

Part Numbers: FGD-SAT4D
Available Plans for this product:
SAT4D Communication Subscription
Annual: \$420.00

This form must be received to activate your unit. Please allow 24 hours for activation. Visit www.sat4d.com to access your SAT4D device.

Terms and Conditions to be displayed for this contract:

This agreement (hereinafter referred to as the "Agreement") is entered between PHONETICS, INC, d.b.a SENSAPHONE, a Delaware Company, (hereinafter referred to as "Sensaphone") and the entity and/or individuals utilizing Sensaphone's products and services (hereinafter collectively referred to as the "Customer"), and is effective upon activation and use by Customer of Sensaphone's products and services.

1. **THE PARTIES:** Sensaphone is engaged in the business of providing wireless communications and products for managing and monitoring remote equipment, including such industrial applications as water and wastewater systems. The Customer desires to use and benefit from Sensaphone's communications and products, which is to be installed by the Customer on-site at the Customer's premises.
2. **CUSTOMER BOUND:** Customer acknowledges and understands that by activating and utilizing Sensaphone's products, services, and/or web site, Customer is agreeing to be bound by the following terms contained in this legal agreement.

In consideration of the above recitals, the mutual promises contained herein, and other good and valuable consideration, including Customer's use of Sensaphone's products and services, the parties hereby agree as follows:

3. **TERMS:** Customer agrees to pay Sensaphone for hardware and monthly communication fees as defined in Sensaphone's invoices, and Sensaphone agrees to provide Customer with monitoring and notification services by utilizing automated calling, or e-mailing to Customer's designated destinations as set forth in the Sensaphone's product programming on a best efforts basis. For additional operational and functional details, Customer should refer to the Sensaphone's product instructions.
 - (1) Customer understands that Sensaphone will not, with its own personnel, respond to or take action related to those events about which Sensaphone provides monitoring and notification. Customer further understands that he/she is solely responsible for the entries set forth in the Sensaphone product.
 - (2) Customer also understands that the data entries residing in Sensaphone's product can be changed by the Customer. Customer further understands and agrees that he/she/it is to bear the risk of loss or damage that may result from changes to the Sensaphone product programming made by, or on behalf of the Customer, and that such changes may prevent or impair the ability of the Sensaphone's monitoring and notification system from providing timely and successful notifications of detected events to Customer's designated destinations.
 - (3) CUSTOMER FURTHER UNDERSTANDS THAT SENSAPHONE MAKES NO REPRESENTATIONS, PROMISES, WARRANTIES, OR GUARANTEES THAT THERE WILL BE NO INTERRUPTIONS IN SERVICES OR DELAYS IN PERFORMING SERVICE, OR AS TO THE QUALITY, USEFULNESS, COMPLETENESS AND RELIABILITY OF SUCH SERVICE, AND FURTHER THAT SENSAPHONE PROVIDES NO ASSURANCES THAT SUCH SERVICE WILL BE FREE OF ERRORS.
 - (4) Customer acknowledges that the products and services utilized under this Agreement utilize certain wireless messaging services ("Wireless Services") provided through Globalstar Inc., Orbcomm Inc. and their affiliates (collectively "Wireless Service Providers"). CUSTOMER UNDERSTANDS THAT WIRELESS SERVICE PROVIDERS MAKES NO REPRESENTATIONS, PROMISES, GUARANTEES OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE WIRELESS SERVICES, THE WIRELESS MESSAGING NETWORKS THROUGH WHICH THE WIRELESS SERVICES ARE PROVIDED, THE PRODUCTS AND OTHER SERVICES, OR ANY COMPONENT THEREOF, AND HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, RELATED THERETO, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE. Under no circumstances shall Wireless Service Providers be liable to Customer or any other person for any loss, injury or damage, of whatever kind or nature, resulting from or arising out of any mistakes, errors, omissions, delays or interruptions in the receipt, transmission or storage of any messages, signals or information arising out of or in connection with the Wireless Services, the products and other services, or the products and other services use of Wireless Service Provider's wireless messaging network. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, WIRELESS SERVICE PROVIDERS SHALL IN NO EVENT BE LIABLE TO CUSTOMER OR ANY OTHER PERSON FOR INDIRECT, INCIDENTAL OR SPECIAL DAMAGES, LOST PROFITS, LOST SAVINGS OR ANY OTHER FORM OF CONSEQUENTIAL DAMAGES, REGARDLESS OF THE FORM OF ACTION, EVEN IF WIRELESS SERVICE PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
 - (5) CUSTOMER FURTHER UNDERSTANDS THAT SENSAPHONE HAS NO CONTROL OF, OR RESPONSIBILITY FOR, THE PAGING, CELLULAR, RADIO, TELEPHONE, INTERNET, OR OTHER COMMUNICATION MEDIUM WHICH THE CUSTOMER MAY RELY UPON FOR DELIVERY OF ALARM OR OTHER MESSAGES SENT BY SENSAPHONE.
4. **WEB SITE USE:** In connection with this Agreement, Customer may use the services provided by Sensaphone on the SAT4D.COM web site. The SAT4D.COM web site may only be used by authorized users with a proper identification and password, who have executed this Agreement.

