

# TERMS AND CONDITIONS



**GENERAL:** These terms and conditions represent the entire agreement between you, the “Buyer” and Digital Monitoring Products Inc. (“DMP”). All transactions between buyer and DMP are expressly subject to and conditioned upon the terms and conditions set forth herein. Any different or conflicting terms or conditions set forth by the Buyer, whether in Buyer’s purchase order or another communication, are expressly objected to and will not be binding on DMP unless agreed to in writing by an authorized officer of DMP. In the absence of such an agreement, commencement of performance and/or delivery shall be for Buyer’s convenience only and shall not be deemed or construed to be acceptance of Buyer’s terms and conditions. If a contract is not earlier formed by mutual agreement in writing, acceptance of any products by Buyer shall be deemed acceptance of the terms and conditions stated herein. This contract may not be assigned, modified or canceled by Buyer without DMP’s prior written consent, and any attempt to assign, modify or cancel it without such consent shall be absolutely void. No delay or omission to exercise any right, power or remedy accruing to DMP upon breach or default by Buyer under this contract shall impair any such right, power or remedy of DMP, or shall be construed as a waiver of any such breach or default. All waivers must be in writing. In the event any of the provisions hereof shall, for any reason, be held void or unenforceable, the remaining provisions shall remain in full force and effect and shall control. Any provisions of this contract prohibited by law of any state shall, as to said state, be ineffective to the extent of such prohibition without invalidating the remaining provisions of this contract. Orders will become effective only when accepted by DMP. All prices, terms, discounts and specifications are subject to change without notice. Orders will be filled at the prices that are in effect at the time of DMP’s receipt of your order. Special orders for items not normally stocked are non-cancelable and non-refundable. Shipments, deliveries and performance of work shall at all times be subject to the approval of DMP’s credit department. DMP may at any time decline to make any shipment or delivery or perform any work except upon receipt of payment or acceptable security, or upon other terms and conditions satisfactory to DMP’s credit department.

**TERMS:** INITIAL ORDERS WILL BE SHIPPED C.O.D. (CASH, MONEY ORDER, CERTIFIED CHECK OR APPROVED CREDIT CARD ONLY) UNLESS A LINE OF CREDIT HAS BEEN PREVIOUSLY ESTABLISHED. TERMS TO CUSTOMERS WITH APPROVED CREDIT ARE 1%/10 DAYS, NET 30 DAYS. CREDIT CARD PAYMENTS WILL ONLY BE ACCEPTED AT THE TIME OF ORDER. IF A CREDIT CARD IS USED TO PAY A BALANCE DUE FOR A CUSTOMER ON APPROVED TERMS, THERE WILL BE A 3% SERVICE CHARGE ADDED TO THE AMOUNT PROCESSED. PAST DUE ACCOUNTS WILL HAVE THEIR CREDIT LINE IMMEDIATELY SUSPENDED. ORDERS SHIPPED TO PAST DUE ACCOUNTS AND ORDERS EXCEEDING CREDIT LIMIT WILL ONLY BE SHIPPED C.O.D. OR APPROVED CREDIT CARD PAYMENT IN ADVANCE. ALL AMOUNTS PAST DUE PLUS SERVICE CHARGES AND COLLECTION EXPENSES (AS DEFINED BELOW) MAY BE ADDED TO ANY C.O.D. OR CREDIT CARD PAYMENT. AMOUNT OR OTHER CHARGES AND ACCEPTANCE AND SHIPMENT OF ANY ORDER MAY BE CONDITIONED UPON PAYMENT OF ANY SUCH AMOUNTS. DMP MAY, IN ITS SOLE DISCRETION, AT ANY TIME AND FROM TIME TO TIME CHANGE THE TERMS OF BUYER’S CREDIT, REQUIRE PAYMENT IN CASH BEFORE SHIPMENT OF ANY OR ALL OF PRODUCTS ON ORDER AND/OR REQUIRE ANTICIPATED PAYMENT OF ANY OR ALL AMOUNTS DUE OR TO BECOME DUE. IF DMP BELIEVES THAT BUYER’S ABILITY TO MAKE PAYMENTS IS OR MAY BE IMPAIRED, DMP MAY CANCEL ANY OR ALL PENDING ORDERS. BUYER SHALL RETAIN LIABILITY FOR PAYMENT FOR ANY PRODUCTS ALREADY SHIPPED. CHECKS ARE ACCEPTED SUBJECT TO COLLECTION AND THE DATE OF COLLECTION SHALL BE DEEMED THE DATE OF PAYMENT.

