



## TERMS AND CONDITIONS OF SALE

### 1. Controlling Provisions

**Generally:** This document, including the provisions in Seller's Product Order Form (the "Contract") constitutes an offer by P4 Infrastructure, Inc. ("Seller") to provide the sensor products ("Products") described in the Order Form to the buyer to which this offer is addressed ("Buyer"). If this document is deemed an acceptance of a prior offer by Buyer, such acceptance is limited to the express terms contained in this Contract. Buyer's acceptance of this offer is limited to the terms, covenants and conditions contained in this offer. Seller hereby objects to and rejects any additional, different or varying terms proposed by Buyer, unless an authorized officer of Seller expressly assents to such terms in a signed writing. Such proposal of additional, different or varying terms by Buyer shall not operate as a rejection of Seller's offer, and Seller's offer shall be deemed accepted without such additional, different or varying terms. **THIS CONTRACT CONSTITUTES THE FINAL EXPRESSION OF THE CONTRACT BETWEEN SELLER AND BUYER REGARDING THE PRODUCTS AND IS A COMPLETE AND EXCLUSIVE STATEMENT OF THAT CONTRACT. ANY TERMS, CONDITIONS, NEGOTIATIONS OR UNDERSTANDINGS WHICH ARE NOT CONTAINED IN THIS CONTRACT SHALL HAVE NO FORCE OR EFFECT UNLESS MADE IN WRITING AND SIGNED BY BUYER AND AN AUTHORIZED OFFICER OF SELLER.**

**Acceptance:** Buyer shall be deemed to have made an unqualified acceptance of this offer and the Contract on the earliest of the following to occur: (a) Seller's receipt of a copy of this Contract signed by Buyer; (b) Buyer's payment of any amounts due under this Contract; (c) Seller's delivery of the Products; (d) Buyer's failure to notify Seller to the contrary within ten days of receipt of this Contract, or (e) any other event constituting acceptance under applicable law.

**Quotations:** Written quotations are void unless accepted within 30 days from date of issue and are subject to earlier change upon notice. Other Seller publications are maintained as sources of general information and are not quotations or offers to sell.

**Governing Law:** This Contract and any disputes hereunder shall be governed by and construed according to the internal laws of the State of Wisconsin. Neither this Contract nor sales hereunder shall be governed by the provisions of the United Nations Convention on Contracts for the International Sale of Goods. Upon expiration or termination of this Contract for any reason, Seller shall have all of the rights and remedies provided by law, including, without limitation, the rights of a secured party under Chapter 409, Wisconsin Statutes or any successor statute or similar statute in the jurisdiction where Buyer is located or stores the Products.

**Dispute Resolution:** Any cause of action, claim, suit or demand by Buyer allegedly arising from or related to this Contract or the matters contemplated herein shall be brought in a court within the Eastern District of Wisconsin, U.S.A. Buyer irrevocably consents to the exclusive jurisdiction and venue of said court and agrees that process may be served upon it in any manner authorized by the laws of the State of Wisconsin for such person and waives and covenants not to assert or plead any objection which it might otherwise have to such jurisdiction, venue or process.

**Severability; Waiver:** The invalidity of any provision or clause of this Contract shall not affect the validity of any other provision or clause hereof. Seller reserves the right to correct clerical or similar errors relating to price or any other term shown in this Contract. The failure of either party to insist, in any one or more instances, upon performance of any term, covenant or condition of this Contract shall not be construed as a waiver or relinquishment of any right granted hereunder or the future performance of such term, covenant or condition.

**Assignment:** Buyer may not assign this Contract without Seller's prior written consent. Seller may assign this Contract in whole or in part, including without limitation to its affiliates, suppliers or subcontractors. Subject to the foregoing, this Contract shall inure to the benefit of, and be binding upon, the parties' successors and assigns.

**Independent Contractor:** Buyer is an independent contractor and neither Buyer nor any of its employees or agents shall be considered an employee or agent of Seller, its affiliates or suppliers. Neither Buyer nor any of its employees or agents is authorized to incur any obligations or make any promises or representations on behalf of Seller, its affiliates or suppliers.

