

SPX AIDS TO NAVIGATION, LLC
STANDARD TERMS AND CONDITIONS OF SALE

1. DEFINITIONS.

- a. *Custom-built* means equipment set forth in the Proposal which is built by Seller to Customer's specifications.
- b. *Customer* means the purchaser to whom the Proposal is addressed and to whom these Terms apply, including, where applicable, all individual and/or corporate guarantors.
- c. *Integrated Solar LED Light Source Equipment* means any LED Light Source Equipment that also has solar photovoltaic (PV) panels and batteries built into the light head.
- d. *LED Light Source Equipment* means any system comprising light emitting diodes (LEDs).
- e. *Monitoring Material* means a device used to provide remote monitoring of assets, including FTM, FTW Products and/or modem, Wi-Fi, batteries, and network switches included in LED Light Source Equipment (excludes SMART card). Also includes modem upgrade kits used to replace obsolete modems, but excludes monitoring hardware embedded into the light head.
- f. *Price* means the price to be paid by Customer for the Products and/or Services listed in the Proposal, including any changes agreed to in writing by the parties.
- g. *Product* means the applicable lighting, monitoring and/or related equipment to be sold by Seller to Customer.
- h. *Proposal* means the proposal or quotation document provided to Customer by Seller into which these Terms are incorporated by reference.
- i. *Replacement Material* means any Product shipped as spare parts or replacement.
- j. *Rigging* means the labor, materials and machinery required to remove or install any Products located on a tower or tall structure.
- k. *Seller* means SPX Aids to Navigation, LLC, or any of its affiliates issuing a Proposal for Products and/or Services.
- l. *Services* means any services, including but not limited to installation services, consulting services, repairs and maintenance, lighting inspections, change orders and/or site survey services or training to be furnished by Seller to Customer as set forth in a Proposal.
- m. *Shipping Date* means the shipping date(s) that Seller has communicated to Customer.
- n. *Solar Photovoltaic (PV) Power Supply* means any solar power supply consisting of PV panels and batteries mounted separately from the light head.
- o. *Terms* means these Terms and Conditions of Sale.
- p. *Warranty Period* means, with respect to a Product, the following time period, as measured from the date of shipment of the applicable Product:

Xenon Light Source Equipment	Two (2) years
Integrated Solar LED Light Source Equipment (excluding batteries)	Three (3) years
Solar Photovoltaic (PV) Power Supply (excluding batteries)	Five (5) years
Solar Photovoltaic (PV) Power Supply batteries	Three (3) years
LED Light Source Equipment	Three (3) years
Solar batteries	One (1) year
Monitoring Materials	Two (2) years
Replacement Materials	Ninety (90) days

- q. *Xenon Light Source Equipment* means any system that uses xenon flashtubes.

2. PROPOSAL, ACCEPTANCE AND GOVERNING PROVISIONS.

A Proposal will automatically expire if not accepted by Customer within thirty (30) days from its date or any extension of such date approved in writing by Seller, and Customer's acceptance of the Proposal, by purchase order or signature, shall constitute Customer's offer and will evidence Customer's intent that the sale of the Products and/or Services shall be governed by the Agreement. No purchase order shall be binding upon Seller until accepted by a written acknowledgment and Seller's acceptance of Customer's offer is conditioned upon Customer's acceptance of the Terms and Customer's agreement to be bound by and comply with the Terms. The Terms, the Proposal, the order acknowledgement and all referenced attachments constitute the entire agreement between Customer and Seller ("Agreement"), and no amendment shall be binding unless in writing and signed by the parties. The failure of Seller to object to provisions contained in any purchase order or other document of Customer's shall not be construed as a waiver by Seller of the Terms or an acceptance of any such provisions. Any conflicting or additional terms or conditions set forth by Customer in a purchase order or other document are not binding upon Seller, and Seller hereby expressly objects thereto.

3. PRICES.

Prices are subject to adjustment by Seller if: (a) the required down payment has not been made with Customer's acceptance of the Proposal, or (b) shipment is delayed by Customer beyond the estimated delivery date(s). Prices for Products do not include any special packing or crating materials, which may be required or requested by Customer for Custom-built equipment or international delivery. All costs of special packing shall be paid by Customer prior to shipment.

