

**Vidsense, Inc.**  
**Standard Terms and Conditions for Insertion Orders**

Version 1.0 (01/31/08)

Page 1 of 4

These Standard Terms and Conditions for Insertion Orders (“Terms”) are incorporated by reference into every Insertion Order which together form the Agreement entered into by Vidsense, Inc. an Illinois corporation (“Vidsense”) and the Client, Advertiser, Agency, or Customer (“Customer”) referenced in said corresponding Insertion Order (“IO”). These Terms shall be deemed incorporated by reference with any signed IO submitted by Customer, and these Terms and said IO collectively form the “Agreement”. Should Vidsense and Customer enter into more than one (1) IO, each such IO, together with these Terms, shall constitute a separate Agreement.

1 CONFLICT

In the event of a conflict between these Terms and any IO, the IO shall govern to the greatest extent allowed by law.

2 PAYMENT TERMS

2.1 Customer will generally pre-pay Vidsense for all services. Vidsense reserves the right to delay, terminate, cancel, or otherwise not perform on any IO for which complete payment has not been received.

2.2 In circumstances where Vidsense extends credit to Customer: Each Vidsense invoice not paid in full by the sixtieth (60th) day shall on such day begin to accrue interest on the unpaid balance at the rate of eighteen percent (18%) per annum compounded monthly or the maximum rate allowed by law, whichever is less. Interest shall continue to accrue on any unpaid portion of the principle and interest until the entire balance is paid in full. Vidsense shall also be entitled to collect any costs incurred in collecting the debt including without limitation: attorney’s fees (including those of in-house counsel), court costs, and investigative costs. Vidsense reserves all remedies with regard to past due amounts including, without limitation, the right to suspend deliveries on any open or future orders Customer may have.

2.3 In the event that Customer is for any reason in default of its obligations hereunder, including without limitation being delinquent with payment or not having made payment according to the terms of the IO or this Agreement, Customer shall upon Vidsense’s notice cease-and-desist from any further use of any acquisitions, clicks, leads or any other information acquired as a result of this Agreement. The cease-and-desist shall also apply to any information that Customer appended to what was provided by Vidsense under this Agreement.

3 TERMS & CONDITIONS MODIFICATION

The version of these Terms, as modified from time to time, controlling the Agreement shall be the version having the date most immediately precedent to the date the Agreement’s IO was signed by Customer. Vidsense reserves the right to modify these Terms as necessary without prior notice to Customer. The most current version of these Terms will always be available at: <http://www.Vidsense.com>, or upon request.

4 AGENCY

4.1 If Customer is an agency or in any way representing a Third Party, then Customer represents and warrants that (a) Customer has proper authorization from Third Party to represent and to enter into this Agreement on said Third Party’s behalf; and (b) Customer has entered into an agreement with Third Party under which Third Party agrees to be bound by the terms of this Agreement, specifically including, but not limited to, paying Vidsense for services pursuant to this Agreement and that Customer and Third Party shall be held jointly and severally liable. Vidsense reserves the right to

**Vidsense, Inc.**  
**Standard Terms and Conditions for Insertion Orders**

Version 1.0 (01/31/08)

Page 2 of 4

withhold services from Customer until such time that Customer provides written confirmation of such an agreement between itself and the Third Party; however not requesting such confirmation does not constitute waiver of any provision in this section.

- 4.2 This Agreement shall not constitute nor shall be construed as creating an agency, partnership, or joint venture between Vidsense and Customer. Neither Vidsense nor Customer shall have the right to act on behalf of or contractually obligate or otherwise bind the other in any manner whatsoever. Both parties acknowledge that all services performed by it or its employees or agents hereinunder shall be as an independent contractor.

5 CONFIDENTIALITY

The parties hereby agree that for the term of this Agreement and for a period of two (2) years subsequent to the termination of this Agreement, each party shall not use for its own benefit, and shall not disclose to any other person or entity, all non-public information relating to each party's technology, marketing activities, employees, customers, business plans, and other business affairs unless such information otherwise has arrived in the public domain by lawful means. Nothing in this provision shall be construed as to limit either party's ability to comply with applicable law, or bring claim against an Indemnified Party per this Agreement.

6 TERMINATION

- 6.1 Either Customer or Vidsense may terminate this Agreement upon: (a) ten (10) calendar days written notice to the other party for any reason; (b) three (3) calendar days written notice for non-payment; (c) five (5) calendar days written notice for material breach other than non-payment, provided the breach is not cured within the following five (5) calendar days.
- 6.2 Termination of this Agreement by any means provided herein shall not remove or waive Customer's obligation to make payment to Vidsense for services rendered according to these Terms.
- 6.3 Notwithstanding any other provision(s) within this Agreement, the provisions regarding limitations on liability, obligations of confidentiality and indemnification shall survive termination of this Agreement.

7 NOTICE

- 7.1 All parties to this Agreement shall accept and acknowledge receipt of any notice sent to each party's respective address listed on the IO.
- 7.2 Any written notice sent by either party via electronic communication (e.g. email, fax) will be deemed accepted if acknowledged by the other party using similar means. Notice may not be given, nor acknowledged, telephonically.