**Survival:** The warranty limitations and damage limitations set forth below, and any other provision the performance or effectiveness of which naturally survives, shall survive expiration or termination of the Contract for any reason.

### 2. Orders and Delivery

**Orders:** Buyer's orders or mutually agreed change orders shall be subject to all provisions of this Contract, whether or not the order or change order so states.

**Delivery of Products:** Seller shall deliver the Products F.O.B. Seller's facility at 622 North Water Street, Suite 406, Milwaukee, WI 53202 (the "Facility"). All risk of loss, damage or delay, and title to Products, shall pass from Seller to Buyer upon Seller's delivery of the Products to the Facility.

**Delivery Dates:** All delivery dates are approximate. Delivery dates given by Seller are based on prompt receipt of all necessary information regarding the order. Seller will use reasonable efforts to meet such delivery dates, but does not guarantee to meet such dates. Failure by Seller to meet any delivery date does not constitute a cause for cancellation and/or for damages of any kind. Time for delivery shall not be of the essence.

**Delivery Delays:** Any delay in delivery due to causes beyond Seller's reasonable control, or due to any priorities or allocations necessitated by governmental orders or regulations, or due to any causes specified in the following sentence, shall extend the term of delivery by a period equal to the length of such delay. In the event of delay in delivery requested by Buyer or caused by Buyer's (a) failure to supply adequate instructions or materials; (b) failure to arrange for pickup; (c) failure to supply or approve necessary data or actions in a timely manner; (d) requested changes; or (e) failure to provide documents required for Seller to effect delivery, Seller will store all Products at Buyer's risk and expense. Buyer shall pay all storage costs and expenses upon Seller's demand.

**Claims:** Claims for shortages or other errors must be made in writing to Seller within ten days after Seller's delivery. Failure to give such notice shall constitute unqualified acceptance and a waiver of all such claims by Buyer.

### 3. Prices; Taxes

**Prices:** Unless prices are stated in Seller's Order Form, quotation or acknowledgment or Seller's similar form or otherwise agreed by an authorized officer of Seller in a signed writing, prices shall be the higher of Seller's most recent quote to Buyer, prevailing market price, Seller's list price, or the last price charged by Seller to Buyer for the Products. Seller may increase prices effective on notice to Buyer if Seller's costs increase or, for any other price increase, effective on 30 days' notice to Buyer. Unless otherwise stated in Seller's quotation or acknowledgment or Seller's similar form, prices are in U.S. Dollars, F.O.B. the Facility.

**Taxes:** Buyer shall pay all taxes, fees and costs including, but not limited to any manufacturer's tax, retailer's occupation tax, use tax, sales tax, excise tax, value added tax, duty, customs agent or broker fees, inspection or testing fee, freight costs, insurance, consular fees or any other tax, fee or charge of any nature whatsoever, including interest, imposed on, in connection with or measured by any transaction between Seller and the Buyer, in addition to the prices quoted or invoiced.

### 4. Payment

**Generally:** Buyer is responsible for all fees applicable to the Products specified on the Order ("Fees"). All Fees are due and payable as set forth in the Order, and if no payment terms are set forth on the Order, then Seller will invoice Buyer and payments are due thirty (30) days from the invoice date. Buyer agrees to notify Seller of any fee dispute within thirty (30) days of receipt of the applicable invoice and Buyer agrees to work in good faith to promptly resolve any dispute and pay fees within fifteen (15) days following resolution of the dispute.

**Seller's Rights:** If Buyer does not pay Seller any amount due under this Contract or any other Contract when such amount is due or if Buyer defaults in the performance of this Contract, Seller may, without liability to Buyer and without prejudice to Seller's other lawful remedies (a) terminate Seller's obligations under this Contract; (b) declare immediately due and payable all Buyer's obligations to Seller; (c) change credit terms with respect to any further work or deliveries; (d) suspend or discontinue any further deliveries; and/or (e) repossess the Products. Buyer agrees to reimburse Seller for all costs and fees including, but not limited to attorneys' fees and repossession fees, incurred by Seller in collecting any sums owed by Buyer to Seller. Buyer agrees to pay a late payment charge in an amount equal to the lesser of 1-1/2% per month or the maximum amount allowable by law on all amounts not paid in full when due, payable on Seller's demand. Buyer shall not set off amounts due to Seller against claims against Seller.