4. TAXES.

Prices do not include any applicable foreign, federal, state or local taxes. Unless Customer has provided Seller with documentation of exemption, the amount of such taxes payable or paid by or assessed against Seller will be payable by Customer.

5. PAYMENT TERMS.

(a) Customer shall pay the Price for all Products and Services to Seller in accordance with the payment schedule in the Proposal. Absent specific agreement to the contrary, Customer shall pay all amounts owed to Seller within thirty (30) days of shipment. (b) Overdue payments shall accrue interest at the rate of 16% per annum (or the maximum percentage allowed by applicable law, if lower) from the due date. Customer shall also pay Seller any and all collection costs and expenses Seller incurs (including without limitation reasonable attorneys' fees) to collect overdue payments. (c) Seller may make partial shipments of Products, and pro-rata payments shall be due for such partial shipments of Products. Seller may, at its option, decline to deliver Products or Services whenever, for any reason, Seller has concerns about a Customer's financial responsibility. In such event, Seller may require payment in full prior to shipping a Product or providing any Services. (d) Unless otherwise agreed in writing by Seller, Customer shall make all payments in the currency quoted in the Proposal.

6. DELIVERY.

(a) Seller will deliver Products (i) FOB Origin (UCC) for transactions where the shipping point and the delivery point are both within the United States ("US Transactions"), with delivery to the initial carrier constituting delivery to Customer and (ii) EXW (Incoterms 2020) for all other transactions, with Seller's notification to Customer that Products are ready for shipment constituting delivery to Customer. All transportation charges will be Customer's responsibility; however, upon Customer's request, Seller will prepay transportation charges and add a shipping and handling fee to the Customer invoice. Customer shall have sole responsibility for filing any claims with any carrier for delay, loss or damage. (b) Any estimated or "firm" delivery dates or service dates are predictions made by Seller of the times within which it is likely the Products will be shipped or Services will be performed; however, due to the difficulties inherent in predicting future delivery dates or service dates, Seller does not promise, guarantee or otherwise obligate itself to have the Products shipped or Services performed on or before that time. **Seller will endeavor to meet the Shipping Date, but shall not be liable in damages or otherwise, nor shall Customer be relieved of performance, because of failure to meet them.** However, as to Products which, without Customer's fault, have not been shipped to Customer within thirty (30) days after the estimated or "firm" delivery dates or periods applicable to such Products, Customer may, by providing written notice to Seller, delete from this Agreement any such Products that have not been shipped to Customer before Seller receives Customer's written notice of deletion, and the Price shall be proportionately reduced. **The foregoing right is Customer's exclusive remedy for any delays in shipment.** If Seller is ready to ship and Customer postpones the shipment for any reason, in addition to all other remedies, Seller may charge Customer storage fees for the storage of the Products.

7. TITLE, INSURANCE AND RISK OF LOSS. Both title to the Products and risk of loss or damage passes to Customer (a) upon delivery to the initial carrier for US Transactions or (b) when the Products are ready for shipment for all other transactions.

8. ACCEPTANCE; RETURN OF PRODUCTS. The Products and Services shall be deemed accepted, and any attempt by Customer to reject an order or shipment of Products shall be waived and not enforceable, unless Customer has promptly inspected the Products and services, and written notice from Customer of any defect has been received by Seller within ten (10) days following any delivery of Products or performance of services. The return of defective Products is covered by the Warranty below. Seller may, in its discretion, accept unused standard Products returned for credit (shipping prepaid) within sixty (60) days of receipt of such Products. In such instance, Seller shall impose a restocking fee of twenty-five percent (25%) of the Price of such Product. Custom-built Products cannot be returned.

9. PRODUCT OBSOLESCENCE. A product is labeled “**discontinued**” when Seller stops selling it and a product is labeled “**obsolete**” when support limitations have been set. In most cases, obsolete products are no longer candidates for in-house repairs and restricted to 2 years of technical support and spare parts availability from the date the product was labeled obsolete, whereas there are no such limitations placed on discontinued products. If resources are available beyond 2 years, Seller will continue to provide specific support on a case-by-case basis as long as it is commercially reasonable to do so. Call Seller Sales at (800) 821-5825 for questions about whether a product is obsolete or discontinued.

