

## Fire Protection Technologies / Energy Conservation Technologies - Standard Terms and Conditions

These Standard Terms and Conditions apply to Fire Protection Technologies Pty Ltd ACN 634 309 461, Fire Protection Technologies Limited NZCN 7585736, Fire Protection Technologies Asia Pacific Pte Ltd UEN 201924421M, Energy Conservation Technologies Pty Ltd ACN 634 309 292 and Energy Conservation Technologies Pte Ltd UEN 201924425R.

These terms and conditions will govern the supply of all Goods and Services that the above companies (**we, us, our**) elects to buy from you.

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### 1. Definitions

- (a) **Supplier or you** means the party identified as the 'Supplier' in the Purchase Order.
- (b) **Defective** means any Goods or Services that are not in accordance with a Purchase Order or that are damaged, deficient, faulty, inadequate or incomplete.
- (c) **Delivery Address** means the place for delivery stated on the Purchase Order or as otherwise notified by us to you in writing.
- (d) **Goods** means, in respect of a Purchase Order, any goods we order under the Purchase Order.
- (e) **Intellectual Property Rights** means any intellectual or industrial property rights, whether protected by statute, at common law or in equity, including any trade mark, patent, invention, copyright, or design right, in any design, specification, process, technique, software, know how, trade secret, technical information, financial information, business method or confidential information.
- (f) **Purchase Order** means any purchase order for either or both Goods and Services that is issued by us to you from time to time.
- (g) **Price** means the price for the Goods and Services stated in the Purchase Order.
- (h) **Security Interest** has the meaning given to it in the *Personal Property Securities Act 2009* (Cth).
- (i) **Services** means, in respect of a Purchase Order, any services we order under the Purchase Order.
- (j) **Warranty Period** means:
  - (i) in relation to Goods, the period of 24 months commencing on the date we receive the Goods; and
  - (ii) in relation to Services, 18 months from the date you perform the Services.

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### 2. Agreement

- (a) These terms and conditions govern the supply of all Goods and Services by you to us.
- (b) Every Purchase Order we issue is an offer to acquire from you the Goods and Services described in the Purchase Order, subject to these terms and conditions and any additional written special conditions we include with our Purchase Order. Where you accept our Purchase Order, a contract forms on this basis. Any terms and conditions you provide to us, whether in your quote, offer document, acceptance or any other document you supply, will not be effective or binding on us unless we expressly agree in writing.
- (c) In consideration of payment of the Price by us, you must supply to us the Goods and perform the Services in accordance with the Purchase Order and these terms and conditions.
- (d) If there is any inconsistency between the terms set out in these terms and conditions and the terms set out in any Purchase Order, these terms and conditions will prevail to the extent of any inconsistency.

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### 3. Delivery

- (a) You must supply products as, where and when stated in our Purchase Order or as otherwise directed by us in writing. You must keep us informed of any delays or other matter which may affect the delivery of the Goods and Services.
- (b) You must ensure that all Goods are suitably packed to avoid damage in transit or in storage.
- (c) Goods must be accompanied by a delivery note stating the Purchase Order number, item number, destination, contents and quantity.

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### 4. Time for Performance

- (a) You must complete the delivery and performance of the Goods and Services by the date stated in the Purchase Order.
- (b) Time is of the essence in relation to performance of your obligations under a Purchase Order.

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### 5. Title and Risk

Subject to clause 11(b), title and risk in Goods passes to us on our receipt of the Goods at the Delivery Address.

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### 6. Price

- (a) We will pay you the Price for the Goods and Services.

- (b) The Price is inclusive of all costs incurred by you in the supply of the Goods and performance of the Services, including all charges for packing, insurance and delivery of the Goods and the cost of any items used or supplied in the performance of the Services.
- (c) The Price cannot be varied unless agreed by us in writing.
- (d) The Price is inclusive of all taxes and duties, except GST.

