

WAGNER FIRE SAFETY CANADA – TERMS & CONDITIONS OF SALE 2020

1. The following Terms and Conditions of Sale shall govern all sales transactions that involve WAGNER Fire Safety Canada Ltd. ("WAGNER") and shall not be altered, supplemented, amended, modified, revised, or limited in any way, without the prior written consent of WAGNER. Any inconsistent, different and/or additional terms and conditions proposed by Buyer, in any form, shall be deemed to be a modification of these Terms and Conditions of Sale and shall be of no force or effect and shall not be binding on WAGNER.

2. Prices are payable in the currency stated in WAGNER's proposal to which these Terms and Conditions of Sale are attached (the "Proposal") and payable at Vancouver, British Columbia. Buyer shall further be responsible for any additional costs incurred by WAGNER as a result of Buyer's failure to perform in accordance with this Proposal. Prices are net of any import duties, sales, use, excise or other similar taxes that may be applicable to the sales transaction contemplated herein. In the event WAGNER is required by law to collect such import duties or taxes, WAGNER will add such import and/or taxes to the sales price and same shall be invoiced to and shall be paid by Buyer. Buyer shall defend, indemnify and hold WAGNER harmless from and against any and all liability to such taxes or import duties and attorney's fees or costs incurred by WAGNER in connection therewith.

3. WAGNER reserves, until full payment has been received, a purchase money security interest in the equipment purchased hereunder and all its proceeds to secure payment of Buyer's obligation to WAGNER. Buyer agrees to execute any document appropriate or necessary to perfect the security interest of WAGNER, or in the alternative, WAGNER may file this Agreement or other evidence as a financing statement. Any account balance not timely paid to WAGNER shall bear interest at the rate of 18% per annum on the unpaid balance from the due date until paid in full, but in no event shall such rate exceed the maximum rate of interest permitted by law.

4. Unless expressly stated otherwise in the Proposal, shipment of goods to destinations within Canada shall be delivered FCA WAGNER's dock (Langenhagen, Germany) Incoterms 2010. Title and liability for loss or damage shall pass to the Buyer upon WAGNER's delivery of the goods to a carrier for shipment to Buyer and any subsequent loss or damage to the goods shall not relieve the Buyer from any of its obligations to WAGNER. Delivery dates are estimates and WAGNER shall not be liable for any loss or expense (consequential or otherwise) incurred by Buyer if WAGNER fails to meet the estimated delivery dates due to reasons set forth in Paragraph 6 below.

5. WAGNER warrants that, on the date of shipment, the goods to be supplied hereunder will conform to WAGNER's published specifications or other mutually agreed upon written specifications between WAGNER and Buyer and that such goods will be free from defects in material and workmanship, normal wear and tear excepted, for a period of twelve (12) months from the date of shipment; provided, however, that proper storage, handling, maintenance and operation of the goods has been effected by Buyer. Equipment and expendable parts manufactured by others are covered by the original manufacturers' warranties and are not warranted by WAGNER. All electrical components are considered expendable items and are not covered by this warranty.

WAGNER further warrants the services to be provided hereunder for a period of six (6) months from the date the service is performed will be performed in a professional and workmanlike manner by personnel having a level of skill commensurate with their responsibilities. In addition to the other limitations set forth in this Proposal, WAGNER's liability for services shall be limited to cases of WAGNER's willful, reckless or grossly negligent conduct.

THE WARRANTIES IN THIS PARAGRAPH 5 ARE IN LIEU OF ALL OTHER REPRESENTATIONS, WARRANTIES OR CONDITIONS OF ANY KIND WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL SUCH REPRESENTATIONS, WARRANTIES AND CONDITIONS ARE HEREBY DISCLAIMED. THE OBLIGATION AND LIABILITY OF WAGNER UNDER THIS PARAGRAPH 5 SHALL NOT INCLUDE ANY TRANSPORTATION OR OTHER CHARGES OR THE COST OF INSTALLATION. IN NO EVENT SHALL WAGNER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY PUNITIVE, DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOSS OF ANTICIPATED PROFIT, INTERRUPTION OF BUSINESS, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR OTHER ECONOMIC LOSS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY DAMAGES ARISING IN CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR OTHERWISE. IN NO EVENT WILL WAGNER'S LIABILITY EXCEED 25% OF THE PURCHASE PRICE OF THE EQUIPMENT OR SERVICES ACTUALLY PAID BY BUYER.

The liability of WAGNER hereunder or otherwise and Buyer's remedies hereunder or otherwise are solely and exclusively limited to repair or replacement of any defective equipment which is returned by Buyer, or reperformance of services incorrectly performed, during the applicable warranty period. WAGNER, in its sole discretion, shall make the determination of whether goods shall be repaired or replaced. Repair or replacement of defective goods will be made only upon return of the defective goods to WAGNER, and only after inspection by WAGNER and its determination that the alleged defect was not caused by accident, misuse, neglect, modification, alteration, improper installation, unauthorized repair or improper operation.

6. WAGNER shall not be liable for any delay or failure to perform due to any cause beyond its reasonable control, including without limitation, acts of God, acts of the public enemy, war, outbreak of hostilities, insurrection, riot, civil disturbance, Government Act or regulation, fire, flood, casualty, accident, inability to procure materials, partial or complete embargoes imposed by originating or connecting modes of transportation, acts or inaction of third parties or suppliers, or any other cause beyond the reasonable control of WAGNER.