10. INTELLECTUAL PROPERTY. If Customer receives a claim that any Product manufactured by Seller infringes a U.S. patent, Customer shall promptly notify Seller in writing and give Seller information, assistance and exclusive authority to evaluate, defend, and settle such claim. Seller shall then at its own expense and option (a) settle such claim; (b) procure for Customer the right to use such Product; (c) replace or modify the Product to avoid infringement; (d) remove the Product and refund the purchase price less accrued depreciation; or (e) defend against such claim. Provided such timely notice, information, assistance and authority have been given by Customer to Seller, should any court of competent jurisdiction hold such Product to constitute infringement, Seller shall pay any costs and damages finally awarded on account of such infringement and, if the use of such Product is enjoined, Seller shall take at its option one or more of the actions under (b), (c) or (d) above. With respect to any product not manufactured by Seller, the patent indemnity, if any, given by the manufacturer thereof shall apply in place of the foregoing indemnity. Seller shall not be liable for any costs or expenses incurred without Seller’s written authorization. The foregoing constitutes the entire liability of Seller and Customer’s sole and exclusive remedy for intellectual property infringement related to the Products. Notwithstanding the foregoing, the remedy described in this paragraph shall not apply to any suit or proceeding alleging infringement resulting from or related to (i) Seller’s compliance with Customer’s specifications, instructions or design, or (ii) the use of Products in combination with other goods or materials or (iii) modification of the Products by a party other than Seller. In no event shall Seller’s total liability to Customer under, or as a result of compliance with, the provisions of this section exceed the aggregate sum paid to Seller by Customer for the allegedly infringing Product or part.

11. WARRANTY. For the applicable Warranty Period and subject to the provisions of this Section 11, Seller warrants to the Customer that the Products manufactured by Seller shall be free from material defects in material and workmanship and shall be in accordance with the specifications agreed to by the parties in all material respects. During such applicable Warranty Period, subject to the right to inspect such Product, Seller agrees to repair or replace, at Seller’s sole discretion, such warranted Product as is found to be defective, subject to the conditions of this Agreement. If Seller fails to repair or replace any defective Product, the Customer agrees that the exclusive measure of damages shall be the reasonable cost of the repair or replacement of the defective Product at that time. Seller’s warranty obligation is conditioned on the Customer’s payment of all amounts due and the Customer’s compliance with its obligations under this Agreement. Repair or replacement of defective Products does not re-start the Warranty Periods; it carries the longer of (i) the ninety (90) day spare parts warranty or (ii) the remaining warranty of the original serial number of the product replaced.

The Customer’s warranty rights under this Agreement shall apply only if Seller receives prompt written notice of any alleged defect within the applicable Warranty Period and the Product has been installed and operated in accordance with Seller’s written instructions. **Further, no warranty shall apply: (a) to any Products that have been repaired, worked upon, disassembled or altered by persons not authorized by Seller in such a manner as to injure the stability or reliability of such Products, (b) to any Products that have been subject to misuse, negligence or accident other than by Seller, (c) to any Products that have not been connected, installed, electrically grounded, used, maintained, inspected or adjusted by appropriately qualified personnel in accordance with the written instructions furnished by Seller, (d) with respect to any Product that has had its serial number altered, effaced or removed, (e) to damage resulting from: Force Majeure; intentional acts, such as sabotage, terrorism, or vandalism; accidents; extreme weather (including earthquakes, flooding, high winds, hurricanes, tornados, hail, or lightning strikes); the impact of ambient chemicals; and/or flying objects, or (f) to ordinary wear resulting from use and exposure. Replacement of any original Seller parts with non-Seller parts will take the Products out of compliance and void this warranty.**

Warranty Activation – To activate warranty for Light Source Equipment and Monitoring Materials call Seller Customer Support at (800) 821-5825. Refer to the warranty activation card supplied with product or system manual for specific instructions.

