

CALIFORNIA SENSOR CORPORATION TERMS AND CONDITIONS OF SALE

This "Agreement" (or "these terms") contains the terms and conditions that apply to your (the "Buyer") purchase of "Products," "Software" and/or services (collectively, "Deliverables") from California Sensor Corporation, dba Calsense (hereinafter "Seller"), a California corporation with an address at 2075 Corte Del Nogal, Suite P, Carlsbad, CA 92011. Performance by the parties is expressly made conditional on Buyer's assent to these terms and conditions. Buyer agrees to these terms and conditions, which constitute the entire agreement between the parties and supersede any prior understandings, agreements, or representations between the parties, written or oral, to the extent they relate in any way to the subject matter hereof and shall prevail over any inconsistent or additional provisions in any form or other paper submitted by Buyer or any affirmation of fact, course of prior dealings, promise, condition or usage of the trade. Any additional or different terms in any Buyer request for quotation, acknowledgment, commencement, or purchase order shall constitute a counteroffer and such counteroffer shall not be accepted by Seller without written approval by Seller. Any attempt to alter, supplement or amend this document or to enter an order subject to additional or altered terms and conditions will be null and void, unless otherwise agreed to in a written agreement signed by both Buyer and Seller.

1. **WARRANTY/RETURN POLICY.** The Deliverables sold by Seller are subject to Seller's Limited Warranty set forth on Seller's website at www.calsense.com/warranty/, which is hereby incorporated into these terms.

2. **LIMITATION OF LIABILITY. THE LIABILITY OF SELLER, WHETHER UNDER CLAIMS OF WARRANTY, NEGLIGENCE, INDEMNIFICATION OR OTHERWISE, SHALL NOT EXCEED THE PRICE PAID TO SELLER WITHIN THE PREVIOUS TWELVE (12) MONTHS. UPON EXPIRATION OF THE WARRANTY PERIOD, ALL LIABILITY SHALL TERMINATE. SELLER AND ITS SUPPLIERS SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, REMOTE CONSEQUENTIAL OR PUNITIVE DAMAGES, SUCH AS, BUT NOT LIMITED TO, LOST PROFITS, SAVINGS, OR REVENUES, HOWEVER ARISING FROM OR CAUSED, DIRECTLY OR INDIRECTLY, BY THE USE OF DELIVERABLE BY BUYER, OR BY THE PERFORMANCE OR FAILURE OF THE SELLER TO PERFORM UNDER THIS AGREEMENT, OR BY ANY OTHER ACT OR OMISSION OF SELLER, OR BY ANY OTHER CAUSE, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES.**

3. **SHIPMENTS / DELIVERY / SECURITY/ FORCE MAJEURE / RESCHEDULING.** (a) Shipments. All shipments are Ex Works Seller's point of shipment, except as otherwise expressly agreed to in writing by Seller. Buyer assumes title and risk of loss and damage upon Seller's shipment of Product. Except as otherwise agreed, transportation charges shall be pre-paid by Seller and billed to and paid by Buyer. Shipping dates are approximate and subject to Seller's lead times. (b) Deliveries. Claims against Seller for shortages must be made within five (5) days after receipt of shipment. Seller is not liable for losses or added costs due to shipment delays. Partial shipments are permitted. (c) Security. Seller retains a security interest in all Products until full payment for the Deliverables. Buyer agrees to do all acts necessary to maintain Seller's security interest. Buyer hereby appoints Seller as its agent and Attorney-in-Fact to execute any financing statements under the Uniform Commercial Code and any appropriate amendments thereto on Buyer's behalf which Seller deems necessary to protect Seller's security interest. (d) Force Majeure. Seller is not liable for acts of God, acts of civil or military authority, fires or other casualty, labor disputes, strikes, pandemic, floods, war, earthquakes, delays in transportation, riots, fire, hurricane, typhoon, lightning, explosion, strikes, lockouts, slowdowns, prolonged shortage of energy supplies, and acts of state or governmental action prohibiting or impeding any party from performing its respective obligations; inability beyond Seller's reasonable control to obtain necessary labor, materials, components or manufacturing facilities; or any other commercial impracticability or cause beyond Seller's reasonable control. (e) Rescheduling Buyer shall not be permitted to reschedule shipment of Products that are scheduled for shipment within ninety (90) days, except as agreed to in writing by Seller. (ii) In no event may any Purchase Order be rescheduled earlier than Seller's then current lead-time. (iii) If any shipment date is rescheduled and Buyer requests a second rescheduling of shipment, Seller may in its sole and absolute discretion (1) assess a reasonable rescheduling fee or (2) cancel Buyer's Purchase Order and/or Purchase Order line item.

4. **TRANSPORTATION / PACKAGING.** Seller will ship Products using its established methods of packing and transportation, except as otherwise instructed by Buyer. If Buyer requires other arrangements, if determined to be feasible by Seller, Buyer will pay the applicable additional costs.

5. **QUANTITY VARIATION.** If Products ordered by Buyer are not standard items customarily carried in stock by Seller, shipment of 90% or more of the amount specified shall constitute fulfillment of the order and the charges shall be adjusted to reflect the actual quantity shipped.

