

RED.COM, INC. TERMS AND CONDITIONS

1. These terms govern the sale of goods between Red.com, Inc. ("Red") and the Buyer ("Buyer"). This document acknowledges receipt of the Buyer's order by Red, and confirms the sale of product evidenced by the invoice as expressly conditioned on the Buyer's acceptance of the terms and conditions set forth herein.

2. **PRICES** - All published prices are subject to change without notice. Written quotations shall expire thirty (30) calendar days from the date of quotation unless withdrawn in writing sooner. Verbal quotations are provided for budgetary guidance only. Unless otherwise specifically stated, prices are in U.S. Dollars.

3. TERMS OF PAYMENT -

3a. **Deposits** – Buyer must make a deposit equal to the amount specified by Red at the time of the order, typically 10% of the total order value (excluding any sales tax, freight, duties, import tax and delivery charges). Camera reservation numbers and delivery estimates are provided at the sole discretion of Red.

3b. **Method of Payment** - Credit card payment via VISA, MASTERCARD, AMERICAN EXPRESS or DISCOVER is provided as a convenience with valid credit card authorizations. Please contact the RED Customer Service Department for Remit To information when transferring bank to bank payments or visit Red's website for bank information. All orders are payable in U.S. dollars (USD).

3c. **Standard Payment Terms** – All orders must be paid in full prior to shipment via wire transfer, cash equivalent (such as money order, cashier's check, or personal check drawn from a United States bank), or credit card.

3d. **Deposit Payments** – Deposit payments in the amount of \$7,500.00 USD or greater will only be accepted via wire transfer or cash equivalent (such as money order, cashier's check, or personal check drawn from a United States bank). Deposit payments in the amount of \$7,499.99 USD or less may be remitted via credit card payments, wire transfer or cash equivalent as outlined above.

3e. **Balance Payments** – Buyer must pay the full remaining balance of the invoice before order will be processed for shipment. Balance payments in the amount of \$7,500.00 USD or greater will only be accepted via wire transfer or cash equivalent (such as money order, cashier's check, or personal check drawn from a United States bank). Balance payments in the amount of \$7,499.99 USD or less may be remitted via credit card payments, wire transfer or cash equivalent as outlined above.

3f. **Leasing** – Red does not offer any leasing options for Red product. Red does not affiliate, authorize, or support any entities offering leasing options for Red product. Red assumes no liability for services or product offered by unauthorized third-party entities offering Red product or services.

4. **DELIVERY AND ACCEPTANCE** - All product shipments shall be made "ex works" (Incoterms 2000) from the Red facility at Lake Forest, California, at which time title and risk of loss shall pass to the Buyer. Buyer shall be the importer of record for all purchased products. Licensing requirements for importation to non-U.S. countries is the sole obligation of the Buyer. In the absence of specific shipping instructions from the Buyer, Red will ship by the method it deems, in its sole discretion, most advantageous. Transportation charges will be collected prior to shipment. Unless otherwise indicated, Buyer is obligated to obtain insurance against damage to the product being shipped. Unless otherwise specified, products will be shipped in standard commercial packaging. When special packaging or export instructions are requested by the Buyer, any additional costs will be the responsibility of the Buyer.

Red shall use reasonable efforts to notify Buyer of any anticipated delays in delivery. Red will not be liable for any loss, damages or penalty resulting from delay in delivery.

Acceptance of the product by the Buyer shall occur no later than fifteen (15) days after shipment. Product not rejected during this fifteen-day period shall be deemed accepted, and all returns shall be handled in accordance with Section 7 (Returns). Product cannot be rejected by Buyer based on criteria that were unknown to Red or based on test procedures that Red does not conduct.

5. **RESTRICTIONS ON USE** - Buyer will not cause or permit the modification or reverse engineering of file formats, tools, or image processing of Red products without express written consent from Red. Buyer will not develop tools from Red products or use non-Red approved tools, products, or software with Red products without express written consent from Red. Buyer will not cause or permit any reverse engineering of Red products.

6. **WARRANTY** – Red warrants all products will be of good quality and workmanship and free from material defects. Upon the expiration of the time periods identified below, all liabilities of Red will terminate. In no event shall Red be liable for consequential damages.