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## 7. GST

If goods and services tax or any similar value added tax (**GST**) is levied or imposed on or in respect of any supply made by you under or in connection with a Purchase Order, you may recover from us, in addition to the Price, an amount equal to the GST payable in respect of that supply.

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## 8. Invoicing and Payment

- (a) You must provide us with a valid tax invoice before we will pay you the Price.
- (b) Your tax invoice must include the following:
  - (i) a reference to the Purchase Order;
  - (ii) a detailed description of the delivered Goods or performed Services, including the date of delivery and period of Services in respect of which the invoice relates and the relevant quantity;
  - (iii) an individual reference for us to quote with remittance of payment;
  - (iv) the Price relating to the Goods and Services, broken down to reflect the same Price components on the Purchase Order; and
  - (v) the amount of any applicable GST.
- (c) We will pay all tax invoices that comply with clause 8(b) within 60 days from the end of month in which we receive your invoice, except where we dispute the invoice in which case:
  - (i) we may withhold payment of the disputed amount pending resolution of the dispute; and
  - (ii) if the resolution of the dispute determines that we must pay you an amount, we will pay that amount upon resolution of that dispute.
- (d) We may reduce any payment due to you under these terms and conditions by any amount which you must pay us, including costs, charges, damages and expenses and any debts owed by you to us on any account whatsoever. This does

not limit our right to recover those amounts in other ways.

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## 9. Quality

- (a) The Goods and Services must match the relevant description in the Purchase Order and comply with all applicable laws, regulations and codes.
- (b) If you gave us a sample of the Goods or a demonstration of the Services, the Goods and Services must be of the same nature and quality as the sample or demonstration given.
- (c) The Goods and Services must be fit for the purpose for which goods and services of the same kind are commonly supplied or bought and for any other purpose we expressly specify in the Purchase Order.
- (d) The Goods must be of acceptable quality, safe and free from defects, acceptable in appearance and finish, do all things that the Goods are ordinarily used for, and unless otherwise stated in the Purchase Order, must be new.

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## 10. Warranty

- (a) You warrant that:
  - (b) the Goods are fit for the purpose stated in the Purchase Order;
  - (c) you have the relevant expertise experience, qualifications and skills required to provide, and each of your representatives are duly skilled and qualified to provide, the Services;
  - (d) you will act with due care and skill at all times in the provision of the Services and in accordance with applicable professional standards;
  - (e) you are aware of and will comply with and ensure that your employees, agents and contractors are aware of and comply with:
    - (i) all applicable laws;
    - (ii) all site standards, rules and procedures, to the extent that they are applicable to the supply of the Goods or the performance of the Services by you; and
    - (iii) all lawful directions and orders given by us or any person authorised by law to give such directions to you;
  - (f) you will ensure that your employees, agents and contractors entering our premises perform in a safe manner and are properly qualified for, and skilled in, the performance of their tasks and are of such character as not to prejudice:
    - (i) safe working practices;

- (ii) safety and care of property; and
- (iii) continuity of work;
- (g) you will provide us all such information and assistance as we reasonably require in connection with any statutory or other investigation in connection with the supply of the Goods or the performance of the Services;
- (h) on request by us, you will provide to us and our employees, agents and consultants any information and assistance required to identify, evaluate, implement and report on any matter required by law in respect of anything used, produced or created in connection with the performance of your obligations under these terms and conditions;
- (i) the Goods supplied and Services performed by you and any license granted by you to us will not infringe any Intellectual Property Rights of any third party; and
- (j) the Goods supplied and Services performed are not subject to any Intellectual Property Rights of any third party that in any way restrict our rights or the rights of our clients to use or sell the Goods.

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## 11. Inspection Testing

- (a) We may inspect, test and approve the Goods and Services either before dispatch, at the point of delivery or within a reasonable period after delivery. Such inspection and testing will be conducted at a time and place reasonably required by us. We will approve the Goods and Services if they are in accordance with the Purchase Order and these terms and conditions.
- (b) The Goods remain at your risk until they have passed our inspection and performance tests and have been accepted by us in writing.