Warranty Returns – For returns, the warranted Product must be properly authorized for return with a Return Materials Authorization (RMA) and RMA number, packed and returned to Seller, transportation prepaid. For Products that cannot reasonably be returned, the Customer has the obligation to provide photographic or other evidence to document a claim. A RMA number must be requested from Seller prior to return or advance replacement of any Product. No returned product will be processed without the RMA number. Failure to follow the full RMA policy may result in additional charges and delays. To initiate a RMA call Seller Technical Support at (800) 821-5825.

Without limiting the foregoing, Seller shall in no event be liable for rigging or other labor charges connected with repair or replacement of defective Products or Services covered by these warranties, or for any third party engineering or consulting fees. Equipment furnished by Seller but not bearing its trademark or trade name shall carry no warranties, except those, if any, extended by and enforceable against the manufacturer at the time of delivery to Seller.

THE FOREGOING WARRANTIES ARE IN LIEU OF, AND SELLER EXPRESSLY DISCLAIMS, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED IN FACT OR BY LAW, INCLUDING WITHOUT LIMITATION ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE, AND THE FOREGOING WARRANTIES STATE SELLER’S ENTIRE AND EXCLUSIVE LIABILITY AND THE CUSTOMER’S SOLE AND EXCLUSIVE REMEDY, IN CONNECTION WITH THE SALE OR FURNISHING OF SERVICES OR PRODUCTS, THEIR DESIGN, SUITABILITY FOR USE, INSTALLATION OR OPERATION.

12. LIMITATION OF LIABILITY. SELLER SHALL NOT BE LIABLE UNDER ANY THEORY OF RELIEF FOR: (I) ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING WITHOUT LIMITATION, LOSS OF ANTICIPATED VALUE OF A BUSINESS OR ITS REPUTATION) OR (II) ANY DAMAGE OR LOSS IN EXCESS OF THE PRICE ACTUALLY PAID BY CUSTOMER FOR THE SPECIFIC GOODS AND SERVICES UPON WHICH SUCH LIABILITY IS BASED. ANY ACTION FOR BREACH OF CONTRACT OR OTHERWISE MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.

13. FORCE MAJEURE. Seller shall not be liable for delay in performance or failure to perform any of its obligations, if the delay or failure results directly or indirectly from Force Majeure. Force Majeure means any law, order, regulation, direction, request, action or failure to act of Customer or of any government having jurisdiction over Seller, its subcontractors and/or its suppliers; failure or delay of transportation; suspension or cancellation of any required license; insurrection; riots, national emergencies; war; acts of public enemies, strikes or other labor difficulties; inability to obtain necessary labor, manufacturing facilities, materials or components

from Seller's usual sources; fires, floods, earthquakes, lightning or other catastrophes; acts of God; extreme weather conditions; or any cause of like or different kind beyond the control of Seller. Seller shall notify Customer in writing if performance of any of its obligations under this Agreement is delayed by reasons of Force Majeure.

14. PROPRIETARY INFORMATION. Seller retains title to and ownership of all engineering and production prints, drawings, technical data, and other information and documents that relate to the Products sold to Customer and any intellectual property rights embodied therein. Unless advised by Seller in writing to the contrary, all such information and documents disclosed or delivered by Seller to Customer are to be deemed proprietary to Seller and shall be used by Customer solely for the purpose of inspection, installation, maintenance and use of the Products purchased hereunder and not used by Customer for any other purpose. Customer shall maintain the confidentiality of such proprietary information with a reasonable standard of care no less stringent than it uses with its own confidential information.

15. TERMINATION/SUSPENSION. Without prejudice to its other rights, Seller may immediately terminate this Agreement by giving notice to Customer or suspend the performance of Seller's obligations if Customer: (a) breaches this Agreement and fails to remedy that breach within 14 days of a request by Seller; or (b) ceases business operations, is unable to pay Customer's debts as they fall due, makes an assignment for the benefit of creditors, commences winding-up, has a receiver or liquidator appointed over any of Customer's assets, or becomes subject to a bankruptcy or insolvency proceeding.