6. **PRICES / PAYMENTS /MINIMUM BUY QUANTITIES.** (a) Prices. Except as otherwise stated in writing, Seller's quotations are non-binding and for reference only. Notwithstanding, for instances where Seller has provided an estimate for a direct purchase, estimates will remain valid for a period of thirty (30) days from date of quotation. All prices are stated in U.S. dollars. (b) Payments. Unless otherwise agreed in writing, acceptable payment methods include check, wire transfer, ACH or credit card, paid in U.S. dollars, without right of setoff. No discounts are authorized, unless otherwise agreed to in writing by Seller. Subject to Seller's approval of Buyer's credit, payment is due thirty (30) days from date of invoice. All overdue balances are subject to late fees of 1.5% per month. The amount of credit or terms of payment may be changed by Seller at any time for any reason. *Pro rata* invoices will issue with respect to partial shipments. If shipment is delayed by Buyer, payment is due on the date Seller is prepared to make shipment. Products held for Buyer shall be at the Buyer's risk and expense. Failure to make payment within ten (10) days of demand by Seller shall, at Seller's option, constitute repudiation of any outstanding orders, in which event Seller shall be entitled to assert cancellation charges as described in Section 9 of these terms. In the event of bankruptcy or insolvency of Buyer, or in the event any proceeding is brought by or against Buyer under bankruptcy or insolvency laws, Seller may cancel outstanding orders and assert cancellation charges as described in Section 9 of these terms.

7. **REMITTANCE.** Except as otherwise instructed in writing, payments shall be made to Seller's invoice address. Payment advice must reference the appropriate Seller invoice(s).

8. **CHANGES, PRODUCT DISCONTINUATION & LAST TIME BUY ORDERS.** (a) Changes. Seller reserves the right at any time and without notice to Buyer, to make changes in the Product(s) which do not adversely affect the form, fit or function of the Product(s). (b) Product Discontinuation & Last Time Buy. Seller reserves the right to discontinue manufacturing of any Product at any time. Seller may provide Buyer with advanced notice regarding its plan to discontinue manufacturing any Product ("Discontinued Product") so as to afford Buyer with the opportunity to place a last time buy for Discontinued Product ("Last Time Buy"). Last Time Buy orders may not be canceled or rescheduled by Buyer for any reason and are subject to minimum order requirements and pricing guidelines. Last Time Buys may not be returned, except as set forth in Section 1 above. Seller reserves the right to cancel Last Time Buy orders without penalty if unable to fulfill such orders.

9. **CANCELLATION.** Purchase Orders for Products may not be cancelled. In the event Seller, at Seller's sole and absolute discretion,

permits cancellation of any Purchase Order, (a) Buyer must accept shipment of, and pay the agreed upon price(s) for all Products which are manufactured (including work-in-process which is substantially complete) and allocable to the Purchase Order; and (b) Buyer must pay all Seller's direct and indirect costs relative to all other Products, components and work-in-process allocable to the Purchase Order, together with a reasonable profit based on such costs. Such costs will include but not be limited to the costs of canceling the Purchase Order, segregating materials, preparing cancellation claims, restocking fees, and similar costs.

10. **INDEMNITY.** Seller will defend, indemnify and hold harmless Buyer against any claims based on a claim that Seller's Deliverable, when used in accordance with Deliverable instruction, infringes a U.S. patent, if notified promptly in writing and given full authority, information, and assistance for the defense. Subject to the limitations set forth in Section 2, Seller will pay all damages finally awarded in such a proceeding. In the case the Deliverable is deemed to infringe, and its use is enjoined, Seller will at its option and in its sole and absolute discretion, either arrange for the Buyer the right to continue using the Deliverable or replace the Deliverable with a non-infringing comparable product or accept the return of the Deliverable and refund Buyer's purchase price. THIS PARAGRAPH STATES THE ENTIRE LIABILITY OF SELLER AND ITS SUPPLIERS FOR INFRINGEMENT. Seller shall not indemnify Buyer for any such claims arising from the combination of Seller's Deliverables with other devices or elements, or from any of Buyer's particular use of the Deliverables. Buyer shall defend, indemnify and hold Seller harmless against, claims arising from Deliverables manufactured or developed in compliance with Buyer's designs, specifications or instructions. The sale of Deliverables does not grant or imply any licenses of patents or other intellectual property rights, whether as to Deliverables or combinations of Deliverables with other devices or elements.

11. **TAXES AND DUTIES.** Prices do not include sales, use, excise value-added or other taxes or duties. All taxes and duties in effect or levied which are applicable to Buyer's purchases shall be paid by Buyer.