**Security Interest:** In partial consideration for Seller's sale of Products to Buyer, Buyer hereby grants to Seller and Seller hereby retains a security interest in all Products sold to Buyer and documents relating to such Products now or hereafter in the possession of or under the control of Buyer, title to which might at any time be determined to have passed to Buyer, including, without limitation, all inventories of the Products or any other product bearing any trademark or trade name of Seller (or its affiliates or suppliers), and all returns or repossessions and the proceeds (including insurance proceeds and proceeds from products in which the Products were an input), of all of the foregoing, together with the additions and accessions thereof, to secure all of Buyer's obligations to Seller under this Contract and all other obligations of Buyer to Seller. Buyer agrees to execute such financing statements, continuation statements and other documents evidencing the security interest in the Products, and to take such actions as may be required by Seller to evidence or perfect the security interest granted herein and the interest of Seller. With respect to such statements and documents, Seller is authorized in Buyer's name or otherwise to take such actions as permitted under this Contract or applicable law, including, without limitation, signing Buyer's name, and Buyer hereby appoints Seller as its attorney-in-fact for such purpose.

### 5. Cancellations, Changes and Returns

**Cancellations:** All undelivered Products may be cancelled by Buyer only upon written approval of an authorized representative of Seller. In the event of any cancellation of an order by Buyer, Buyer shall pay to Seller its reasonable costs and expenses, plus Seller's usual rate of profit for similar work and all cancellation charges imposed by Seller's suppliers.

**Changes:** Buyer may not change its order or any part thereof without the prior, written consent of an authorized representative of Seller. Seller reserves the right to change the price, terms of payment and delivery dates for any Products affected by any changes to which it consents.

**Returns:** No Products may be returned to Seller without its prior, written authorization. Products may be returned only on the terms or conditions specified in such authorization. Returned Products must be of current manufacture, unused, in resalable condition, and securely packed to reach Seller without damage. Any cost incurred by Seller to put Products in new condition will be charged to Buyer. All Product returned to Seller shall be subject to a 15% restocking charge plus the costs of freight, packaging and insurance.

### 6. Limited Warranty

**Limited Warranty:** Seller warrants to Buyer that its Products will be free from material defects in workmanship and materials under normal use and service for a period of twelve (12) months from the date of Seller's delivery of Products to the Facility (the "Warranty Period").

**LIMITATIONS ON WARRANTY:** In addition to "Buyer's Obligations" below, the following limitations apply to this warranty. This limited warranty is nontransferable and extends only to the original purchaser acquiring the product directly from Seller. There is **NO WARRANTY** in cases of damage in transit, negligence, abuse, abnormal usage, misuse, accidents, normal wear and tear, damage due to environmental or natural elements, failure to follow Seller's instructions or improper installation, storage or maintenance.

**Remedy and LIMITATIONS ON REMEDY:** Seller's sole and exclusive obligation under this warranty (and Buyer's sole and exclusive remedy) shall be, upon prompt written notice by Buyer during the Warranty Period of any breach, to either, at Seller's option, repair or replace without charge, F.O.B. Seller's Facility, any Product or part thereof found by Seller in its reasonable judgment to be covered by this warranty. Notice of any warranty claim or request for warranty service should be sent to Seller at the following address: 622 North Water Street, Suite 406, Milwaukee, WI 53202, Attn: Christopher Foley. **SELLER SHALL NOT BE LIABLE TO BUYER, OR TO ANYONE CLAIMING UNDER BUYER, FOR ANY OTHER REMEDIES, OBLIGATIONS OR LIABILITIES, INCLUDING, BUT NOT LIMITED TO, REMEDIES, OBLIGATIONS OR LIABILITIES ARISING OUT OF BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE OR OTHER TORT OR ANY THEORY OF STRICT LIABILITY, WITH RESPECT TO THE PRODUCTS OR SELLER'S ACTS OR OMISSIONS OR OTHERWISE.** Any assistance Seller provides to or procures for Buyer outside the terms, limitations or exclusions of this warranty will not constitute a waiver of the terms, limitations or exclusions of this limited warranty, nor will such assistance extend or revive the warranty. Seller will not reimburse Buyer for any expenses incurred by Buyer in repairing or replacing any Products outside the terms of this limited warranty, except for those incurred with the prior written permission of an authorized representative of Seller.