6a. **Standard Warranty** – A Standard Warranty is granted to the original purchaser for a period of one (1) year, parts and labor, for the

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camera and camera accessories excluding Digital Media and Batteries. Standard Warranty for Digital Media is ninety (90) days. Standard Warranty for Batteries is ninety (90) days or charge cycles of less than 400, whichever comes first. The Standard Warranty covers parts and labor charges for products that have been returned pre-paid shipment to an Authorized Service Center. All warranty returns shall be done in accordance with Red's warranty return merchandise authorization ("WMA") policy, a copy of which is set forth in Section 7 (RETURNS) and is posted on Red's website. Any repaired or replaced product shall be warranted as set forth in this section for a period the greater of (i) the balance of the applicable warranty period relating to such product or (ii) ninety (90) days after it is received by Buyer. Only the components that were repaired or replaced will be eligible for the 90-day period as set forth **above**.

A Standard Warranty effective date is the date of "ex works" from Lake Forest or when Buyer picks up product at designated Red shipping facility.

Red's warranty does not include products that have defects or failures resulting from; (a) alterations, modifications or repairs by Buyer or unauthorized third parties or (b) accident, disaster, neglect, abuse, misuse, improper handling or storage by the Buyer. This includes, but is not limited to: water damage, mold in the lenses from improper storage, droppage, modification to the camera, opening the camera, use of non-red cables, or third party accessories etc.

Red products are compatible with Red software and Red products only. Use of any software or products other than Red or Red approved software and products voids any and all warranties.

ALL WARRANTIES IMPLIED BY LAW, INCLUDING MERCHANTABILITY, SHALL BE AS SET FORTH IN THIS WARRANTY SECTION. NO OTHER EXPRESS WARRANTY OR GUARANTY EXCEPT AS STATED ABOVE, GIVEN BY ANY PERSON, FIRM, OR CORPORATION WITH RESPECT TO RED PRODUCT SHALL BE BINDING TO RED. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO BUYER. NEITHER RED NOR ANY OTHER PERSON, FIRM, OR CORPORATION IS OR SHALL BE RESPONSIBLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES CAUSED BY RED PRODUCT. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO BUYER.

6b. Third-Party Warranty – Red does not honor warranty agreements extended by third parties. Only warranty agreements granted by Red will be honored by Red.

THE SOLE REMEDY UNDER THIS WARRANTY SHALL BE THE REPAIR, REPLACEMENT, OR CREDIT FOR DEFECTIVE PARTS AS STATED ABOVE. THIS WARRANTY IS THE SOLE WARRANTY GIVEN BY RED AND IS IN LIEU OF ANY OTHER WARRANTIES EITHER EXPRESS OR IMPLIED. THIS WARRANTY EXTENDS TO THE BUYER AND IS NON-TRANSFERABLE TO OTHER THIRD PARTIES.

6c. Red Re-Certified Product Warranty – Product that is not possessed by the original Buyer may be sent to an Authorized Red Service Center for an evaluation fee of \$500. Red will provide a quotation for the re-certification of the product to existing Red product specifications at time of repair. The Customer is responsible for all costs associated with such re-certification, such as troubleshooting, diagnosis, repair, test, calibration, and shipping costs. Upon completion of re-certification, customer may be offered a Red Re-Certified Product Warranty for an additional cost.

"Customer" is defined as an entity who obtained Red product by other means than directly from Red.

A Red Re-Certified Product Warranty is valid for a period of ninety (90) days for the camera and camera accessories after the warranty is accepted by the Customer. Red Re-Certified Product Warranty is not available for Digital Media and Batteries.

6d. Non-Warranty Repair - Product that no longer qualifies for Warranty Repair may be sent to an Authorized Red Service Center for an evaluation fee of \$500. If the product is sent to RED for non-warranty repair by original Buyer, the evaluation fee of \$500 is waived by Red. Red will provide a quotation for the repair of the product. The Customer is responsible for all costs associated with such refurbishment, such as troubleshooting, diagnosis, repair, test, calibration, and shipping costs. Any repaired or replaced product shall be warranted for ninety (90) days after it is received by Buyer. Only the components that were repaired or replaced will be eligible for the 90-day period.

7. RETURNS – Buyers must obtain a Return Merchandise Authorization ("RMA") prior to the return of any product. Cameras may only be returned for refund within ten (10) days of original delivery by Red at shipping address specified by Buyer and with less than 25 hours of run time. Accessories, except Digital Media and Batteries, may be returned for refund within ten (10) days of original delivery by Red at shipping address specified by Buyer.

7a. Factory Seal - If the factory seal on the product has been broken, returned product for refund is subject to a 30% restocking fee and must

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be approved by Red as set forth herein. All equipment must be shipped in as new condition and in the original shipping materials. Refunds are subject to an evaluation of the merchandise upon receipt at Red as defined **above**, in addition to other **tests** to ascertain condition of returned goods. A refund less the restocking fee will be provided within thirty (30) days of completion of evaluation of goods at Red.

