPTIVIEW, INC.
TERMS OF SALE

THESE OPTIVIEW, INC. TERMS OF SALE (collectively, these "Terms") ARE LEGALLY BINDING ON CUSTOMER AND OPTIVIEW, INC. ("Optiview") AND ARE INCORPORATED BY REFERENCE INTO AND ARE A PART OF THE INVOICE FOR CERTAIN PRODUCTS IN WHICH THEY ARE REFERENCED (ALL SUCH PRODUCTS AND MATERIALS ARE REFERRED TO HEREIN AS THE "PRODUCTS"). THESE TERMS, TOGETHER WITH THE INVOICE, SHALL CONSTITUTE A VALID AND BINDING CONTRACT MADE AND ENTERED INTO BY CUSTOMER AND OPTIVIEW IN JACKSONVILLE, FLORIDA.

1. **OFFER AND ACCEPTANCE.** All proposals, sales and purchases of Products between the parties shall be governed exclusively by these Terms. Any additional or differing terms or conditions contained on or in Customer's proposal or acceptance of any proposal shall be automatically rejected and shall not become a part of the agreement for the purchase and sale of Products.

2. **TAXES AND SHIPPING.**

2.1 Taxes. Any and all taxes levied by any governmental authority in connection with the sale of the Products shall be promptly paid by Customer. Customer will reimburse Optiview for any taxes paid by Optiview on behalf of Customer.

2.2 Delivery of Products. All stated delivery dates are approximate and are based upon prompt receipt by Optiview of all necessary shipping information from Customer. Customer shall bear the risk of loss of the Products during all shipments and shall be responsible for all shipping and transportation costs and insurance related thereto.

3. **PAYMENT.**

3.1 Terms. Payment in full is due in immediately effective funds prior to shipment by Optiview. If Optiview extends terms to Customer, payment shall be due on the 30th day from the date of the invoice. All invoiced amounts invoiced shall be deemed correct and accepted by Customer unless properly contested by Customer in writing within ten (10) days from the date of invoice. In the event credit is granted by Optiview to Customer, past due amounts will bear interest from the due date at the lesser of one and one-half percent (1.5%) per month and the highest rate permitted by law. Credit, even if granted by Optiview, shall not apply to "Special Items" that include custom fabricated solutions (such as, by way of example and not limitation, surveillance trailers, solar solutions, customized enclosure and contained solutions, special orders, human temperature solutions, any item not carried in the ordinary course by Optiview and special ordered for the Customer, any item that is altered from its normal condition to meet Customer's requirement).

3.2 Title. Title to the Products shall remain with Optiview until Customer has paid in full all sums due and owing to Optiview. Optiview may declare immediately due and payable the entire balance of Customer's purchase upon (i) Customer's refusal to accept the Products when tendered for delivery by Optiview or (ii) default in payment when due as provided in Subsection 3.1 herein. Customer hereby grants Optiview a security interest in all Products until they are fully paid and shall execute any documents to implement the same.

4. **ACCEPTANCE OF PRODUCTS.** Customer shall inspect all Products while transporter is still present and prior to accepting delivery. Any damage in transport is the sole responsibility of the transporter and Customer shall file a claim against transporter and Optiview shall reasonably cooperate with

Customer in its claim against transporter. Customer must thoroughly inspect and note any visible damage to transporter prior to accepting delivery. Within 24 hours of delivery ("Inspection Period"), Customer must open and inspect all Product and report any claims to Optiview and Customer's failure to so inspect and provide a written claim within the Inspection Period alleging the Products do not conform to the description of the Products has occurred, then Customer will be deemed to have accepted the Products. By such acceptance, Customer will be deemed to have acknowledged Optiview's performance has fully satisfied all terms and conditions of these terms including, without limitation, the manufacture, assembly and sale of the Products in accordance with the Product description and waived any claims.

5. **LIMITED WARRANTY.**

5.1 Limited Warranty. Optiview warrants solely to Customer for a period of two (2) years (one (1) year for Special Items) from the date of sale of the Products against failure of the Product to meet written specifications (the "Limited Warranty"). Out of warranty repairs are guaranteed for 30 days. The Limited Warranty provided in this subsection 5.1 is expressly conditioned and contingent upon Customer's strict compliance with each of the following:

- (a) Correct installation of the Products; and
- (b) The Products have not been abused, misused or modified and were maintained in accordance with the manufacturer's instructions and operation/maintenance manuals.

To the fullest extent permitted by law, the Limited Warranty will be void and of no force or effect and Optiview will have no liability, responsibilities or obligations to Customer with respect to the Products if Customer fails to comply with the contingencies set forth in this Subsection 5.1. The Customer is responsible for the shipping cost to send the Product to Optiview. Optiview will pay for the shipping to return the Product back to the Customer if covered by the Limited Warranty.

