

# Electronics Purchase Agreement Standard Terms & Conditions

<http://www.prismview.com/terms.pdf>

The following Electronics Purchase Agreement Standard Terms & Conditions apply to the Electronics Purchase Agreement between Customer and Prismview, LLC ("Prismview") as referenced therein. The display(s), product(s), equipment, hardware, software, services and the like, as described in the Electronics Purchase Agreement, are collectively referred to in this document as the "Sign(s)." This Electronics Purchase Agreement Standard Terms & Conditions and the Electronics Purchase Agreement (including any documents referenced therein) are collectively referred to as the "Agreement." Capitalized terms not defined in this document shall have their meaning as set forth in the Electronics Purchase Agreement.

1. **LIMITED WARRANTY PARTS and LABOR:** Prismview warrants that the solid-state components ("Components") of the Sign(s) manufactured by Prismview shall be free from material defects in materials and workmanship for the period stated in the quote/invoice. If the terms are not stated on the quote/invoice, the term shall be for 60 months. Component failures during the warranty period will be repaired or replaced at Prismview's discretion. Warranty includes factory labor and field labor as well as freight to return parts to customer.

The above warranty becomes effective and commences on the date the Sign(s) are shipped from Prismview's Logan, Utah facility. Host computers, if provided by Prismview, will be covered only by the manufacturer's separate warranty, if any, in accordance with the terms of such warranty.

The above warranties are voided in the event the Sign(s) are damaged or destroyed by improper handling or installation (for example, damage from welding slag or metal filings), misapplication of power, accident, misuse, water damage, casualty, or acts of Nature.

As a condition to the effectiveness of the above warranty, the following procedures must be observed. Before any Component is returned to Prismview, a Return Material Authorization ("RMA") number must be obtained. RMA's may be obtained by calling the Prismview Service Department at (800) 741-6721. After initial contact, Prismview may, at its option, allow access to an on-line RMA program for future repair needs.

The Component being returned must be adequately packaged so as to prevent any damage from shipping. The Component must be shipped freight prepaid, and insured, at the Customer's option, to cover any shipping damage or loss. The Component will be repaired or replaced, at Prismview's option, and will be returned to Customer, freight collect and insured.

**THE ABOVE WARRANTIES CANCEL AND SUPERSEDE ANY AND ALL OTHER WARRANTIES RELATING TO THE SIGN(S), EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR PURPOSE.**

The above provisions constitute Customer's sole remedy in the event the Sign(s) are defective. Prismview shall not be liable for special, incidental, indirect, or consequential damages, including, without limitation, lost earnings. Prismview shall have no obligations hereunder in the event any Default as defined below.

2. **INSPECTION:** Customer shall carefully inspect the Sign(s) within two (2) business days of receipt. If the Sign(s) do not meet the requirements as set forth in the Agreement, Customer shall promptly, and in no event more than five (5) calendar days thereafter, give Prismview written notice of the nonconformance claimed. **ABSENCE OF TIMELY, WRITTEN NOTICE SHALL BE CONCLUSIVE EVIDENCE THAT THE SIGN(S) ARE ACCEPTABLE TO CUSTOMER AS DELIVERED.** If the Sign(s) are delivered by a third party carrier, before moving the Sign(s) from the place of delivery, Customer shall inspect the Sign(s) and promptly notify Prismview and the carrier if any damage exists. If damage exists, Customer shall retain the packing materials and otherwise comply with all requirements necessary to preserve all claims against the carrier. If Customer or its agent moves the Sign(s) before inspection, accepts the Sign(s) in a damaged condition, or otherwise fails to comply with the requirements of this paragraph, Prismview shall have no responsibility for defects notwithstanding the warranty set forth above.

3. **MAINTENANCE:** Customer agrees to maintain the Sign(s) in good repair and condition, and free and clear of all liens and encumbrances, until the Total Price, plus all finance charges, and all collection costs, fees, taxes, and assessments chargeable to Customer (collectively hereinafter "Total Sale Price") have been paid in full.

4. **PROGRAMMING SERVICES:** If content programming or other related or similar services are to be provided in connection with the Electronics Purchase Agreement, Prismview shall retain all right, title and interest in any copyright, trademark, patent, trade secret, and any other property rights created by Prismview as a result of such services (the "Intellectual Property") and Prismview reserves all rights associated therewith. Prismview hereby licenses Customer the non-exclusive, perpetual use of the Intellectual Property only in conjunction with use of the Sign(s). Prismview may reject any programming request, which Prismview in its sole discretion determines is or may be false, misleading, deceptive, offensive to the moral standards of the community, may induce a violation of existing law, may result in the creation of new laws or regulations designed to restrict the use of electronic media displays or the electronic media display industry, or which in any way reflects adversely on the character, integrity, or standing of any person or business. Prismview is hereby granted full rights to use all or any part of all animations or content provided to Customer in any demonstrations, advertisements, and/or future animations created by Prismview for any purpose or third party.