**TAXES/FREIGHT/ CLAIMS:** Unless otherwise agreed to in writing, the amount of all transportation charges and of all taxes or other charges now or hereafter imposed upon the sale, purchase, resale, delivery, manufacture, production or possession of the products specified herein, which may be paid by DMP or for which DMP may be liable, shall be paid to DMP by Buyer in addition to the purchase price of the products. Sales tax will be charged where applicable unless a current and valid certification of exemption of Buyer is on file at DMP. All shipments are F.O.B. DMP Plant, Springfield, Missouri. All risk of loss shall pass to Buyer upon shipment of the products to Buyer. All claims for damage, loss or otherwise must be made within seven days of the date of shipment. All claims for damage incurred in shipment shall be the responsibility of the carrier, and should be placed with the carrier.

**RESALE OF PRODUCTS/ TRANSSHIPMENTS:** Buyer may not resell DMP’s products or other equipment sold by DMP to parties other than an end user without written permission from DMP first being obtained. Unauthorized resale may result in termination of sales to Buyer. Buyer may not transship DMP’s products or other equipment sold by DMP to other company-owned branch locations without written permission from DMP first being obtained or without a DMP Training Certification having been previously issued to that specific branch location. Buyer may not redirect DMP’s products or other equipment sold by DMP to another Dealer without written permission from DMP first being obtained. Unauthorized transshipments or redirects may result in termination of sales to Buyer.

**INSTALLATION/ TECHNICAL DATA:** Buyer shall be solely responsible for the installation and operation of the products covered hereby including without limitation, obtaining and maintaining in full force and effect, all permits, licenses or certificates required for the installation or use of such products. Installations must be performed by a certified and trained DMP Dealer. Unauthorized installations may result in termination of sales to Buyer and will void any warranty or repair obligations of DMP as set forth herein or otherwise. Buyer shall not use, duplicate or disclose any technical data delivered or disclosed by DMP to Buyer for any purpose other than for installation, operation or service of products purchased by Buyer without DMP’s prior written consent first being obtained. Buyer acknowledges and agrees it shall not in any form export, re-export, resell, ship or divert or cause to be exported, re-exported, resold, shipped or diverted, directly or indirectly, any technical data or product without DMP’s express prior written consent first obtained. Buyer will not use and will advise the end user not to use any of DMP’s products or other equipment sold by DMP for any criminal, illegal or otherwise unlawful activity including video voyeurism or invasion of privacy.

**SOFTWARE:** Computer software, if any, is provided by DMP to Buyer pursuant solely to a single user license, the royalty, terms and conditions of which are set forth in the software license agreement or end user license agreement applicable to that specific Software and in all instances remains the sole and exclusive property of DMP.

**GOVERNING LAW:** DMP shall be entitled to charge and recover from Buyer all costs and expenses reasonably incurred in the collection of any amount due hereunder by Buyer, including collection agency fees and charges and reasonable attorney fees and court costs in the event an account is placed with a collection agency or any other action or proceeding is initiated for collection of any such amount due by Buyer (collectively "Collection Expenses"). All orders shall be construed and governed by the laws of the State of Missouri, AND VENUE IN ANY LITIGATION PURSUANT TO ORDERS SUBJECT TO THIS AGREEMENT SHALL BE IN GREENE COUNTY, MISSOURI, USA.