16. INSTALLATION AND OTHER SERVICES. Seller will provide all Services to Customer as set forth in a Proposal and/or Agreement. If installation is purchased, Customer shall complete all of the actions necessary to prepare Customer's premises for the installation of Products prior to the scheduled installation date. Seller may invoice Customer for an amount in addition to the installation charge specified on the Proposal if Seller incurs additional installation costs as a result of Customer's failure to have the site, other manufacturers' equipment or Products ready for Seller's technicians on the scheduled installation date. Seller will, upon Customer's request, furnish a representative to consult regarding the installation of the Products. Charges for furnishing such representative shall be at Seller's per diem rate in effect at the time, plus transportation and reasonable living expenses, including standard general and administrative charges. Such consulting service shall not include the furnishing or arranging for the furnishing of any equipment, materials or services required for the actual installation of Products.

17. OTHER CONDITIONS.

- a. Modifications of Products may be made by Seller or its suppliers prior to delivery for reasons such as improvement in performance, simplifications in design, availability of materials, etc., but not to such an extent that the performance will be materially affected.
- b. Customer shall not assign this Agreement, or any rights thereunder, without the prior written consent of Seller.
- c. Seller shall not be deemed to have waived any term or condition of this Agreement or to have assented to any exception to or modification of such terms and conditions unless such waiver, assent or modification is in writing. Seller's failure at any time to require strict performance by Customer of any provision in this Agreement shall not waive or diminish Seller's right thereafter to demand strict performance therewith or with any other provision. Waiver of any default shall not waive any other default.
- d. In the event that any part of this Agreement is or becomes invalid or illegal in whole or in part, such part shall be deemed amended so as to, as nearly as possible, be consistent with the intent expressed in the Agreement. If this is impossible, such part shall be deemed to be deleted, but shall not in any way invalidate any of the remaining provisions of this Agreement.
- e. Notices shall be mailed, certified mail, or sent by fax to Customer at the address given on the cover sheet of the Proposal and to Seller, Attention: General Manager, 332 Nichol Mill Lane, Franklin, TN USA 37067, Fax: 615.261.2600. Notice shall be effective from date of receipt by addressee.
- f. This Agreement, including without limitation the Proposal and all schedules attached hereto and/or incorporated herein by reference, conclusively supersedes all prior agreements, writings and negotiations with respect to the subject matter hereof.
- g. The rights and duties of the parties to this Agreement shall be governed by and construed in accordance with the laws of the State of Delaware.
- h. All disputes, differences, or questions arising out of or relating to this Agreement, or the validity, interpretation, breach, violation, or termination of this Agreement shall be resolved solely by arbitration through the CPR Institute for Dispute Resolution ("CPR") by a single arbitrator in Nashville, Tennessee. The arbitration proceedings shall be governed by and decided in accordance with the CPR Rules for Non-Administered Arbitration then in effect, unless the parties shall mutually agree otherwise in writing. Any evidentiary rules not expressly provided by the CPR Rules shall be determined in accordance with the Federal Rules of Evidence. Notwithstanding anything to the contrary provided in this Agreement, the arbitration shall be governed by the United States Arbitration Act, 9 U.S.C. § 1, et seq. The arbitration proceeding must be completed through the rendering of the award within six months of the selection of the arbitrator. The award of the arbitrator may be monetary damages, an order requiring performance of obligations under this Agreement or an award of injunctive, declaratory, or equitable relief or any other appropriate award or remedy. However, in no event may the arbitrator issue an award of any form of exemplary or punitive damages, nor may the arbitrator make any ruling, finding or award that does not conform to the terms and conditions of this Agreement. The award rendered by the arbitrator shall be final and binding upon the parties, and judgment may be entered by any competent court having jurisdiction. The award of the arbitrator shall be accompanied by a written explanation of the basis for the award. Notwithstanding anything to the contrary provided in this paragraph and without prejudice to the above procedures, any of the parties may apply to any court of competent jurisdiction for injunctive or other equitable relief if such action is necessary to avoid irreparable damage or to preserve the status quo.
- i. The United Nations Convention on the Sale of Goods shall not apply to this Agreement.