Customer further understands that if using the SAT4D.COM web site, then Customer is not only bound by the terms and conditions of this Agreement, BUT IS ALSO BOUND BY THE TERMS AND CONDITIONS LOCATED ON THE SAT4D.COM WEB SITE, WHICH TERMS AND CONDITIONS ARE INCORPORATED BY REFERENCE INTO THIS AGREEMENT AS IF FULLY SET FORTH AT LENGTH. YOU MUST READ ALL OF THE TERMS AND CONDITIONS BEFORE PROCEEDING TO USE THE SAT4D.COM WEB SITE. IF YOU DO NOT AGREE TO ANY OF THE TERMS AND CONDITIONS ON THE SAT4D.COM WEB SITE, THEN YOU SHOULD CEASE USING THE SAT4D.COM WEB SITE, AND INFORM SENSAPHONE THAT YOU DO NOT INTEND TO USE AND/OR CONTINUE USING THAT WEB SITE. YOUR USE OF THE SAT4D.COM WEB SITE IS AN ACKNOWLEDGMENT THAT YOU AGREE TO ALL THE TERMS AND CONDITIONS HEREIN AND LOCATED THE TERMS AND CONDITIONS LOCATED ON THE SAT4D.COM WEB SITE.

5. **INDEMNIFICATION, COVENANT NOT TO SUE, LIMITATIONS OF LIABILITY AND WARRANTY, AND CUSTOMER INSURANCE:** Customer also understands that in further consideration of being granted the right to utilize Sensaphone's monitoring products and notification services, the Customer, on behalf of itself/himself/herself, and any parent entities, affiliates, subsidiaries, directors, officers, employees, agents, representatives, personal representatives, assigns, heirs, next of kin and any third party, agrees:
 - (1) TO INDEMNIFY, DEFEND AND HOLD HARMLESS SENSAPHONE, ITS OWNERS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS OR AFFILIATED COMPANIES, AGAINST ANY AND ALL CLAIMS, DEMANDS OR ACTIONS BASED UPON ANY LOSSES, LIABILITIES, DAMAGES OR COSTS, WHETHER DIRECT OR INDIRECT, SPECIAL OR CONSEQUENTIAL, INCLUDING ATTORNEYS FEES, THAT MAY RESULT FROM THE OPERATION OF SENSAPHONE'S PRODUCTS AND SERVICES, OR FROM THE FAILURE OF THE SENSAPHONE SYSTEM TO REPORT A GIVEN EVENT OR CONDITION, WHETHER OR NOT CAUSED BY SENSAPHONE'S NEGLIGENCE.
 - (2) TO RELEASE, WAIVE, DISCHARGE AND COVENANT NOT TO SUE SENSAPHONE, ITS OWNERS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS OR AFFILIATED COMPANIES, FOR ANY AND ALL LIABILITIES POTENTIALLY ARISING FROM ANY CLAIM, DEMAND OR ACTION BASED UPON ANY LOSSES, LIABILITIES, DAMAGES OR COSTS, WHETHER DIRECT OR INDIRECT, SPECIAL OR CONSEQUENTIAL, INCLUDING ATTORNEYS FEES, THAT MAY RESULT FROM