7b. Shipping - Buyer is responsible for shipping costs to return product to Red. For Buyer's protection, Red recommends that the Buyer uses a traceable and insurable form of mail for shipment.

7c. Buyer has ten (10) days from the date the RMA is issued to deliver the product to Red. All product received ten (10) days after the RMA was issued will not be considered eligible as a return for credit. Red will return product to Buyer and Buyer will assume all shipping costs.

8. CUSTOMER SOURCE INSPECTION - A fee of \$500.00 will be charged for any order requiring customer source inspection or receipt of goods, at the Red facility.

8a. No-Trouble Found Inspection Fee – Any product sent to Red for inspection or evaluation where Red finds no defects or problems with Red product will be subject to a No-Trouble Found Inspection Fee of \$500. The No-Trouble Found Inspection policy is in place to encourage the Customer to exhaust all technical support resources before shipping product to Red.

9. LIMITATION OF LIABILITY –

IN NO EVENT SHALL RED BE LIABLE TO BUYER FOR ANY INDIRECT, CONSEQUENTIAL, PUNITIVE, INCIDENTAL, OR SPECIAL DAMAGES, OR ANY DAMAGES WHATSOEVER RESULTING FROM LOSS OF USE, DATA OR PROFITS (HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY), EVEN IF RED HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL RED'S LIABILITY FOR A PRODUCT (WHETHER ASSERTED AS A TORT CLAIM, A CONTRACT CLAIM OR OTHERWISE) EXCEED THE AMOUNTS PAID TO RED FOR SUCH PRODUCT. IN ADDITION, IN NO EVENT SHALL RED'S LIABILITY FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THIS ORDER EXCEED \$25,000 (TWENTY-FIVE THOUSAND U.S. DOLLARS). IN NO EVENT WILL RED BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS BY BUYER. IN NO EVENT SHALL RED BE LIABLE FOR DAMAGES ARISING OUT OF ANY LATE DELIVERY. THE LIMITATIONS SET FORTH HEREIN SHALL APPLY TO ALL LIABILITIES THAT MAY ARISE OUT OF THIRD-PARTY CLAIMS AGAINST BUYER. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THE LIMITATION SET FORTH IN THIS SECTION SHALL APPLY WHERE THE DAMAGES ARISE OUT OF OR RELATED TO THIS AGREEMENT.

10. INDEMNIFICATION –

Buyer shall indemnify, defend, and hold Red and Red's officers, agents and other representatives harmless from all demands, claims, actions, causes of actions, proceedings, suits, assessments, losses, damages, liabilities, settlements, judgments, fines, penalties, interest, costs and expenses incurred (including fees and disbursements of legal counsel) of every kind (i) based upon personal injury or death or injury to property to the extent any of the foregoing is proximately caused by defective product or by the negligent or willful acts or omissions by the Buyer, (ii) based on any breach of this agreement, (iii) that the product does not comply with any law, including but not limited to the Federal Communication Commission or the official CE marking or equivalent in certain non-U.S. countries and any similar legislation or requirement, and/or (iv) arising from or relating to any actual or alleged infringement or misappropriation of any patent, trademark, copyright, trade secret or any actual or alleged violation of any other intellectual property rights arising from or in connection with the products.

11. PROPRIETARY INFORMATION – Red retains for itself all proprietary rights, including without limitation all patent, trademark, trade secret, copyright and other intellectual property rights in and to all Red designs, manufacturing processes, engineering details, and other data pertaining to any product sold except where the rights have been assigned pursuant to a written agreement with a corporate officer of Red. The products are offered for sale and sold by Red on the condition that such sale does not convey any right, express or implied, stated or otherwise, under any intellectual property or manufacturing process. Red expressly reserves all intellectual property rights in the product.

12. NON-WAIVER – Failure of Red to insist upon strict performance of any terms and conditions herein shall not be deemed a waiver of any subsequent default of terms and conditions thereof.

13. LAW GOVERNING AND EXCLUSIVE JURISDICTION - All Contracts are to be interpreted in accordance with the laws of the state of California, United States of America. Exclusive jurisdiction for any dispute arising from the terms and conditions of this Agreement shall be Orange County, California.

14. SEVERABILITY - If any of the terms and conditions of this Agreement are held to be invalid under any applicable statute or rule of law, they are, to that extent, deemed omitted.

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15. COMPLETE AGREEMENT – The terms and conditions set forth herein comprise the entire agreement between Red and the Buyer.