7. WAGNER retains the right, prior to delivery of the equipment and without notice to the Buyer, to make any change in the composition or fabrication of the equipment which, in the opinion of WAGNER, in its sole discretion, does not affect the general characteristics or properties of the equipment or which are within governmental or professional standards or specifications applicable at the time of manufacture.

8. WAGNER will provide the Buyer with assembly drawings and service manuals that WAGNER, in its sole discretion, considers necessary for proper maintenance and operation of the equipment sold hereunder. However, nothing contained herein shall be interpreted nor construed to require WAGNER to furnish or otherwise provide Buyer with detailed shop-working drawings of the equipment and all other such drawings are, and shall remain, the sole and exclusive property of WAGNER.

Moreover, it is acknowledged and agreed to by Buyer that the drawings, service and operating manuals (and any other descriptions or specifications provided to Buyer) are descriptive in nature and ARE NOT WARRANTIES OF PERFORMANCE AND ARE NOT WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE.

9. During the process of the sales transaction contemplated hereunder, WAGNER may disclose information, documentation and devices which are confidential and proprietary to WAGNER (hereinafter referred to as "Know-how"). In consideration of the disclosure to Buyer of information incidental to the sale of the equipment, Buyer will keep the Know-how in strictest confidence and will not disclose the Know-how, or any portion thereof, to any third party and will limit disclosure of the Know-how to only those employees of Buyer who have a need to know such information to perform the limited task incidental to using the equipment sold to Buyer. Buyer further agrees that it will not copy, reproduce or disseminate the Know-how, in whole or in part, without the prior written consent of WAGNER. Nothing contained herein or otherwise shall be deemed nor construed to grant to Buyer, either directly or by implication, estoppel or otherwise, any right or license under any patents, copyrights, trademarks, or trade secrets of WAGNER, and no such right or license will arise from this sale or from acts, statements, or dealings resulting in or related to this sale.

10. WAGNER may cancel all or part of the contract arising from or evidenced by WAGNER's Proposal and these Terms and Conditions immediately upon the happening of any of the following: Buyer makes a general assignment for the benefit of creditors or a proposal or arrangement under any applicable bankruptcy or insolvency legislation; Buyer has a petition filed against it under any applicable bankruptcy or insolvency legislation; Buyer is declared or adjudicated bankrupt; Buyer has a liquidator, trustee in bankruptcy, custodian, receiver, receiver and manager or any other officer with similar powers appointed in respect of or for it; Buyer commits any act of bankruptcy or proposes a compromise or arrangement or institutes proceedings to be adjudged bankrupt or insolvent or consents to the institution of such appointment or proceedings or admits in writing its inability to pay debts generally as they become due; or any event, whether or not similar to the foregoing, which, in WAGNER's sole discretion, materially impairs Buyer's ability to perform hereunder.

11. At Buyer's request and expense, WAGNER agrees to provide Buyer technical assistance with respect to the equipment purchased hereunder. Unless otherwise stated in WAGNER's Proposal (in which case such rates shall be valid for a period of twelve (12) months from the date of such Proposal), all such technical assistance provided by WAGNER shall be charged to Buyer at WAGNER's then prevailing rates and terms. WAGNER makes no warranties of any kind with respect to the technical assistance provided hereunder.

12. WAGNER's Proposal and these Terms and Conditions shall be governed by and construed in accordance with the laws of the Province of Ontario without giving effect to conflict of law rules and any dispute arising hereunder shall be resolved in the state or federal courts of competent jurisdiction, in the City of Toronto. If any provision hereof shall be held invalid or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby. No right or interest in the contract arising from this document shall be assigned by Buyer, and no delegation of any obligation owed by Buyer shall be made without the prior written consent of WAGNER.

13. WAGNER's failure to exercise its rights hereunder does not waive subsequent exercise of those rights. Neither delay in exercise or partial exercise of any of WAGNER's rights hereunder shall waive further exercise of those rights.

14. Neither of the parties will employ, offer employment or otherwise seek to hire, directly or indirectly, any employee of the other Party for a period of twenty-four (24) months from the date of this Proposal, except with the prior written consent of the other Party.

15. WAGNER's status hereunder shall be that of an independent contractor to Buyer, and nothing herein shall be deemed to create a partnership or joint venture. WAGNER is not the agent, employee or servant of Buyer, and neither party shall act for or bind the other or incur any debts or liabilities in the name of the other. Neither party's employees or agents shall be considered employees or agents of the other party, including with respect to all matters relating to compliance with social security, workers compensation, employment taxes, and other governmentally imposed responsibilities.

16. WAGNER's Proposal and these Terms and Conditions constitute the entire understanding and agreement between WAGNER and the Buyer with respect to the equipment and services purchased hereunder and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements. There are no unwritten oral agreements between WAGNER and the Buyer. No change, modification, alteration, or addition to any provision of these Terms and Conditions shall be binding upon WAGNER unless same is contained in a writing signed by an authorized representative of WAGNER.

17. In all instances clerical errors are subject to correction, at WAGNER's reasonable discretion.

18. The parties confirm that it is their wish that this Agreement, as well as all other documents relating hereto, including all notices, be drawn up in the English language only. *Les parties aux présentes confirment leur volonté que cette convention, de même que tous les documents, y compris tout avis, qui s'y rattachent, soient rédigés en langue anglaise.*