**FredFire, LLC**

**TERMS AND CONDITIONS**

**1. Entire Agreement and Amendment**. These Terms and Conditions of Sale which include the quote and all exhibits and other attachments attached hereto,(collectively, the “Agreement”) represent the entire agreement and understanding between the parties and supersede all prior written and oral agreements, quotes, commitments, purchase orders, acknowledgements, understandings and representations between FredFire, LLC (“FRED.”) and the customer identified on the applicable Quote (“Customer”) related to the sale Fred products (“Products”). In the event of a conflict between the terms of this Agreement and the Quote referenced in the immediately preceding sentence (the “Quote”), or between the terms of this Agreement and any purchase order, proposal, or other document submitted by Customer prior to or after entering into this Agreement, this Agreement shall control. Any capitalized terms used herein but not defined herein shall have the meanings set forth in the Quote. No provision of this Agreement shall be waived, amended, modified, superseded, canceled, terminated, renewed or extended except in a written document signed by an authorized representative from both parties hereto. Any waiver shall be limited to the particular instance and for the particular purpose when and for which it is given. As applicable, FRED and Customer may each be referred to herein individually as a “party” and collectively as the “parties.”

**2. Orders.** All orders placed by Customer are subject to acceptance by FRED. Orders may not be cancelled or rescheduled without FRED’s written consent. All orders must identify the products, unit quantities, part numbers, applicable prices and requested delivery dates of the Products being purchased.

**3. Prices.** The prices of the Products are those prices specified on the Quote. Pricing for undelivered Products may be increased in the event of an increase in FRED’s cost, change in market conditions or any other causes beyond the FRED’s reasonable control. Price quotations shall automatically expire in thirty (30) days from the date issued, or as otherwise stated in the Quote.

**4. Taxes.** Unless otherwise agreed to in writing by FRED, all prices quoted are exclusive of transportation and insurance costs, duties, and all taxes including federal, state and local sales, excise and value added, goods and services taxes, and any other taxes. Customer agrees to indemnify and hold FRED harmless for any liability for tax in connection with the sale, as well as the collection or withholding thereof, including penalties and interest thereon. When applicable, transportation and taxes shall appear as separate items on FRED’s Quote.

**5. Payment.**  Payment of the total purchase price for the Products and all related expenses are due net 30 days from the date the invoice is issued. Customer shall pay interest at the rate of 1 1/2% per month or the highest legal interest rate, whichever is lower, on all overdue amounts. Customer shall be responsible for any legal fees and cost associated with collecting past due amounts. Customer shall provide FRED with appropriate documentation if any exemption from sales or use taxes is claimed. In the event of default by Customer, FRED shall be entitled to costs, fees, and expenses, including but not limited to recovery of attorney fees, court costs and fees, and collections costs.

**6. Shipment, Title and Risk of Loss.** Customer shall pay the cost to shipthe Products to Customer’s location as set forth in the Quote. FRED will use its best efforts to give Customer notice of delays; provided, however, that FRED will not be liable for any damages for delay of delivery or for any failure to give such notice and delay shall not be grounds for cancellation of this Agreement. Risk of loss shall pass to Customer as soon as FRED makes the Products available to ship. Title to the Products shall remain in FRED until the complete purchase price and all additional costs and charges are paid by Customer.

**7**. **Improvements/Developments**. In the event Customer develops, modifies, or improves the Products or any related methods or know-how, or creates additional tools for use with the FRED Products (collectively "Improvement(s)"), Customer promptly shall fully-disclose the Improvements to FRED and make any and all Improvement(s) immediately available to FRED. Notwithstanding any Customer Improvements and any ownership thereto, Customer expressly agrees that FRED shall in no way be prohibited from using, developing, selling or otherwise exploiting said Improvements or any other technologies or developments related to, or similar to said Improvements in any manner and in its sole discretion, and with no compensation or remuneration of any kind to Customer.