**LIMITATION ON DAMAGES: IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES, OR FOR LOST PROFITS OR REVENUES DIRECTLY OR INDIRECTLY INCURRED, EVEN IF SELLER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SELLER'S AGGREGATE LIABILITY WITH RESPECT TO A PRODUCT AND THIS CONTRACT SHALL BE**

**LIMITED TO THE MONIES PAID TO SELLER BY BUYER FOR THAT PRODUCT.** These limitations apply notwithstanding any failure of the essential purpose of the above limited remedy.

#### **7. DISCLAIMER OF OTHER WARRANTIES**

**SELLER AND BUYER AGREE THAT THE EXPRESS WARRANTIES IN THE PRECEDING SECTION ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES (INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE). SELLER HEREBY DISCLAIMS AND EXCLUDES ALL OTHER EXPRESS AND IMPLIED WARRANTIES.**

#### **8. Indemnification**

Buyer hereby releases and agrees to indemnify, defend and hold harmless Seller and its shareholders, directors, officers, employees, agents, successors, assigns, affiliates and suppliers (individually and collectively, "Seller's Indemnified Parties") from and against any and all direct and indirect claims, debts, actions, causes of action, liabilities, losses, suits, demands, fines, penalties, judgments, damages or expenses whatsoever, including, without limitation, attorneys' fees and costs ("Damages") incurred by or against Seller or any of Seller's Indemnified Parties due to or arising out of, in connection with, resulting from or relating to (a) misrepresentation or breach of this Contract, or violation of any law, by Buyer or any of Buyer's shareholders, directors, officers, employees, affiliates, representatives, agents, successors or assigns ("Buyer's Parties"), or (b) any damage to or destruction of property, or injury to or death of persons caused, or alleged to have been caused, in whole or in part, by any intentional, reckless, negligent or other act (or failure to act) of Buyer or any of Buyer's Parties, or (c) actions, threatened actions, losses, damages or injuries to person or property (including death) related to or caused by Buyer's products, Buyer's specifications, drawings, descriptions, designs, approvals or instructions provided to Seller, or by Buyer's infringement of the patents or proprietary right of any other individual or entity, or due to improper application or use of the Products. Prior to settling any claim, Buyer will give Seller an opportunity to participate in the defense and/or settlement of such claim. Buyer shall not settle any claim without Seller's written consent. In the event of any recall affecting the Products, Seller shall have the right to control the recall process and Buyer shall fully cooperate with Seller in connection with the recall.

#### **9. Confidential Information; Engineering Data; Intellectual Property**

**Confidential Information:** Buyer acknowledges that all Confidential Information (as defined below) which may be disclosed to it by Seller or its affiliates or suppliers shall at all times, both during and after expiration or termination of this Contract for any reason, remain the exclusive property of Seller or its affiliates or suppliers and that Buyer shall not acquire any proprietary interest whatsoever therein. "Confidential Information" means all knowledge and information disclosed by Seller or its affiliates or suppliers to Buyer orally or in writing, or acquired by Buyer through observation, regarding Seller's or its affiliates' or suppliers' products, technology, inventions, formulas, know-how, services, forecasts, sales methods, customer lists, customer usages and requirements, financial information, business plans, strategies and future business relationships, disclosed with the exception of such information which: (a) was already part of the public domain at the time of the disclosure by Seller or its affiliates or suppliers; (b) becomes part of the public domain through no fault of Buyer (but only after and only to the extent that it is published or otherwise becomes part of the public domain); (c) was in Buyer's possession prior to the disclosure by Seller or its affiliates or suppliers and was not acquired, directly or indirectly, from Seller, its affiliates or suppliers or from a third party who was under a continuing obligation of confidence to Seller or its affiliates or suppliers; or (d) is received (after the disclosure by Seller or its affiliates or suppliers) by Buyer from a third party who did not require Buyer to hold it in confidence and did not acquire it directly or indirectly from Seller or its affiliates or suppliers under a continuing obligation of confidence. Except as necessary to perform its duties under this Contract, Buyer shall not use or disclose any of such

