Terms and Conditions of Purchase agreed by Buyer & Seller

1. **Application**

The Buyer hereby orders and the Seller, by accepting the Order, agrees that it will supply the Goods specified upon and subject to these conditions which shall govern the Contract to the exclusion of any other terms and conditions. Any reference to the Seller's quotation, specification, price list or like document shall be solely for the purpose of describing the Goods to be supplied and no terms and conditions endorsed upon, delivered with or referred to in such apply to the Contract.

2. **Definitions**

2.1 In these Conditions the following conditions apply:
"Business Day" means any day other than a Saturday, Sunday or bank/public holiday;
"the Buyer" means The Reliable Automatic Sprinkler Company or any member of its group which includes the Reliable Fire Sprinkler (UK) Ltd, Reliable Fire Sprinkler (Australia) PTY Ltd, Reliable Fire Sprinkler GmbH, Reliable Fire Sprinkler (Polska) Sp zoo, Reliable Fire Sprinkler (Shanghai), Reliable Fire Sprinkler (Singapore) and other subsidiary company;
"these Conditions" means the standard terms and conditions of purchase set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller;
"the Contract" means the contract for the sale and purchase of the Goods constituted by the Seller's acceptance of the Order in accordance with these Conditions;
"the Delivery means the address stated on the Order for delivery of the Goods;
"the Goods" means the products (including any instalment of the goods or any part of them) described in the Order;
"the Order" means the Buyer's purchase order to which these Conditions are annexed;
"the Price" means the price of the Goods;
"the Seller" means the person so described in the Order;
"Specification" includes any plans, drawings, data or other information relating to the Goods; and
"Writing" includes facsimile, transmission, electronic mail and comparable means of communication.

2.2 Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statue or provision as amended, re-enacted or extended at the relevant time.

2.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

3. **Basis of Purchase**

3.1 The Order constitutes an offer by the Buyer to purchase the Goods subject to these Conditions.

3.2 The Seller shall accept the Order placed by the Buyer and a binding contract for the supply of the Goods subject to these conditions, shall exist by whichever is the earlier of: -

3.2.1 the Sellers's acceptance of the Order, in writing or orally, subject to these conditions; or

3.2.2 Delivery of Goods

3.3 Any typographical clerical or other accidental error or omission in the Order placed by the Buyer or in any drawings, specifications, instructions, tools or other material supplied by the Buyer, shall be subject to correction without any liability on the part of the Buyer.

3.4 No variation to the Contract shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller.

4. **Specification**

4.1 The quantity, quality and description of the Goods shall, subject as provided in these Conditions, be as specified in the Order and/or in any applicable Specification supplied by the Buyer to the Seller or agreed in writing by the Buyer.

4.2 Any Specification supplied by the Buyer to the Seller, or specifically produced by the Seller for the Buyer, in connection with the Contract, together with the copyright, design rights or any other intellectual property rights in the Specification, shall be the exclusive property of the Buyer. The Seller shall not disclose to any third party or use any such Specification except to the extent that it is or becomes public knowledge through no fault of the Seller, or as required for the purpose of the Contract.

4.3 The Goods shall be marked in accordance with the Buyer's instructions and any applicable regulations or requirements of the carrier, and properly packed and secured so as to reach their destination in an undamaged condition in the ordinary course.

4.4 The Seller shall not unreasonably refuse to take any steps necessary to comply with any reasonable request by the Buyer to inspect or test the Goods during manufacture, processing or storage at the premises of the Seller or any third party prior to despatch, and to provide the Buyer with any facilities reasonably required by the Buyer for inspection or testing.

4.5 If as a result of inspection or testing the Buyer is not satisfied that the Goods will comply in all respects with the Contract, and the Buyer so informs the Seller within seven days of inspection or testing, the Seller shall take such steps as are necessary to ensure compliance.

4.6 The Seller shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging, packing and delivery of the Goods.

5. **Price**

5.1 The Price of the Goods shall be as stated in the Order and, unless otherwise so stated, shall be:-

5.1.1 exclusive of any applicable value added tax (which shall be payable by the Buyer subject to receipt of a VAT invoices); and

5.1.2 inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the Delivery Address and any duties, imposts or levies other than value added tax.

5.2 No increase in the Price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the Buyer in writing.

5.3 The Buyer shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Seller, whether or not shown on its own terms and conditions of sale.

6. **Payment**

6.1 The Seller shall be entitled to invoice the Buyer on or at any time after delivery of the Goods, as the case may be, and each invoice shall quote the number of the Order.

6.2 Unless otherwise stated in the Order, the Buyer shall pay the Price of the Goods within sixty (60) days after the end of the month of receipt by the Buyer of a proper invoice or, if later, after acceptance of the Goods in question by the Buyer, but time for payment shall not be of the essence of the contract.

