

# CONDITIONS OF SALE

All orders shall be made out to and subject to acceptance by **TROY LIFE & FIRE SAFETY LTD.**

**1. CONSTRUCTION & LEGAL EFFECT.** Subject to the terms and conditions herein set forth, the offer made by you (hereinafter called the "Purchaser") is accepted by Troy Life & Fire Safety Ltd. (hereinafter called the "Vendor").

Vendor has made no representations or warranties expressed or implied of any kind and there are no representations, warranties or conditions (expressed or implied or statutory or otherwise) other than those specifically contained herein and the terms of this agreement constitute the entire agreement between the parties. Exceptions to any terms and conditions set forth herein must be contained in a written (not printed) statement received from the Purchaser; Vendor shall not be deemed to have waived any of the said terms and conditions or to have assented to any alteration of said terms and conditions unless such waiver or assent is in writing and signed by an authorized officer.

All claims by Purchaser shall be made in writing within thirty (30) days from the date of delivery of the equipment/service performed except where made under a provision hereof for which a longer period is provided. Failure to present any such claim within the time herein fixed shall constitute a waiver of such claim or claims.

Vendor assumes no responsibility for furnishing other equipment or material shown in any plans or specifications for a project to which the goods ordered pertain.

**2. PRICES.** Unless otherwise noted on the face hereof, prices are net F.O.B. Vendor's factory and firm for sixty (60) days from quotation, or through the shipping date specified on the accepted order. The amount of any applicable present or future tax or other government charge upon the production, sale, shipment or use of goods ordered or sold will be added to billing unless Purchaser provides Vendor with an appropriate exemption certificate. All published or quoted prices, terms and conditions are subject to change without notice and do not include service charges to be levied.

**3. CANCELLATION AND RETURNED EQUIPMENT.** Orders may be cancelled only with Vendor's written consent and upon payment of reasonable and proper cancellation charges. Goods may be returned only when specifically authorized by Vendor and when so authorized, Purchaser may be required to pay reasonable charges including cost of placing returned goods in salable condition, sales expenses further incurred, a restocking

charge and transportation costs (incoming and outgoing) which Vendor pays.

**4. CREDIT AND PAYMENT. Terms of payment are net thirty (30) days. Vendor may assess a 2% per month (24% per annum) service charge on overdue accounts.** Vendor may at any time alter, or suspend credit or change credit terms provided herein when in its opinion the financial condition of the Purchaser so warrants. In such a case, in addition to any other remedies herein or by law provided, cash payment or satisfactory security from the Purchaser may be required by the Vendor before shipment; or, the due date of payment by the Purchaser under this contract may be accelerated by the Vendor.

Failure to pay any invoice at maturity date at the election of the Vendor makes all subsequent invoices immediately due and payable irrespective of terms, and the Vendor may withhold all subsequent deliveries until the full account is settled and Vendor may terminate this contract. Acceptance by the Vendor of less than full payment shall not be a waiver of any of its rights.

The Purchaser represents by sending each purchase order to the Vendor that he is not insolvent as defined in the applicable provincial and federal statutes. In the event the Purchaser becomes insolvent before delivery of any products purchased hereunder, it will notify the Vendor in writing. A failure to notify Vendor of insolvency before delivery shall be construed as a reaffirmation of the Purchaser's solvency at the time. Irrespective of whether the products purchased hereunder are delivered directly to the Purchaser, or to a customer of the Purchaser, and irrespective of the size of the shipment, Vendor shall have the right to stop delivery of the goods by a bailee if the Purchaser becomes insolvent, repudiates, or fails to make a payment due before delivery, or if for any other reason Vendor has a right to withhold or reclaim goods under the applicable provincial and federal statutes.

**5. DELIVERY.** Delivery, shipment and installation dates are estimated dates only, and unless otherwise specified, are figured from date of receipt of complete technical data and approved drawings as such may be necessary. In estimating such dates, no allowance has been made, nor shall Vendor be liable directly or indirectly for, delays of carriers or delays from labour difficulties, shortages, strikes or stoppages of any sort, fires, accidents, failure or delay in obtaining materials or manufacturing facilities, acts of government affecting him directly or indirectly, bad weather, or any causes

beyond his control or causes designated Acts of God or force majeure by any court of law, and the estimated delivery date shall be extended accordingly. Vendor will not be liable for any damages, or penalties whatsoever, whether direct, indirect, special or consequential, resulting from his failure to perform or delay in performing unless otherwise agreed in writing by an authorized officer.