**8. Limited Warranty.** FRED Products are designed for use as a supplemental product within the firefighting industry and are intended to be used only by trained firefighting professionals. FRED Products are not intended to replace adequate water sources or other methods of fighting fires. Customer assumes all risk associated with using the Products and any actions resulting therefrom. FRED Products are warranted against defects in workmanship and materials for one year from the date of shipment (“Warranty Period”). FRED’s sole and exclusive obligation and liability under this Agreement is to repair or replace any defective Products. Replacement parts, which may be reconditioned, are warranted from the date of installation for the remainder of the original Warranty Period. This warranty will not apply to defects resulting from misuse, negligence or accident, including, without limitation: operation outside the Products intended use; use of unauthorized supplies as part of the Products that are not FRED supplies; performance of improper or inadequate maintenance by Customer or any third party; any modification of the Products. THE FOREGOING PROVISIONS SET FORTH FRED’S SOLE AND EXCLUSIVE REPRESENTATIONS, WARRANTIES, LIABILITIES AND OBLIGATIONS WITH RESPECT TO THE PRODUCTS, AND FRED MAKES NO OTHER REPRESENTATION OR WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED. FRED SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT WHETHER ARISING FROM A STATUTE OR OTHERWISE IN LAW, EQUITY OR FROM A COURSE OF DEALING OR USAGE OF TRADE.IN NO EVENT SHALL FRED BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, MULTIPLE OR OTHER INDIRECT DAMAGES, OR FOR LOSS OF PROFITS, LOSS OF DATA OR LOSS OF USE DAMAGES, ARISING OUT OF THE OPERATION OF THE PRODUCTS, THE MANUFACTURE, SALE, OR SUPPLY OF THE PRODUCTS OR ITS USE OR DISPOSITION, EVEN IF FRED HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES. FRED’S LIABILITY ARISING OUT OF THE MANUFACTURE, SALE OR SUPPLY OF THE PRODUCTS OR ITS USE OR DISPOSITION, WHETHER BASED UPON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE, WILL NOT EXCEED THE ACTUAL PURCHASE PRICE PAID BY CUSTOMER FOR THE PRODUCTS. THE FOREGOING LIMITED WARRANTY IS GIVEN SOLELY TO THE ORIGINAL CUSTOMER AND IS NOT GIVEN TO, NOR MAY IT BE RELIED UPON BY, ANY THIRD PARTY INCLUDING, WITHOUT LIMITATION, CUSTOMERS OF CUSTOMER.

**9. Customer Indemnification.**  Customer agrees to indemnify, defend and hold FRED and its parent, subsidiary, or affiliated companies (“Affiliates”), shareholders, directors, officers, employees, agents and assignees harmless from and against any expenses incurred by or claims made against FRED arising out of any actions of Customer including but not limited to the use of the Products, or the improper modification to the Products**,** actual or alleged breach or violation of any contract, law, rule, regulation, or by-law; libel, slander or other form of defamation; breach of any provision of these terms; and acts, errors or omissions of Customer or any of its agents, servants, employees, contractors, partners, shareholders, affiliates or representatives**.** For purposes of this indemnification, the term “expenses or claims” shall mean and include (i) all losses, obligations, expenses (as incurred), actual and consequential damages, taxes and costs reasonably incurred in preparing for, defending or settling any demand, investigation, suit, action, claim, inquiry or proceeding, whether or not a formal inquiry, proceeding or investigation had been commenced; and (ii) reasonable accountants’, legal and expert witness fees, costs of investigation and proof of facts, court costs, other litigation expenses and travel and living expenses (all as incurred). Customer shall give FRED immediate written notice of any demand, investigation, inquiry, action, suit, proceeding or claim. FRED at its sole option shall have the right to defend at Customer’s expense any such liability or claims in which either FRED or Customer or both are named as defendants, or reasonably are expected to be named, and FRED shall not be obligated to mitigate losses. FRED’s conduct of the defense shall not diminish Customer’s obligation to indemnify FRED hereunder. This indemnity shall continue in full force and effect subsequent to and notwithstanding any termination of this Agreement or any Quote.

**10. Choice of Law and Enforcement.** Any disputes arising in connection with this Agreement will be governed exclusively by and be construed exclusively in accordance with the internal laws of the State of Michigan, without reference to its conflicts of laws principles. Customer hereby consents and submits to the jurisdiction of the federal and state courts located in the State of Michigan. EACH PARTY, KNOWINGLY FOR ITSELF, ITS SUCCESSORS AND ASSIGNS, WAIVES ALL RIGHT TO TRIAL BY JURY OF ANY CLAIM ARISING WITH RESPECT TO THIS AGREEMENT OR ANY MATTER RELATED IN ANY WAY THERETO.

**11. Limitation of Actions.** Any action against FRED relating to any alleged breach of warranty or any other alleged product failure or any other cause of action must be brought with twelve (12) months after the event giving rise to the cause of action or be barred forever.

**12. Delays in Performance.** FRED will not be liable for failure or delay in shipment due to shortage of materials, labor difficulties, floods, fires, actions taken or threatened by any governmental agencies, acts of God or other contingencies or acts not within the sole control of FRED.

**13. Bankruptcy.** Except as may be prohibited by applicable bankruptcy laws, in the event of any insolvency or inability to pay debts as they become due by a party hereto, or voluntary or involuntary bankruptcy proceeding by or against a party hereto, or appointment of a receiver or assignee for the benefit of creditors, the other party may elect to cancel any unfulfilled obligations hereunder.

**14. Assignability, Waiver and Severability.** Customer may not assign any interest in an accepted order without the prior written consent of FRED. Subject to the foregoing, the rights and obligations herein will be binding upon the successors and permitted assigns of both FRED and Customer. FRED’s failure to exercise any of its rights will not constitute or be deemed a waiver or forfeiture of any rights hereunder. If any of these provisions are held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired.

**15. Miscellaneous.** Upon a material breach of this Agreement by Customer, in addition to all other rights and remedies under the law, FRED may terminate this Agreement. The headings of the several sections are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement. Use of the Products constitutes acceptance of these terms and conditions.