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## 12. Warranty Period

- (a) If, during a relevant Warranty Period, Goods or Services, as applicable, are found to be Defective:
  - (i) we may:
    - (A) return the Defective Goods to you or reject the Defective Services; or
    - (B) repair or make good the Defective Goods or re-perform or make good the Defective Services; and
  - (ii) you must at your cost if requested by us:
    - (A) repair or replace the Defective Goods or re-perform or make good the Defective Services; and

- (B) reimburse us for any direct expenses incurred in repairing, re-performing or making good (as the case may be) any Defective Goods or Services should you decline or fail in your obligations to do so.
- (b) The provisions relating to any Warranty Period under these terms and conditions are in addition, and without limitation, to any other conditions or warranties expressed or implied by statute or common law or otherwise.

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## 13. Confidentiality

- (a) Each party must not, and must ensure that its subcontractors do not, divulge to third parties any information relating to:
  - (i) the Goods and Services;
  - (ii) the other party; or
  - (iii) the supply of Goods and Services by you to us.
- (b) This clause does not apply to information which is part, or becomes part, of the public domain otherwise than by breach of this clause.

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## 14. Intellectual Property

- (a) The specifications, drawings, technical instructions or any other documentation issued to you by us during tendering and at the time of establishing these terms and conditions will remain our exclusive property and must be kept strictly confidential.
- (b) You agree that title in all present and future Intellectual Property Rights created, discovered or coming into existence as a result of, for the purposes of or in connection with the supply of the Goods and performance of the Services under a Purchase Order (other than any improvements, modifications or additions to any pre-existing Supplier Intellectual Property Rights) vests exclusively in us upon its creation (**Created IP**).
- (c) We acknowledge that you remain the owner of all Intellectual Property Rights created, discovered or coming into existence other than as a result of, for the purposes of or in connection with the supply of the Goods and performance of the Services under the Purchase Order (**Existing IP**).
- (d) You grant to us a non-exclusive, royalty free licence to use all Existing IP to the extent necessary to enable us to exercise our rights in the Created IP under a Purchase Order.

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## 15. Indemnity

Except to the extent and the proportion that it has been caused or contributed to by our wilful default or unlawful or negligent act or omission, you must indemnify us against any loss, damages, costs (including reasonable legal costs on a solicitor and own client basis) or liability incurred or suffered by us in connection with any damage or injury to any person or property arising as a result of your provision to us of the Goods and Services.

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## 16. Breach and termination

- (a) We may terminate a Purchase Order:
- (i) in our absolute discretion by giving you seven days' written notice; or
  - (ii) by written notice with immediate effect in the event you:
    - (A) have breached a material term of these terms and conditions where the breach is not capable of remedy or, where the breach is capable of remedy, you fail to remedy such default, within 14 days of a written notice from us; or
    - (B) become bankrupt or insolvent, unable to pay your debts as they fall due or enter into or become subject to any form of insolvency administration.
- (b) In the event that we terminate a Purchase Order under clause 16(a)(i), subject to any other rights we have under these terms and conditions, we will:
- (i) pay for the Goods delivered or Services provided by you in accordance with the Purchase Order prior to the date of termination; and
  - (ii) reimburse you for the cost of materials you reasonably ordered prior to the date of termination for the purpose of providing the Goods and or performing the Services and which you are legally liable to accept and cannot otherwise utilise, where you deliver such materials to the Delivery Address and such materials become our property upon payment.
- (c) You are not otherwise entitled to any compensation whether by way of damages, profit, loss or expense, including without limitation anticipated profits, incurred as a result of a termination of a Purchase Order under this clause.