**EXCUSE OF PERFORMANCE:** DMP shall not be liable for delays in performance or for non-performance due to acts of God, inclement weather, war, riot, fire, labor trouble (including labor shortages), unavailability of materials or components, insufficient production capacity, explosion, accident, compliance with governmental requests, laws, regulations, orders or actions or other unforeseen circumstances or causes beyond DMP's reasonable control.

**NOTICE:** Any notice to a party under this Agreement shall be in writing and shall be served upon the recipient by personal service or by mailing a copy of such notice by certified mail, postage prepaid, with return receipt requested, if to DMP to: Digital Monitoring Products, Inc., 2500 N. Partnership Boulevard, Springfield, MO 65803, and if to Buyer, at the address shown above.

**FCC REGULATIONS:** DMP offers products which use radio frequencies whose use is governed by the Federal Communications Commission (FCC). The FCC provides you the right to use these products per applicable FCC rules and regulations. DMP is neither responsible nor liable for any cost incurred by Buyer due to changes in FCC rules and regulations, interference or other radio transmissions which may preclude the effective use by the buyer of the assigned frequencies.

**LIMITED WARRANTY:** DMP warrants that the products manufactured by DMP and described herein, shall be free from defects of manufacture, labeling and packaging for a period of three (3) years from the invoice date to the original Buyer, provided that representative samples of the defective products are returned to DMP for inspection. DMP's determination of whether a cellular device manufactured by DMP and not activated through SecureCom Wireless, LLC (i) has a manufacturing defect subject to repair/replacement pursuant to this Limited Warranty, or (ii) will be repaired by DMP after expiration of this Limited Warranty shall be limited to certain physical test(s) of the device exclusively determined by DMP; provided, that such test(s) shall not include DMP communicating with the cellular provider. If, after such physical test(s), DMP is unable to determine whether the device has a manufacturing defect covered by this Limited Warranty or, if after expiration of this Limited Warranty, DMP is unable to determine the cause of the malfunction of the device, DMP shall not provide any warranty service or repair service and shall return the device to customer at customer's cost and expense. Upon a determination by DMP that a product manufactured by DMP has a manufacturing defect, DMP shall, at its exclusive option and as its sole obligation, replace or repair said defective product or part thereof at its own expense except that Buyer shall pay all shipping, insurance and similar charges incurred in connection with the replacement of the defective product or parts thereof. Products sold but not manufactured by DMP (OEM products) are subject solely to the terms and conditions of that manufacturer's warranty, if any, applicable to such products. The sole purpose of any sale or contract for sale of any of the products listed in the DMP catalog or price list is the furnishing of that product. It is expressly understood by Buyer that in furnishing any of such products, DMP does not warrant or insure the Buyer against any losses the Buyer or any end user of the product may incur, even if resulting from the malfunction of said product. DMP does not warrant or represent that the products sold may not be compromised or circumvented, will operate as designed, will prevent or reduce personal injury, property damage or economic loss, or will provide adequate warning or notice as designed or may be intended by Buyer or any end user. Buyer understands and will cause its customers to understand that a properly installed and maintained alarm system may only reduce the risk of a burglary, robbery or fire without warning, but it is not insurance or a guarantee that such will not occur or will not cause or lead to personal injury or property loss. All warranties are void if a product is damaged, becomes defective or malfunctions due to accident, abuse, vandalism, neglect, negligence, any modification, improper installation, service, or testing, misapplication, misuse, lightning, electricity, water, fire, environmental or other hazard, act of God or if for any other reason DMP determines that said product is not operating properly as a result of causes other than defective manufacture, labeling or packaging. No employee or agent of DMP is authorized to make any warranty other than that specifically set forth herein. The provisions in any specification or chart issued by DMP or attached hereto are descriptive only and are not warranties.