6.3 The Buyer shall be entitled to set off against the Price any sums owed to the Buyer by the Seller.

7. **Delivery**

7.1 The Goods shall be delivered to the Delivery Address on the date or within the period stated in the Order, in either case during the Buyer's usual business hours.

7.2 Where it is agreed in writing that the date of delivery of the Goods is to be specified by the Seller after the placing of the Order, the Seller shall give the Buyer reasonable notice in writing of the specified date.
7.3 The time of delivery of the Goods is of the essence of the Contract.
7.4 A packing note clearly quoting the number of the Order must accompany each delivery or consignment of the goods.
7.5 If the goods are to be delivered by instalments, the Contract will be treated as a single contract and not severable.
7.6 The Buyer shall be entitled to reject any Goods delivered which are not in accordance with the Contract and shall not be deemed to have accepted any Goods until the Buyer has had a reasonable time to inspect them following delivery.
7.7 The Seller shall supply the Buyer in good time with any instructions or other information to enable the Buyer to accept delivery of the Goods.
7.8 The Buyer shall not be obliged to return to the Seller any packaging or packing materials for the Goods, whether or not any Goods are accepted by the Buyer.
7.9 The Seller acknowledges that the Buyer has a legitimate commercial interest in the Goods being delivered on the due and that the Buyer should have an appropriate remedy if they are not so delivered. Accordingly, if the Goods are not delivered on the due date then, without prejudice to any other remedy, the Buyer shall be entitled to deduct from the Price or (if the Buyer has agreed to pay any part of the price in advance of delivery) to claim from the Seller by way of liquidated damages for delay, one (1) per cent of the Price for every week's delay, up to a maximum of twenty (20) per cent of the price, without prejudice to claim any other remedy for any further delay in delivery once that maximum amount of liquidated damages has been reached.
7.10 The Buyer shall not be deemed to have accepted the Goods until it has had thirty (30) days to inspect them following delivery or collection as the case may be. The Buyer shall also have the right to reject the Goods as though they had not been accepted for thirty (30) days after any latent defect in the Goods has become apparent.

8. **Quality**
8.1 Where the Seller is not the manufacturer of the Goods, the Seller shall endeavour to transfer to the Buyer the benefit of any warranty or guarantee given to the Seller.
8.2 The Seller warrants that (subject to the other provisions of these conditions) upon delivery, and for a period of twenty four (24) months from the date of delivery, the Goods shall:
8.2.1 be of satisfactory quality; and
8.2.2 be reasonably fit for purpose; and
8.2.3 be reasonably fit for any particular purpose for which the Goods are being bought if the Buyer had made known that purpose to the Seller in writing and the Seller has confirmed in writing that it is reasonable for the Buyer to rely on the skill and judgment of the Seller.
8.3 The Seller shall not be liable for a breach of any of the warranties in condition 8.2 unless:
8.3.1 the Buyer gives written notice of the defect to the Seller, and, if the defect is as a result of damage in transit to the carrier, within thirty (30) days of the time when the Buyer discovers the defect; and
8.3.2 the Seller is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business at the Seller's cost for the examination to take place there.
8.4 The Company shall not be liable for a breach of any of the warranties in condition 8.2 if:
8.4.1 the Buyer makes any further use of such Goods after giving such notice; or
8.4.2 the defect arises because the Buyer failed to follow the Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice.
8.5 Subject to condition 8.3 and condition 8.4, if any of the Goods do not conform with any of the warranties in condition 8.2 the Seller shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Seller so requests, the Buyer shall, at the Seller's expense, return the Goods or the part of such Goods which is defective to the Seller.

9. **Risk and Property**
9.1 Risk of damage to or loss of the Goods shall pass to the Buyer upon delivery to the Buyer in accordance with the Contract.
9.2 The property in the Goods shall pass to the Buyer upon delivery, unless payment for the Goods has been agreed to be made prior to delivery, when it shall pass to the Buyer once payment has been made and the Goods have been appropriated to the Contract.

10. **Assignment**
10.1 The Buyer may assign the Contract or any part of it to any person, firm or company.
10.2 The Seller shall not be entitled to assign the Contract or any part of it without the prior written consent of the Buyer.
10.3 The Buyer is a member of the group of companies whose holding company is The Reliable Automatic Sprinkler Company and accordingly the Buyer may perform any of its obligations or exercise any of its rights hereunder by itself or through any other member of its group, provided that any act or omission of any such other member shall be deemed to be the act or omission of the Buyer.