12. **DISPUTE RESOLUTION.** Any dispute, controversy or claim arising out of or relating to this Agreement, or the interpretation, breach, termination, or validity hereof, shall be resolved through good-faith negotiations. Such negotiations shall begin immediately after one party has delivered to the other party a written request for negotiation. If after thirty (30) days the parties are unable to resolve the dispute as described in this Section 12, the parties agree to attempt in good faith to settle the dispute by mediation, which is to take place in San Diego County, California. Either party shall initiate the mediation by requesting in writing. Within ten (10) calendar days of its receipt, the parties hereto shall confer for the purpose of selecting a mutually agreeable mediator, select and confirm the availability of such mediator. Said mediation shall take place at Seller's office as described on the face of this order acknowledgement or a mutually agreeable location in San Diego County if Seller's location is not available for such purpose. In the event that the parties are unable to settle such dispute through mediation, either party may submit the dispute for commercial arbitration in San Diego County before a single arbitrator with Judicial Arbitration and Mediation Services (JAMS) with limited discovery and conduct arbitration proceedings based upon written submissions from the parties and without any depositions or testimony. Judgment on an award rendered by the arbitrator may be entered in any court having competent jurisdiction. Notwithstanding the foregoing, either party may apply to any court of competent jurisdiction in the State of California for preliminary or interim equitable relief, or to compel arbitration in accordance with this paragraph, without breach of this provision. All mediation and arbitration proceedings shall be conducted in the English language. Each party shall be responsible for its own mediation and arbitration costs.

13. **GOVERNING LAW.** These terms and sales of Seller's Deliverables are construed and governed by the laws of the State of California, exclusive of its conflict of laws provisions.

14. **ASSIGNMENT.** Buyer's orders and obligations are not assignable without Seller's consent, and, for the avoidance of doubt, any such assignment shall be null and void without Seller's written consent.

15. **CONFIDENTIALITY.** Buyer shall hold in confidence all Seller data and information which is marked CONFIDENTIAL or PROPRIETARY if disclosed in documentary form, or which is so identified at the time of disclosure if disclosed in any other form. The following information shall not be protected by this paragraph: (i) information that is publicly available without breach of any obligation; (ii) information that is rightfully received from a third party without restriction; (iii) information that is independently developed by Buyer; and (iv) information that is properly in the possession of Buyer without restriction prior to disclosure. Seller may state in its marketing materials, including Seller's website and sales and corporate presentation materials, that Buyer is a customer of Seller. Subject to the prior consent of Buyer and provided such consent will not be unreasonably withheld or delayed, Buyer shall also serve as a reference for Seller. Such a reference may, as mutually agreed upon, include activities such as confirming Buyer's status as a customer, a published "success story", a mutually agreed upon press release, or a favorable reference to an industry analyst.

16. **WAIVER.** The waiver by either party of any term, provision, or condition must be in writing and shall not be construed to be a waiver of any other term, condition, or provision. No waiver or failure to enforce rights or remedies concerning a default shall constitute a waiver of any other or subsequent default.

17. **EXPORT CONTROL.** Buyer shall not resell any of the Deliverables. Buyer agrees not to sell or deliver Seller's Deliverables for ultimate shipment to those areas to which shipment would be forbidden under U.S. law/regulations pertaining thereto.

18. **GOVERNMENT CONTRACT PROVISIONS AND CLAUSES:** In the event any Product purchased hereunder is incorporated into a product sold under a United States Government Contract, the Government clauses required to be passed on to the Seller are not accepted and specifically rejected. Except as otherwise provided in writing, Seller's commercial terms are in lieu of any government contract and/or subcontract requirements and shall apply

19. **RMWARE AND OBJECT CODE SOFTWARE OWNERSHIP AND LICENSE:** With respect to all software, in object code form, and firmware furnished to Buyer hereunder and any derivatives thereof (collectively, "Software") : (a), Seller grants Buyer a non-exclusive, non-transferable, limited, personal, internal use, license ("License") to access and use the Software on the following terms and conditions. (b) Ownership. This License does not convey to Buyer any rights of ownership in the Software. All right, title, and interest in the Software shall at all times remain the property of Seller. Buyer acknowledges and agrees that the Software is licensed, not sold. Buyer will not remove, modify or alter any of Seller's copyright, trademark or proprietary rights notices from any part of the Software. (c) Buyer may not rent, lease, resell, or transfer the Software. Buyer shall not retain, copy or reproduce the Software, reverse-engineer, decompile, or disassemble the Software or any intellectual property disclosed to Buyer. (d) Seller warrants that it has the right and authority to grant the rights described in this License. For Users Outside of the United States, Canada or Mexico: No person who is not a party to this License shall be entitled to enforce any terms of the same under the Contracts (Rights of Third Parties) Act 1999. (e) Privacy and Security. Seller is committed to protecting Buyer's privacy and security. For more information, you should review our Privacy Policy on our website www.calsense.com, which is incorporated into this Agreement by this reference. (f) Nothing in this Agreement shall be interpreted as conveying or granting a license to Buyer of any Licensed Software in source code form.

20. **SEVERABILITY AND MAXIMUM ENFORCEMENT.** Should any provision of these terms for any reason be declared by a court of competent jurisdiction invalid, or partly or wholly unenforceable, such declaration or decision shall not affect the validity or enforceability of any of the other provisions of these terms, which remaining provisions shall

remain in full force and effect, and the application of such invalid or unenforceable provision to persons, entities or circumstances other than those as to which it is held invalid or unenforceable shall be valid and enforced to the fullest extent permitted under applicable law.

Direct inquiries to Seller may be made at the address on the front of this document.