**6. WARRANTY STATEMENT.** Vendor warrants to its customers that products manufactured and/or sold by him are free from defects in material and workmanship existing at the time the product leaves Vendor's factory, when properly installed and under normal use and service for a period of twelve (12) months subject to following:

*This Warranty shall commence at the time the product is formally accepted by the user or his representative, or from the date of commencement of use of the product, whichever first occurs.*

*This Warranty is limited to the selling price of the products sold at the time of sale.*

*Vendor's obligation under the Warranty is limited to repairing on site, or at Vendor's service center or factory, or replacing, at its option, any part of complete product, which upon examination by an authorized representative of Vendor, will have been found to be defective in material or workmanship. Such repair or replacement shall be performed without charge, but shall not extend the said twelve (12) month warranty period either on the original product or on the part or complete product supplied in lieu thereof beyond the balance of the said twelve (12) month warranty period or ninety (90) days from the date such part or complete product was so supplied in lieu, whichever period is the greater. All transportation charges on parts or complete products being returned to the factory or service center for repair or replacement, under this Warranty, shall be prepaid by the user or his representative.*

*This Warranty shall not apply to: products or parts thereof that have not been installed according to the written recommendations made by Vendor or its authorized representatives, or to products or parts which have not been adequately protected from dust, dirt, extremes of temperature and/or humidity, or have been mishandled and/or improperly stored.*

*The foregoing obligations are in lieu of all other obligations and liabilities including negligence and all warranties of merchantability or otherwise, express or implied in fact or by law, and state*

***vendor's entire and exclusive liability and purchaser's exclusive remedy for any claim or damages in connection with the sale or furnishing of goods or parts, their design, suitability for use, installation or operation.***

***Vendor will in no event be liable for any special or consequential damages whatsoever, and his liability under no circumstances will exceed the contract price for the goods for which liability is claimed.***

**7. SHIPPING.** Unless Purchaser specifies otherwise in writing, (a) goods will be boxed or crated as Vendor may deem proper for protection against normal handling, and an extra charge will be made for preservation, waterproofing and similar added protection of goods; (b) routing will be at Vendor's discretion, and the goods may be insured at Purchaser's expense, value to be stated at order price.

All shipments are F.O.B. Vendor's plant, freight allowed on shipments with a total distributor net value of \$1500.00 to any single freight depot in Canada. Delivery of goods to the initial carrier will constitute delivery to Purchaser and all goods will be shipped at Purchaser's risk. A claim for loss or damage in transit must be entered with the carrier and prosecuted by Purchaser. Acceptance of material from a common carrier constitutes a waiver of any claims against Vendor for delay or damage, shortage or loss.

**8. PATENT INFRINGEMENT.** Vendor will not be liable for any claims of infringement unless due to infringement by goods manufactured by him in the form in which he supplies such goods to Purchaser and without regard to their use by him. If Purchaser notifies Vendor promptly of any claim of infringement and, if Vendor so requests, authorize Vendor to defend or settle any suit or controversy involving such claim, Vendor will indemnify Purchaser against the reasonable expenses of any such suit and will satisfy any judgment or settlement in which Vendor acquiesces, but only to an amount not exceeding the price paid to Vendor for the allegedly infringing goods.

If an injunction is issued against the further use of allegedly infringing goods, the Vendor may choose to obtain authorization for the Purchaser to use these goods, or to replace them with similar goods which are not infringing, or to modify them so that they become non-infringing, or to remove them and refund the purchase price.

The foregoing expresses Vendor's entire and exclusive warranty and liability as to patents, and Vendor will not be liable for any damages whatsoever suffered by reason of any infringement claimed, except as provided herein. Purchaser will hold Vendor harmless and indemnify Vendor against any and all claims, demands, liabilities, damages, cost and expenses resulting from or connected with any claim of patent infringement arising out of the manufacture by Vendor of goods in accordance with a

design or specifications which Purchaser furnishes Vendor.

**9. INSPECTION.** Inspection of goods in Vendor's plant by Purchaser or his representative will be permitted insofar as this does not unduly interfere with Vendor's production workflow, provided that complete details of the inspection Purchaser desires are submitted to Vendor in writing in advance.

**10. RECORDS AUDITS & PROPRIETARY DATA.** Unless otherwise specifically agreed in writing signed by an authorized officer, neither Purchaser nor any representative of him nor any other person, shall have the right to examine or audit Vendor's cost accounts books or records of any kind or on any matter or be entitled to or have control over, any engineering or production prints, drawings or technical data which Vendor, in his sole discretion, may consider in whole or in part proprietary to himself.

**11.** Vendor maintains a policy of constant improvement and reserves the right to revise, change, alter or discontinue any products in its catalogs and pricing guides. Although every effort is made to supply accurate information, Vendor is not liable for any errors in these publications. Prices are subject to change without prior notice. Vendor reserves the right to refuse or accept any or all orders, and all orders are received contingent upon approval of the management.

**12. TIME SHALL BE OF THE ESSENCE HEREOF.**