11. **Warranty**

11.1 The Seller warrants to the Buyer that the Goods:-
11.1.1 will, both at the time of delivery and for a reasonable period of time thereafter, be of the best available design, quality, material and workmanship and conform in all respects with the Order and Specification supplied or advised by the Buyer to the Seller;
11.1.2 will be free from defects in design, material and workmanship;
11.1.3 will correspond with any relevant Specification or sample; and
11.1.4 will comply with all statutory requirements and regulations relating to the sale of the Goods.

12. **Indemnity**
12.1 The Seller shall indemnify the Buyer in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by the Buyer as a result of or in connection with:-
12.1.1 breach of any warranty given by the Seller in relation to the Goods;
12.1.2 any claim that the Goods infringe, or that their importation, use or resale, infringes, the patent, copyright trade mark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any Specification supplied by the Buyer;

12.1.3 any act or omission of the Seller or its employees, agents or sub-contractors in supplying, delivering or installing the Goods.

12.1.4 all claims by the customers of the Buyer (and their sub-buyers) arising out of any breach whatever by the Seller of this contract for sale.

13. **Remedies**

13.1 Without prejudice to any other right or remedy which the Buyer may have, if any Goods are not supplied in accordance with, or the Seller fails to comply with, any of the terms of the Contract the Buyer shall be entitled to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Goods have been accepted by the Buyer:

13.1.1 to rescind the Order;

13.1.2 to reject the Goods (in whole or in part) and return them to the Seller at the risk and cost of the Seller on the basis that a full refund for the Goods so returned shall be paid forthwith by the Seller;

13.1.3 at the Buyer's option to give the Seller the opportunity at the Seller's expense either to remedy any defect in the Goods or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;

13.1.4 to refuse to accept any further deliveries of the Goods but without any liability to the Seller;

13.1.5 to carry out at the Seller's expense any work necessary to make the Goods comply with the Contract; and

13.1.6 to claim such damages as may have been sustained in consequence of the Seller's breach or breaches of the Contract.

14. **Termination**

14.1 The Buyer shall be entitled to cancel the Contract in respect of all or part only of the Goods by giving notice in writing to the Seller at any time prior to delivery or performance, in which event the Buyer's sole liability shall be to pay to the Seller the Price for the Goods in respect of which the Buyer has exercised its right of cancellation, less the Buyer's reasonable estimate of the Seller's net saving of cost arising from cancellation.

14.2 The Buyer shall be entitled to terminate the Contract without liability to the Seller by giving notice to the Seller at any time if:-

14.2.1 the Seller makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction; or

14.2.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Seller; or

14.2.3 the Seller ceases or threatens to cease, to carry on business; or

14.2.4 the Buyer reasonably apprehends that any of the events mentioned above is about to occur in relation to the Seller and notifies the Seller accordingly.

15. **Force Majeure**

15.1 In the event that either party is prevented from fulfilling its obligations under this Agreement by reason of any supervening event beyond its control including but not limited to war, national emergency, flood, earthquake, strike or lockout (subject to Sub-clause 15.2) the party shall not be deemed to be in breach of its obligations under this Agreement. The party shall immediately give notice of this to the other party and must take all reasonable steps to resume performance of its obligations.

15.2 Sub-clause 15.1 shall not apply with respect to strikes and lockouts where such action has been induced by the party so incapacitated.

15.3 Each party shall be liable to pay to the other damages for any breach of this Agreement and all expenses and costs incurred by that party in enforcing its rights under this Agreement.

15.4 If and when the period of such incapacity exceeds three (3) months then this Agreement shall automatically terminate unless the parties first agree otherwise in writing.

16. **Communications**

16.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax or sent by electronic mail:

16.1.1 (in case of communications to the Seller) to its registered office or such changed address as shall be notified to the Buyer by the Seller; or

16.1.2 (in the case of the communications to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Seller set out in any document which forms part of the Contract or such other address as shall be notified to the Seller by the Buyer.

16.2 Communications shall be deemed to have been received:

16.2.1 if sent by pre-paid first class post, two Business Days after posting (exclusive of the day of posting); or

16.2.2 if delivered by hand, on the day of delivery; or

16.2.3 if sent by fax or electronic mail on a Business Day prior to 4.00 pm, at the time of transmission and otherwise on the next Business Day.

16.3 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

17. **Waiver**

No waiver by the Buyer of any breach of the Contract by the Seller shall be considered as a waiver of any subsequent breach of the same or any other provision.

18. **Severance**

If any provisions of these Conditions are held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provisions in question shall not be affected thereby.

19. **Third Party Rights**

A person who is not a party to the Contract shall have no rights under this Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

20. **Governing Law and Jurisdiction**

The Contract shall be governed by the laws of the country within which the office of the Buyer is located.