5.2 The Limited Warranty provided herein shall also be voided by any of the following:

- (a) Removing the software licensing, origin or authenticity tags.
- (b) Removing serial numbers.
- (c) Opening the housing of any camera with a fixed lens.
- (d) Cutting the connectors off.
- (e) Adding third party software without prior approval in writing from the Optiview technical support department.
- (f) Damage caused by *force majeure* events such as floods, wind, lightning and other similar events.
- (g) Damage caused by installer or Customer mistakes or negligence (for example dropping or breaking the Product, improper voltage, or improper installation, including, for example, overheating due to lack of ventilation).

5.3 Obligations Under Limited Warranty. All

claims for non-conforming Products or a breach of the Limited Warranty shall set forth with particularity the nature of such breach and identify those Products affected thereby. Upon receipt of a valid claim as set forth in the preceding sentence, Optiview shall, at its sole option and expense, either: (1) during the first twelve months of the Limited Warranty period, repair or replace (with same or equivalent Product), in Optiview's sole discretion, any such defective Products; or (2) during months thirteen through twenty-four of the Limited Warranty period, Optiview will provide an account credit pro-rata for the remaining life left on the Limited Warranty on a covered claim. By way of example, only, an accepted Limited Warranty claim in month twenty would result in 16.67% of the paid purchase price being credited to Customer's account.

THE REMEDY AND PROCEDURES SET FORTH IN SUBSECTION 5.3 SHALL CONSTITUTE OPTIVIEW'S SOLE AND EXCLUSIVE OBLIGATIONS AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF THE LIMITED WARRANTY OR SALE AND DELIVERY OF NON-CONFORMING PRODUCTS. NOTWITHSTANDING ANY PROVISION OF THESE TERMS TO THE CONTRARY, EXCEPT FOR THE LIMITED WARRANTY EXPRESSLY SET FORTH IN THIS SECTION 5, OPTIVIEW DOES NOT MAKE ANY EXPRESS OR IMPLIED WARRANTIES, CONDITIONS, OR REPRESENTATIONS TO CUSTOMER OR ANY OTHER PARTY WITH RESPECT TO THE PRODUCTS PROVIDED HEREUNDER OR OTHERWISE, WHETHER ORAL OR WRITTEN, EXPRESS, IMPLIED OR STATUTORY. WITHOUT LIMITING THE FOREGOING, ANY IMPLIED WARRANTY OF MERCHANTABILITY, THE IMPLIED WARRANTY AGAINST INFRINGEMENT, AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED AND DISCLAIMED.

6. DELIVERY SCHEDULE AND EXCUSABLE DELAY.

6.1 Delivery Schedule. Optiview will establish a delivery schedule ("Delivery Schedule") for delivery of each order for Products and will use commercially reasonable efforts to abide by such Delivery Schedule.

6.2 Excusable Delay. Optiview will not be responsible for delays due to a state of war, riot, civil unrest, fire, strike, actions of governmental authorities, disease, Acts of God, or any other circumstances or conditions beyond the reasonable control of Optiview. In addition, Optiview shall not be responsible for delays caused by manufacturers, other outside suppliers, shortages of supplies and/or materials, or labor disputes. All such delays shall be deemed excusable delays, and the Delivery Schedule shall be extended by an amount of days equal to any such excusable delay.

7. RETURNS.

7.1 Return Policy. Products may be returned for a refund or exchange for 15 days from day of receipt as long as the Product is still in "as new" condition. There is no return on discounted items. A 15% restocking fee may apply. Shipping costs are not refundable.

"As New" means that all items must be undamaged and in their

original cartons and packaging along with all accessories, documentation, and parts. No wires or pigtailed can be cut. The Product exterior must be intact and unmarked. The original carton must be in another "shipping" box. No postmarks or labels shall be on the original box. Cable must be unopened (or still on reel).

A RETURN MERCHANDISE AUTHORIZATION (RMA) NUMBER MUST BE OBTAINED FROM OPTIVIEW PRIOR TO THE RETURN OF ANY PRODUCT. AN RMA NUMBER IS ONLY VALID FOR 14 DAYS.

To request an RMA number, go to the link on Optiview's website.

No returns are allowed for sale items or Special Items.