8 INTEGRATION & AMENDMENT

This Agreement embodies the entire understanding between the parties. No oral modifications, additions or deletions not memorialized in some fixed medium shall be offered in any dispute arising hereunder. Any and all amendments, additions or modifications to this Agreement must be memorialized in some fixed medium (email is acceptable) and approved by similar means by the authorized individual(s) of all parties to this Agreement to be binding.

9 WAIVER

Any failure by either party to this Agreement to enforce its own or the other party's

---

**Vidsense, Inc.**  
**Standard Terms and Conditions for Insertion Orders**

Version 1.0 (01/31/08)

Page 3 of 4

performance of any provision of this Agreement shall not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

10 ASSIGNMENT

Customer may not assign this Agreement without prior written consent of Vidsense, whose consent will not be unreasonably withheld. Notwithstanding the foregoing, either party shall have the right to assign this Agreement to any affiliate or other acquirer of all or of substantially all of its equity securities, assets or business relating to this Agreement. Subject to the above, this Agreement will benefit and bind the parties' successors and assigns.

11 CHOICE OF LAW

This Agreement, and any dispute which may arise hereunder, shall be governed by and subject to the laws of the United States of America and/or the State of Illinois.

12 CHOICE OF VENUE

The Parties agree that any dispute, controversy or claim arising under or in connections with this Agreement or the relationship between the parties shall be decided exclusively by and in the state or federal district court of competent jurisdiction located in Cook County, Illinois, applying the laws of such state without regard to conflicts of law principles. The parties hereby irrevocably consent to the personal jurisdiction of such courts.

13 STATUTE OF LIMITATIONS

Both Customer and Vidsense agree that any dispute between the parties must be initiated in a court of competent jurisdiction within 2 years from the date that the IO subject to the dispute was executed and that any claim not initiated within that time shall be considered waived.

14 REFORMATION

Should any provision of this Agreement be found void or otherwise unenforceable by a court of competent jurisdiction, such provision shall be enforced to the greatest extent allowable by law and the remaining provisions hereof shall be unaffected thereby and remain in full force and effect.

15 RIGHTS IN LAW AND EQUITY

The rights and remedies granted to each party under this Agreement are cumulative and in addition to, and not in lieu of, any other rights or remedies which each party may possess in law or equity.

16 REPRESENTATIONS AND WARRANTIES

16.1 Customer hereby represents and warrants to Vidsense that: (a) Customer has the right, power, and authority to enter into this Agreement and to perform the acts required of it hereunder; (b) the execution of this Agreement does not and will not violate any applicable law, rule, regulation, or any other agreement by which Customer is already or will be bound during the period of this Agreement; (c) Customer possesses all necessary authorizations, approvals, consents, licenses, permits, and other rights to offer, sell or license the products and/or services offered, sold or licensed through this Agreement; (d) the products and/or services offered, sold or licensed through this Agreement will not violate any applicable law, rule or regulation, nor infringe on the rights of Third Party's or others' rights (specifically including but not limited to: patent, copyright, trademark or trade secret rights).

16.2 Vidsense hereby represents and warrants to Customer that: (a) Vidsense has the right, power, and authority to enter into this Agreement and to perform that acts required of it hereunder; (b) the execution of this Agreement does not and will not violate any

**Vidsense, Inc.**  
**Standard Terms and Conditions for Insertion Orders**

Version 1.0 (01/31/08)

Page 4 of 4

---

applicable law, rule or regulation any other agreement by which Vidsense is already or will be bound for the period of this Agreement.

16.3 VIDSENSE HEREBY SPECIFICALLY DISCLAIMS ANY OTHER REPRESENTATION OR WARRANTIES EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION TO WARRANTIES REGARDING TITLE, NON-INFRINGEMENT, COMPATIBILITY, SECURITY, COURSE OF DEALING, COURSE OF PERFORMANCE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

16.4 VIDSENSE FURTHER, WITHOUT LIMITATION TO THE FORGOING, SPECIFICALLY DISCLAIMS ANY WARRANTY REGARDING THE NUMBER OF INDIVIDUALS OR ENTITIES WHO WILL BE ACQUIRED OR CLICK-THROUGH, THE FUNCTIONALITY OR OPERATION OF VIDSENSE'S NETWORK, OR ANY SPECIFIC BENEFIT CUSTOMER MIGHT OBTAIN FROM THIS AGREEMENT.

17 LIMITATIONS OF LIABILITY

With exception to the indemnification obligations described herein, neither party shall be liable to the other party for incidental, consequential, special or exemplary damages, including without limitation damages for loss of profits, revenues, business interruption, and the like, arising from this Agreement, even if either party has been advised of the possibility or likelihood of such damages; further, Vidsense's aggregate liability under this Agreement for any claim is limited to the amount paid to Vidsense according to this Agreement.

18 INDEMNIFICATION

Customer agrees to hold harmless, indemnify, and defend Vidsense and its parents, subsidiaries, affiliates, and their directors, offices, employees, and agents against claims, suits, proceedings, actions, losses, expenses, damages, liabilities, and costs, including reasonable attorney's fees, including those of in-house counsel, and court costs, that may be incurred by Vidsense arising from or having a relation to: (a) any breach by Customer of any provision of this Agreement; (b) Customer's violation of any applicable law(s); (c) any claim of infringement of the intellectual property right of any person or entity; (d) any claim for libel, defamation, or violation of a right to privacy or publicity.

---