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## 17. Insurances

- (a) You must at all times during the term of these

terms and condition effect and maintain the following insurances:

- (i) public liability insurance for at least \$20 million for any one event and unlimited in the aggregate and product liability insurance for at least \$10 million for any one event and in the aggregate, each containing a principal's indemnity extension in favour of us for liability to any third party arising out of the performance of a Purchase Order by you;
  - (ii) where a Purchase Order provides for the provision of professional services, professional indemnity insurance for any one event for at least \$10 million for any one event and in aggregate;
  - (iii) where the Purchase Order provides for the provision of Services, workers' compensation insurance as required by law; and
  - (iv) any other insurances required by law.
- (b) When requested by us, you must provide copies of certificates of currency in relation to the above insurances.

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## 18. Limitation of Liability

- (a) To the fullest extent permitted by law, neither party will be liable to the other party for any consequential, indirect or special losses or damages of any kind (including, without limitation, loss of profit, loss or corruption of data, business interruption or indirect costs) suffered by the other party or any third party.

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## 19. Slavery

The Supplier:

- (a) shall not use or allow its Subcontractors to use, forced, bonded or involuntary prison labour.
- (b) shall not require any Supplier employee or Subcontractor employees to lodge deposits or identity papers with the Employer or deny Supplier employee freedom to leave their employer after reasonable notice.
- (c) warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world.
- (d) warrants that to the best of its knowledge it is not currently under investigation, inquiry, or enforcement proceedings in relation to any allegation of slavery or human trafficking offenses anywhere around the world.
- (e) shall make reasonable enquiries to ensure that its officers, employees, and Subcontractors have not

been convicted of slavery or human trafficking offences anywhere around the world.

- (f) shall have and maintain its own policies and procedures to ensure its compliance with the Modern Slavery legislation within its own jurisdiction and shall include in its contracts with its subcontractors anti-slavery and human trafficking provisions.
- (g) shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing supply obligations.
- (h) shall not use, or allow its employees or Subcontractors to use, physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors.
- (i) shall not use, or allow its Subcontractors to use, child or slave labour.
- (j) shall report the discovery or suspicion of any slavery or trafficking by it or its Subcontractors to Callidus.
- (k) In relation to reported instances, Callidus reserves the right to request that the Supplier prepare and deliver to Callidus, a slavery and human trafficking report setting out the steps it has taken to address the issue reported.
- (l) At any time, Callidus reserves the right to request that the Supplier prepare and deliver to Callidus, a slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business.

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## 20. General

- (a) To the fullest extent permitted by law, these terms and conditions constitutes the entire agreement between you and us in relation to the supply of Goods and Services. You acknowledge that all prior discussions, undertakings, agreements, representations, warranties and indemnities in relation to that subject matter are replaced by these terms and conditions and have no further effect.
- (b) The provisions of these terms and conditions will not merge on completion of any transaction contemplated in the terms and conditions and, to the extent any provision has not been fulfilled, will remain in force.
- (c) These terms and conditions may not be amended or varied unless the amendment or variation is in writing signed by both you and us.
- (d) A word or provision of these terms and conditions

must be read down if:

- (i) the term is void, voidable or unenforceable if it is not read down;
  - (ii) the term will not be void, voidable or unenforceable if it is read down; and
  - (iii) the term is capable of being read down.
- (e) Subject to clause 20(d), part or all of any provision of these terms and conditions that is illegal or unenforceable must be severed from these terms and conditions and will not affect the continued operation of the remaining provisions of these terms and conditions.
  - (f) You may not assign, novate, transfer, subcontract or deal in any other manner with any or all of your rights and obligations under these terms and conditions without our prior written consent.
  - (g) Waiver of any power or right under these terms and conditions:
    - (i) must be in writing signed by the party entitled to the benefit of that power or right; and
    - (ii) is effective only to the extent set out in that written waiver.
  - (h) Any rights and remedies that a person may have under these terms and conditions are in addition to and do not replace or limit any other rights or remedies that the person may have.
  - (i) Each party must do or cause to be done all things necessary or reasonably desirable to give full effect to these terms and conditions.
  - (j) These terms and conditions are governed by and construed in accordance with the laws in force in Victoria, Australia and we each submit to the non-exclusive jurisdiction of the courts of that State.