THE AFORESAID LIMITED WARRANTY IS EXPRESSLY MADE IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, IT BEING UNDERSTOOD THAT ALL SUCH OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED. IN NO EVENT SHALL DMP OR ITS REPRESENTATIVES BE LIABLE TO BUYER FOR ANY DIRECT, INDIRECT, COLLATERAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH BUYER'S OR END USER'S USE OF ANY OF THE PRODUCTS LISTED HEREIN OR FOR ANY OTHER CAUSE WHATSOEVER RELATING TO THE SAID PRODUCTS, INCLUDING DAMAGES RELATIVE TO, ARISING FROM OR CAUSED DIRECTLY OR INDIRECTLY BY SAID PRODUCTS OR THE USE THEREOF OR ANY DEFICIENCY, DEFECT OR INADEQUACY OF THE SAID PRODUCTS. IT IS EXPRESSLY AGREED THAT BUYER'S EXCLUSIVE REMEDY FOR ANY CAUSE OF ACTION RELATING TO THE PURCHASE AND/OR USE OF ANY OF THE PRODUCTS LISTED HEREIN FROM DMP SHALL BE FOR ACTUAL DAMAGES ONLY, AND DMP'S LIABILITY FOR ANY AND ALL LOSSES OR DAMAGES

RESULTING FROM ANY CAUSE WHATSOEVER INCLUDING ACTIVE OR PASSIVE NEGLIGENCE OR OTHER FAULT SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE PRODUCT IN RESPECT TO WHICH THE CLAIM IS MADE OR, AT THE ELECTION OF DMP, THE RESTORATION, REPLACEMENT OR REPAIR OF SUCH PRODUCT. BUYER ACKNOWLEDGES AND AGREES THAT THIS LIMITED WARRANTY IS GIVEN ONLY TO THE BUYER AND IS NOT TRANSFERABLE OR ASSIGNABLE, IN ANY MANNER WHATSOEVER, TO A PERSON OR ENTITY WHO RECEIVES THE PRODUCT (BY PURCHASE OR OTHERWISE) FROM BUYER.

LIMITATION ON LIABILITY TO BUYER'S CUSTOMERS: Buyer agrees to limit liability to its customers to the fullest extent permitted by law pursuant to a written contract between Buyer and each end user for whom a DMP product is provided. Buyer acknowledges that DMP shall only be deemed to give consumers of its products such statutory warranties as may be required by law and at no time shall Buyer represent to its customers and/or users of DMP's products that DMP provides any additional warranties. By accepting the products, to the fullest extent permitted by law, Buyer assumes all liability for and agrees to indemnify and hold DMP harmless against and defend DMP from, any and all suits, claims, demands, causes of action and judgments relating to damages, whether for personal injury or to personal property, suffered by any person, firm, corporation or business association, including but not limited to, Buyer's customers and/or users of the products because of any failure of the products to detect and/or warn of the danger for which the products were designed or any other failure of the products whether or not such damages are caused or contributed to by the sole or joint negligence or fault of DMP.

RETURN AND REPAIR POLICY: Written approval must be obtained from DMP prior to return of any product purchased from DMP whether for repairs, credit or otherwise. A Return Merchandise Authorization (RMA) tag must accompany each item returned. The RMA number must appear on the package and shipping charges must be prepaid. Products returned for credit must be in the original, unopened packaging. All DMP manufactured products returned for credit must be returned within 60 days from date of purchase (30 days for OEM products) with proof of purchase. A 15% restocking charge will be made on all returned products. No products will be accepted for credit after 60 days. Repair charges will be applied to all products returned for repair after the warranty period has expired at DMP's then prevailing rates. DMP shall not be obligated to repair or replace any products that have been abused, improperly installed, altered or otherwise misused and is not obligated to repair or replace any product that is discontinued, obsolete, or for which parts are no longer available. All products must be returned to Springfield, Missouri, freight prepaid. DMP will return repaired or replaced products to Buyer UPS Ground at DMP's expense. If for some reason Buyer desires a faster method of shipping then Buyer agrees to pay the difference in freight charges. Circuit boards only (no cabinets) are to be returned for repair unless it is determined there is a defect in the actual cabinet supplied.

As an authorized representative of the applicant, I acknowledge and accept the terms and conditions of the account to be opened on our behalf. As a condition of opening and maintaining the account, I authorize the release of appropriate credit information, as needed, to include reasonable and periodic credit inquiries with the references furnished.