OPERATION OF SENSAPHONE PRODUCTS AND SERVICES, OR FROM THE FAILURE OF THE SENSAPHONE SYSTEM TO REPORT A GIVEN EVENT OR CONDITION, WHETHER OR NOT CAUSED BY SENSAPHONE'S NEGLIGENCE EXCEPT AS NECESSARY TO ENFORCE THE EXPRESS TERMS OF THIS AGREEMENT.

- (3) WITHOUT WAIVING ANY PROVISION IN THIS AGREEMENT, IF A CIRCUMSTANCE ARISES WHERE SENSAPHONE IS FOUND TO BE LIABLE FOR ANY LOSS OR DAMAGE ARISING OUT OF MISTAKES, NEGLIGENCE OMISSIONS, INTERRUPTIONS, DELAYS, ERRORS OR DEFECTS IN SENSAPHONE'S PRODUCTS OR SERVICES, SUCH LIABILITY SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY THE CUSTOMER TO SENSAPHONE FOR SENSAPHONE'S PRODUCT AND SERVICES OR \$250.00, WHICHEVER IS GREATER.
- (4) THAT THE SENSAPHONE HARDWARE INCLUDES A LIMITED WARRANTY (THE EXPRESS TERMS OF WHICH ARE INCORPORATED HEREIN BY REFERENCE AS IF FULLY SET FORTH AT LENGTH, AND ARE GOVERNING AND CONTROL OVER ANY LANGUAGE IN THIS PARAGRAPH TO THE EXTENT ANY PERSON OR ENTITY SUGGESTS THAT THE TERMS OF THIS PARAGRAPH DIFFER FROM THAT EXPRESS WARRANTY) THAT THE PRODUCT IS FREE FROM DEFECTS IN MATERIALS AND WORKMANSHIP FOR A PERIOD OF ONE YEAR FROM THE DATE OF DELIVERY. SENSAPHONE'S OBLIGATION UNDER THIS LIMITED WARRANTY IS LIMITED TO REPAIRING OR REPLACING THE PRODUCT, AT SENSAPHONE'S OPTION, UNLESS THE PRODUCT HAS BEEN MISUSED OR IMPROPERLY REPAIRED OR SERVICED BY ANY PARTY OTHER THAN AUTHORIZED SENSAPHONE PERSONNEL, IN WHICH CASE THE LIMITED WARRANTY IS VOIDED. OTHER THAN THIS LIMITED WARRANTY, SENSAPHONE'S PRODUCTS AND SERVICES ARE PROVIDED WITH NO OTHER GUARANTEES OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND AS MORE FULLY SET FORTH IN THE LIMITED WARRANTY.
- (5) THAT NEITHER SENSAPHONE NOR ITS OWNERS, DIRECTORS, OFFICERS, EMPLOYEES, OR AGENTS IS AN INSURER AND THAT THE CUSTOMER IS TO MAINTAIN HIS/HER/ITS OWN INSURANCE COVERAGE SUFFICIENT TO PROVIDE COMPENSATION FOR ANY LOSS, DAMAGE, OR EXPENSE THAT MAY ARISE IN CONNECTION WITH THE USE OF SENSAPHONE PRODUCTS OR SERVICES, EVEN IF CAUSED BY SENSAPHONE'S NEGLIGENCE.

6. **PAYMENT:** Customer agrees to pay Sensaphone for a monthly per unit communication fee, which is to be prepaid on an annual basis, as indicated in Customers invoice. The first annual service fee and hardware cost are to be paid within 30 days from the date of shipment of the Sensaphone hardware. After the expiration of the initial one-year term, this Agreement shall automatically renew for additional one-year periods, unless canceled by written notice to Sensaphone at least sixty (60) days prior to expiration date of the then current term. Sensaphone shall not raise the price for subsequent service terms more than a percent equal to the percent increase of the annually compounded percentage increase of the Consumer Price Index computed by the United States Bureau of Labor Statistics over the previous service term.