7.2 Free and Discounted Product Offers. From time to time, Optiview will offer a free or discounted Product as a special offer along with another Product. For example, Optiview might offer a free monitor with a DVR system. In a case like this, if the Product is returned (e.g., the DVR system) then the free or discounted Product must also be returned (e.g., the monitor) in order to receive the full refund for the order. The free or discounted Product must also be in "As New" condition as described above. If the free or discounted Product(s) is not returned with the rest of the order then Optiview will charge the Customer for the retail price of the free Product (or the difference between the discounted price vs. the retail price of the discounted Product) thereby reducing the amount that the Customer would receive in the refund. For example, if a free monitor was not returned and the retail price of the monitor is \$129 then the refund to the Customer would be reduced by \$129. Similarly, if a discounted monitor was not returned which was sold at \$59 that was normally \$159, then the refund to the Customer would be reduced by \$100.

7.3 Package Offers. If Customer returns an item that was purchased as part of a package (and so paid a reduced package price) or using an order discount or coupon, Optiview will calculate the correct amount to be refunded as follows:

The total cost of the Products will be added up according to the price if each Product was purchased separately. Then the percentage of discount will be calculated based on the price paid for the package of Products.

For example, if the Products in the package purchased separately is \$750 and the package price paid was \$699 then the percentage of discount was 1 - (699/750) * 100 = 6.8%.

In this example if an item is returned, the amount credited would be the individual retail price - 6.8%. For example, if one camera was returned which costs \$79 individually, the refunded amount would be:

\$79 - 6.8% or

\$79 - (\$79 * .068) =

\$79 - \$5.37 = \$73.63

In this case, \$73.63 was the actual amount paid for the camera given the package or coupon price. If a restocking fee is charged it will be based on this actual amount paid (\$73.63 in

this example). If you have any questions about this policy please feel free to call us.

8 **INDEMNITY.** Customer shall defend, hold harmless, indemnify and fully release Optiview, its affiliates, and its and their employees, officers, directors, shareholders, agents, representatives and contractors (collectively, Optiview's Indemnified Persons) from any and all damages, loss, claim, expense, demand or cause of action of any kind or character, whether in contribution, indemnity, subrogation or any other theory, by reason of assertion of any actual or alleged claim or claims against Optiview's Indemnified Persons arising out of the sale of any Products or in connection with these terms. Customer shall reimburse Optiview (or defend Optiview in Optiview's discretion) for any loss, liability, claim, damage, expense (including costs of investigation and defense and reasonable attorney's fees and expenses) or diminution in value arising from or in connection with the sale of any Products or in connection with these terms.

9 **LIMITATION OF LIABILITY AND DAMAGES.**

CUSTOMER ACKNOWLEDGES AND AGREES THAT IN NO EVENT SHALL OPTIVIEW OR OPTIVIEW'S OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS, OR REPRESENTATIVES BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY DAMAGES, INCLUDING SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OR LOSS OF TIME, MONEY, GOODWILL OR LOST PROFITS IN ANY WAY RELATING TO THESE TERMS OR RESULTING FROM THE USE OF OR INABILITY TO USE THE PRODUCTS OR THE PERFORMANCE OR NON-PERFORMANCE OF ANY OBLIGATION UNDER THESE TERMS, EVEN IF OPTIVIEW HAS BEEN NOTIFIED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OCCURRING, AND WHETHER SUCH LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE. IN NO EVENT SHALL OPTIVIEW BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR A MONETARY AMOUNT GREATER THAN THE TOTAL AMOUNTS PAID OR DUE PURSUANT TO THESE TERMS FOR THE ORDER GIVING RISE TO SUCH LIABILITY. EACH OF THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

10 **ATTORNEY'S FEES.** In the event of any legal proceeding, arbitration, and/or other proceedings arising out of or relating to Customer's breach of these terms or the purchase and sale of Products from Optiview, Optiview shall be entitled to recover its reasonable attorney's fees, costs, and expenses from Customer.

11 **CHOICE OF LAW AND VENUE.** These terms and all purchases and sales of Products hereunder shall be governed by the laws of the State of Florida, without regard to its conflict of laws provisions, and any action arising out of, or brought in connection with this contract, shall be instituted exclusively in a court of appropriate and competent jurisdiction located within Jacksonville, Duval County, Florida to the exclusion of any other court in any other jurisdiction, which court is stipulated hereby to

be the proper venue and each party consents to the personal jurisdiction of such courts. Each party hereby WAIVES ITS RIGHT TO A JURY TRIAL.

12 **BINDING EFFECT AND WAIVER.** These terms shall be binding upon the parties hereto and their affiliates, successors and assigns. The waiver of any breach of these terms or the failure of a party to exercise any right under these terms shall in no event constitute a waiver as to any other breach, whether similar or dissimilar in nature, or prevent the exercise of any right under these terms.