Confidential Information, but shall protect it using at least the same degree of care given its own confidential information, but in no event less than a reasonable degree of care. Upon expiration or termination of this Contract for any reason, Buyer shall, within 15 days, surrender to Seller all plans, drawings, specifications, sketches, pictures, films, tapes, computer disks, literature, samples, documents, other tangible objects and all copies thereof relating to Confidential Information and all of Seller's or its affiliates' or suppliers' property. Nothing in this Contract shall be construed to limit or negate the common or statutory law of torts or trade secrets where it provides Seller, its affiliates or suppliers with broader protection than that provided herein.

**Engineering Data:** All engineering data, design information and engineering and shop drawings used in the completion of this order are and shall remain Seller's property. Buyer shall not copy, reproduce, distribute, publish or communicate to any third party such data without the prior, written permission of a properly authorized representative of Seller. Notwithstanding the foregoing, Buyer shall distribute product data on operation, safety and maintenance information to the end user.

**Intellectual Property:** All of Seller's Intellectual Property Rights are and shall remain Seller's sole property and Buyer agrees not to take or permit any action contradicting Seller's rights thereto. Except as specifically provided below, no licenses, express or implied, are provided to Seller's Intellectual Property Rights. "Intellectual Property Rights" include, without limitation, any copyright, patent, registered or unregistered design, logo, trademark, trade dress, trade name or other designation, translation of trade name into another language, technology, know-how, and any similar rights or applications for rights in any of the foregoing in any part of the world owned or used by Seller or any of its affiliates, and any goodwill relating thereto. Seller's rights under this section shall be enforceable by injunctive relief and/or a decree of specific performance. Such remedy is cumulative and nonexclusive. Nothing in this Contract is meant to restrict established patent exhaustion or first sale principles. Buyer agrees to take all steps which Seller may from time to time consider to be necessary to perfect or protect Seller's or its affiliates' or suppliers' rights in the Trademarks including, without limitation, executing all necessary assignments, declarations, and other documents requested by Seller from time to time. Upon expiration or termination of this Contract for any reason, Buyer shall take such steps and execute such documents as Seller requests to cause Seller or its affiliates or suppliers to own all rights in the Intellectual Property and to terminate any rights Buyer or its affiliates may have to use the Intellectual Property. Buyer shall inform Seller promptly of any potential or actual infringement of any of Seller's or its affiliates' or suppliers' Intellectual Property and shall provide all assistance and information required by Seller, at Seller's expense, in connection with any such infringement.

#### **10. Force Majeure**

Seller shall not be responsible for delay in delivery or failure to fill orders or other default or damage where such has been caused by an act of God, war, major disaster, terrorism, third-party criminal acts, insurrection, riot, flood, earthquake, fire, strike, lockout or other labor disturbance, delay by carriers, shortage of fuel, power, materials or supplies, operation of statutes, laws, rules or rulings of any court or government, demand for goods exceeding Seller's available supply or any other cause beyond Seller's control. In the event of any delay in delivery, failure to fill orders or other default or damage caused by any of the foregoing, Seller may, at its option and without liability, prorate its deliveries, cancel all or any portion of the contract to the extent affected by the event of force majeure and/or extend any date upon which performance is due hereunder.

#### **11. Data License**

No subscription services will be provided in connection with your purchase of Products unless you subscribe to the subscription services with Buyer pursuant to the Order Form. The subscription services are governed by the Subscription Services Agreement.