7. **ACKNOWLEDGEMENT OF READING AGREEMENT, SCOPE OF AGREEMENT, SEVERABILITY, NON-CONSTRUCTION AGAINST DRAFTER:** The Customer acknowledges that he/she/it and/or his/her/its authorized representative(s) has read and understands this Customer Service Agreement, and agrees to its terms and intends to be bound by them, and that in accepting these terms agrees that the interpretation of the terms shall not be presumptively construed against Sensaphone. The Customer further understands that this Agreement is intended to be as broad and inclusive as is permitted by law and that if any portion thereof is held invalid, it is agreed that the balance of the agreement shall, notwithstanding, continue in full legal force and effect.

8. **CHOICE OF FORUM AND CHOICE OF LAW:** In the event that a dispute arises out of this Agreement between the parties, then the parties agree that any claims or suits of any kind concerning such disputes shall only and exclusively be brought in either the Court of Common Pleas of Delaware County, Pennsylvania or the United States District Court for the Eastern District of Pennsylvania.

Regardless of the place of contracting or performance, this Agreement and all questions relating to its validity, interpretation, performance and enforcement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the principles of conflicts of law.

9. **ENTIRE AGREEMENT:** The parties hereto acknowledge and agree that this Agreement and the written warranty provided to Customer, contain the entire agreement between Sensaphone and the Customer, and that there are no other representations, inducements, promises, or agreements, oral or otherwise, binding on the parties, which are not embodied herein; and this Agreement supersedes and replaces any and all prior or contemporaneous understandings or agreements, whether written or oral, between the parties. This agreement may not be modified except by a writing, signed by authorized representatives of both parties.

10. **NOTICE:** Any written notice to Sensaphone required herein shall be sent by any form of express mail requiring the signature of the person to whom the mail is directed or by a person authorized to accept such mail, to the attention of the person signing this agreement for Sensaphone at Phonetics, Inc., 901 Tryens Road, Aston, PA 19014.

Any written notice to the Customer shall be sent to the attention of the person signing this Agreement on behalf of Customer, by any form of express mail requiring the signature of the person to whom the mail is directed or by a person authorized to accept such mail, at the address below stated or the address provided by Customer.

If the person to whom notice is to be directed changes, or the mailing address changes, then the party making such changes shall immediately give written notice as described above, identifying any change in address or in the identity of the person to whom the notice is to be directed.

11. **ASSIGNMENT:** Customer may not transfer or assign this Agreement without Sensaphone's prior written consent.

12. **FORCE MAJEURE:** Neither party shall be liable for any nonperformance of this Agreement due to causes beyond its reasonable control which could not have been reasonably anticipated by the non-performing party as the time of this Agreement's execution, and that cannot be reasonably avoided or overcome.

13. **NON-WAIVER OF RIGHTS:** It is further understood and agreed that except as described in this Agreement, no failure or delay by any party in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereto preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.

14. **INDEPENDENCE OF PARTIES:** None of the language, terms or conditions of this Agreement are intended to create, nor shall be construed to create, a partnership, joint venture, or any other similar kind of relationship between the parties. Neither party has the power to bind the other party as an agent or otherwise; nor shall either party hold itself out to have such power or to have any authority or right to act or speak on behalf of the other party in any manner, except as otherwise expressly authorized under this Agreement.

15. **HEADINGS:** The headings and captions used throughout this Agreement are for the sake of convenience and are themselves not to be used in construing the language and terms of this Agreement.

16. **AUTHORITY TO ENTER AGREEMENT:** All parties to this Agreement warrant that they have the necessary authority to execute this Agreement and to make and perform the promises and agreements set forth herein, and that the persons signing this Agreement on behalf of the parties are fully authorized to do so as the parties representative to bind them hereto.

17. **SIGNING IN COUNTERPARTS:** This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute the complete Agreement.