

## VIAPHOTON INC.

## LIMITED PRODUCT WARRANTY

1. LIMITED LIFETIME WARRANTY AND WARRANTY PERIOD. VIAPHOTON INC., A DELAWARE CORPORATION (“Seller”) warrants that for the limited lifetime of the original purchase of sales of all Seller’s products, goods and/or services (individually and collectively, “Product”) manufactured by Seller will be free from defects in material and workmanship arising under proper and normal use, and when installed in accordance with Seller’s product guidelines and instructions (“Limited Warranty”). This Limited Warranty is a limited lifetime warranty that is limited to the lifetime of Product from the date of delivery of Product and when Product has been fully paid for. Notwithstanding the foregoing Limited Warranty, the Limited Warranty coverage terminates immediately and is void if you (“Buyer”) sells or otherwise transfers Product to any other third party; provided, however, if Buyer is an authorized distributor or installation company, the Limited Warranty shall pass to Buyer’s initial customer. Further, the foregoing Limited Warranty coverage terminates and is void if Product is installed, fixed, placed, situated or otherwise at Buyer’s facility or location (collectively, “Buyer’s Original Facility”) and Product is then re-installed, extracted, disassembled, moved, transferred or transported to any location that is not Buyer’s Original Facility.

(a) *Seller’s Obligation Under Warranty.* Seller’s sole obligation under this Limited Warranty shall be, in Seller’s sole discretion, either to replace or repair, during the limited lifetime warranty period of Product (pursuant to this Section) when it has been determined by Seller that Product was defective as a result of manufacturing defects in materials or workmanship and not as a result of (i) any modification of Product, (ii) improper use, delivery, installation, storage or handling, (iii) the failure to treat or maintain Product with reasonable care, (iv) abnormal conditions, including, without limitation, abuse, neglect or exposure to any substance or attachment that modifies, alters or otherwise damages Product, or (v) ordinary wear and tear. Seller does not assume responsibility for delays in replacement of products subject to this Limited Warranty. IN NO EVENT SHALL SELLER BE LIABLE OR RESPONSIBLE TO BUYER OR ANY THIRD-PARTY FOR ANY LOSS OR DAMAGE ARISING OUT OF THE BUYER’S IMPROPER SELECTION, MISAPPLICATION OR MISUSE OF PRODUCTS.

(b) *Disclaimer of All Other Warranties.* SELLER MAKES NO REPRESENTATION, WARRANTIES, GUARANTEES OR CONDITIONS WHATSOEVER BEYOND THOSE STATED IN THIS LIMITED WARRANTY. SELLER DISCLAIMS, AND BUYER HEREBY WAIVES, ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY OR OTHERWISE, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR CONDITIONS, SO THIS LIMITATION MAY NOT APPLY IN ALL CIRCUMSTANCES.

(c) *Limitations.* No salesperson, representative or agent of Seller is authorized to make any guaranty, warranty or representation that contradicts the terms contained in this Limited Warranty. Any waiver, alteration, addition or modification to the warranties contained herein must be in writing and signed by authorized representatives of Seller to be valid, binding and enforceable. Seller does not assume responsibility for any defective product not manufactured by Seller to which a Seller Product is attached. All statements, technical information or recommendations relating to Product are based upon tests believed to be reliable but do not constitute a guaranty or warranty. Seller shall not under any circumstances whatsoever be liable to any party for loss of profits, diminution of good will or any other special, indirect, consequential, exemplary, punitive



or incidental damages whatsoever with respect to any claim made under this Limited Warranty. Some states (or jurisdictions) do not allow the exclusion or limitation of incidental or consequential damages, so this limitation may not apply in all circumstances.

2. LIMITATION OF LIABILITY. Buyer's sole and exclusive remedy for breach or any claim in connection with this Agreement, other than those arising under the Limited Warranty, shall be for a repair or replacement of Product giving rise to said breach or claim. Buyer's sole and exclusive remedy for breach or any claim in connection with the Limited Warranty shall be, in Seller's sole discretion, repair or a replacement of Product giving rise to said breach or claim.

EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 14 ABOVE, SELLER SHALL HAVE NO LIABILITY, OBLIGATION OR RESPONSIBILITY OF ANY KIND OR NATURE, IN ANY WAY OR TO ANY EXTENT FOR ANY CLAIMS, LOSSES, EXPENSES, COSTS, DAMAGES OR LIABILITIES, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH, ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH (I) PRODUCT, (II) FOR ANY REPRESENTATION OR WARRANTY OF ANY KIND WITH RESPECT TO PRODUCT (OR THE USE, SALE, RESALE OR PERFORMANCE THEREOF), (III) THE SALE, USE OR RESALE OF PRODUCT, (IV) ACTS OR OMISSIONS OF ANY THIRD PARTY, INCLUDING, WITHOUT LIMITATION, ANY VENDOR REFERRED BY OR ON BEHALF OF BUYER.

IN NO EVENT WHATSOEVER SHALL SELLER HAVE ANY LIABILITY, OBLIGATION, RESPONSIBILITY OR OTHERWISE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGE TO PROPERTY, INJURY TO PERSONS, LOSS OF USE OF PRODUCTS OR ANY ITEM WITH WHICH SUCH PRODUCTS ARE USED, LOST PROFITS OR REVENUE, DIMINUTION IN VALUE, LOSS OR USE OF DATA OR INFORMATION OF ANY KIND, OR DELAYS OR INCONVENIENCE) ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH, THIS AGREEMENT OR THEIR SUBJECT MATTER, INCLUDING, WITHOUT LIMITATION, ANY PRODUCTS OR THEIR SALE, USE OR RESALE, PERFORMANCE, NON-PERFORMANCE, DELIVERY OR NON-DELIVERY, WHETHER BASED ON WARRANTY, CONTRACT, STATUTE, EQUITY, TORT (INCLUDING ANY FORM OF NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. THESE LIMITATIONS SHALL APPLY DESPITE ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. IF APPLICABLE LAW LIMITS THE APPLICATION OF THE PROVISIONS OF THIS SECTION, THEN SELLER'S LIABILITY WILL BE LIMITED TO THE MAXIMUM EXTENT POSSIBLE.

SELLER'S MAXIMUM LIABILITY TO BUYER HEREUNDER, OR TO ANY PARTY OTHER THAN THE ORIGINAL BUYER OF PRODUCT, INCLUDING, BUT NOT LIMITED TO BUYER'S BENEFICIARIES, SUCCESSORS OR ASSIGNS, OR ANY OTHER THIRD PARTY, ARISING OUT OF OR IN CONNECTION WITH PRODUCT OR SALE, USE OR RESALE OF PRODUCT SOLD HEREUNDER, THE TRANSACTIONS CONTEMPLATED HEREBY, OR SELLER'S OR BUYER'S CONDUCT OR ACTIONS IN RELATION TO ANY OF THE SAME OR TO EACH OTHER, RESULTING FROM BREACH OF CONTRACT, NEGLIGENCE OR OTHERWISE, SHALL BE STRICTLY LIMITED TO, THE AMOUNT(S) ACTUALLY RECEIVED BY SELLER FROM BUYER AS PURCHASE PRICE FOR PRODUCT WHICH GIVE RISE TO SELLER'S LIABILITY.

3. GOVERNING LAW. The laws of the State of Illinois (without giving effect to its conflict of laws principles) govern all matters arising out of or relating to this Agreement and the transactions it contemplates, including, without limitation, its interpretation, construction, performance and enforcement.