5. **BILLING AND PAYMENT:** Customer shall pay as set forth in the Electronics Purchase Agreement. Time is of the essence. All past due amounts shall bear an annual interest rate of eighteen percent (18%). Customer acknowledges that governmental permission to install and maintain the Sign(s) may be revoked or terminated. Customer shall not be released from its obligations to pay the Total Sale Price if the Sign(s) are installed at a location deemed to be illegal, or if government permission is revoked or terminated. Prismview's acceptance of a late payment, or waiver of any other of Customer's obligations in the Agreement, shall not be construed as a waiver of Prismview's rights as to any subsequent late payment or any other event of Default (as defined below).

6. **SECURITY INTEREST:** Title to the Sign(s) shall be and remain in Prismview until the Total Sale Price has been paid in full, at which time title shall pass to Customer. To secure performance of Customer's obligations, including without limitation Customer's obligation to pay the Total Sale Price upon the terms of this Agreement, Customer grants to Prismview a first priority, purchase-money security interest in the Sign(s) (and any proceeds therefrom) and permission to perfect, assign, amend, continue, and/or terminate that security interest in any way allowed by applicable law.

7. **DEFAULT:** If Customer defaults in the payment of any installment when due, or fails to perform any other obligation herein, or bankruptcy, receivership, or other insolvency proceedings are commenced by or against it ("Default"), Customer shall, without notice, immediately be indebted to and hereby agrees to pay Prismview forthwith an amount equal to the Total Sale Price. In any event of Default, without resort to judicial process and without liability for trespass, Prismview may terminate the Agreement and may (but has no obligation to) repossess the Sign(s) or any component(s) thereof. Prismview's right of repossession includes the right to render the Sign(s) ineffective. Repossession by Prismview shall not be construed as an acceptance of Customer's surrender of the Sign(s). Neither termination of the Agreement nor repossession of the Sign(s) shall deprive Prismview of its remedies for Default as set forth herein or any and all other damages suffered by reason of Customer's Default.

8. **DISPUTES:** The parties agree to employ good faith efforts to amicably resolve any claims or disputes that may arise. If unsuccessful for any reason, at Prismview's sole option and upon Prismview's written notice to Customer, such claims or disputes may be submitted to formal mediation, with each party to pay one-half of the costs. In case of litigation, venue of any action shall be brought only in the state or federal courts located in Cache County, State of Utah. The Agreement shall be construed in accordance with the laws of the State of Utah, without regard to its conflict of laws provisions. If Prismview places the Agreement with a collection agency or an attorney after Default for enforcement or collection, Customer shall pay all costs thereof including reasonable attorneys' fees. Prismview shall not be liable for special, incidental, or consequential damages, including lost profits, irrespective of cause or theory.

9. **INDEMNIFICATION:** Except to the extent of Prismview's negligence or willful misconduct, Customer shall indemnify, defend, and hold harmless Prismview and its officers, directors, employees, agents, and subcontractors from and against any and all claims, costs (including reasonable attorneys' fees and costs), damages, and liabilities, at law or in equity, arising out of or related to the Agreement or Customer's use or resale of the Sign(s).

10. **LIMITED LICENSE TO USE SOFTWARE:** If the Sign(s) include software, ownership of the software remains with Prismview, and Customer is granted a limited license to use it strictly in accordance with the terms and conditions of the Limited License Agreement that is available for review on the Internet at <http://www.prismview.com/license.htm>. Customer hereby agrees to use the software only in accordance with such terms and conditions.

11. **PRISMVIEW'S ACCOUNT EXECUTIVES:** No statements made by Prismview's Account Executive(s) shall be binding unless incorporated herein. Although the Electronics Purchase Agreement may be signed by Prismview's Account Executive(s), the Agreement shall not be binding upon Prismview for any purpose until an executive officer or another authorized agent of Prismview executes the same. Customer's requisitions, purchase orders, and the like will only be binding against Prismview when signed by an authorized officer of Prismview.

12. **FORCE MAJEURE:** Performance by Prismview shall be subject to delay by strikes, breakage, fires, unforeseen commercial delays, insurrection, wars, acts of terror, acts of God, and governmental regulations.

13. **ASSIGNMENT:** Customer may transfer its interests, rights, and obligations in the Agreement only upon the prior written consent of Prismview. Prismview may freely transfer its interests, rights, and obligations in the Agreement. Customer will not assert against an assignee, pledgee, or transferee of Prismview any claim Customer has or may have against Prismview. All provisions of the Agreement shall be binding upon and inure to the benefit of the successors, assigns, and legal representatives of the respective parties.

14. The Agreement is a complete integration and final expression of the agreement between Prismview and Customer and may not be amended, supplemented, or otherwise modified except by written agreement executed by authorized representatives of each.