

TERMS AND CONDITIONS

1. **APPLICABILITY; ENTIRE AGREEMENT.** These Terms and Conditions (these “**Terms**”), together with any documents to which these Terms are attached or which incorporate these Terms by reference (collectively, the “**Agreement**”) are the only terms that govern the sale of systems, parts, and other products (“**Products**”) and services (including, without limitation, installation of Products, inspection services, and monitoring services) (“**Services**”) by Keystone Fire Protection Co. (“**Company**”) to the customer (“**Customer**”) identified in the Agreement. This Agreement is the sole and complete contract between the parties regarding the subject matter of this Agreement and supersedes all prior or contemporaneous agreements, understandings, negotiations, representations and warranties, communications, and orders, both written and oral, between the parties regarding the subject matter of this Agreement. If the terms and conditions of any purchase order or other document of Customer issued in connection with this Agreement conflict with or add to any provisions of this Agreement, such different or new terms are expressly rejected by Company and will be of no force or effect. Customer will be bound by all of the terms of this Agreement when Customer accepts this Agreement by any statement, act, or course of conduct that constitutes acceptance under applicable law. Company may change these Terms at any time without notice to Customer. Customer will be bound by any changes to these Terms by placing any order for Products or Services after the change becomes effective. The Terms in effect at the time of each new order will be those on Company’s website at the time of such new order.
2. **SALE OF PRODUCTS.** Company shall sell to Customer, and Customer shall purchase from Company, the Products identified in this Agreement.
3. **SERVICES.** Company shall provide to Customer the Services identified in this Agreement. Company may use one or more subcontractors to perform all or any part of the Services. Customer may request additions, deletions, revisions, or other changes in the Services, subject to the written approval of Company. If Company determines that such changes will affect the cost of the work to be performed, or the time required for completion of the work to be performed, Company may refuse to perform the additions, deletions, revisions, or other changes in the work requested by Customer unless the parties execute a mutually agreeable amendment to this Agreement that complies with Section 20.J of these Terms.
4. **DELIVERY OF PRODUCTS; TITLE AND RISK OF LOSS.** Unless otherwise agreed upon in writing by the parties, all Products will be shipped F.O.B. origin and may be subject to additional “hazardous material” charges or other special shipping and handling fees, all of which shall be the responsibility of, and shall be paid by, Customer. Risk of loss on all shipments will pass to Customer when the Products are loaded on board the transporting carrier at the point of departure.
5. **APPROVAL AND PERMITS.** Unless otherwise agreed upon in writing by both parties, Company shall be responsible for obtaining, at Customer’s expense, all necessary approvals, permits, and documents required by applicable law.
6. **INSTALLATION PROVISIONS.** Where applicable, Company shall install the Products at Customer’s location identified in this Agreement. Company shall begin installation on or about a date agreed to by both parties and shall continue until completed. The completion date is an estimate only, and Company is not responsible for any delays caused by unforeseen difficulties or unexpected conditions. If during the installation the Company encounters unforeseen difficulties or discovers unexpected conditions (including, without limitation, unexpected hazardous materials, waste, or substances), Company may stop work immediately. Company shall contact Customer so Customer can instruct the Company as to what steps should be taken in connection with unforeseen difficulties or unexpected conditions. Customer shall pay Company for any additional work performed as a result of such unforeseen difficulties or unexpected conditions.
7. **PURCHASE PRICE; PAYMENT TERMS.**
 - A. Purchase Price. Customer shall pay Company the purchase price for the Products and Services set forth in this Agreement or as otherwise set forth on Company’s invoice. Company’s prices do not include insurance, shipping, or handling. Customer shall pay all insurance, shipping, and handling with respect to the purchase of any Products or Services.
 - B. Taxes. The purchase price does not include any applicable taxes, and Customer shall pay all federal, state, and local sales, use, property, excise, and other taxes imposed on or with respect to the purchase of the Products and Services. If Customer is tax exempt, then prior to executing this Agreement, Customer will

provide Company with a valid and correct tax exemption certificate. Failure to provide a tax exemption certificate in a timely fashion may result in Customer losing the advantages of tax exemption with regard to this sale.

- C. Payment Terms. All terms of payment are subject to approval by Company's credit department, and Company is not obligated to extend credit or financing terms to Customer. Unless otherwise agreed in writing by Company, if Customer has established credit satisfactory to Company, Customer shall pay NET 20 DAYS from the date of invoice. Company may require Customer to pay in advance or to have a credit card on file with Company. Customer shall pay all invoices without setoff, deduction, or recoupment of any kind. If Customer fails to make any payments when due, a finance charge of 15% per annum will accrue from the due date until paid. If Company incurs any costs to collect overdue payments, all such collection costs (including, without limitation, attorneys' fees) shall be paid by Customer. Customer acknowledges that, other than Company's delivery of the Products or provision of the Services, payment to Company is not contingent on any occurrence, matter, or event, including, without limitation, Customer's receipt of payment from any third party such as an owner, prime contractor, or insurance company.
- D. Security Interest. Customer, on behalf of itself and the owner of the premises where the Products will be installed, grants to Company a purchase money security interest in the Products to secure payment of the purchase price and grants to Company an irrevocable power of attorney to execute and file one or more UCC financing statements on behalf of Customer for the benefit of Company, as secured creditor, to protect the security interest. Upon payment in full of the purchase price and all associated costs and charges required under this Agreement, Company shall release its security interest. Company shall have all of the rights of a secured creditor under the Pennsylvania Uniform Commercial Code, 13 Pa.C.S. §§ 1101 *et seq.*, including, without limitation, the right to enter Customer's premises and to disable or remove the Products.

8. **PRODUCT RETURNS.**

- A. Stock Items. All unused or returned Products that are part of Company's standard stock will be subject to a 25% restocking charge. The Product must be unopened and returned in its original carton in order to receive credit for the return.
- B. Special Orders. Specially ordered and "non-stock" Products will be subject to a 100% restocking charge. No credit will be issued for return of these Products.
- C. Warranty Returns. If any Product fails to conform to the warranties set forth in Section 12, Customer may return such Product to Company, provided that Customer first obtains a Return Material Authorization (RMA) number from Company. All advance (warranty) replacement components will be billed to the Customer and credited back subject to the findings of the manufacturers' repair department.

9. **CUSTOMER RESPONSIBILITIES.**

- A. Site Environment. The Products are designed to operate within certain power, temperature, and humidity ranges as specified in the appropriate operating manual for the Products. Customer shall prepare and maintain the site in conformity with such specifications. Customer assumes all responsibility for any Product malfunction that occurs as a result of operation outside of such specifications, including, without limitation, the cost of repairing or replacing the malfunctioning Product.
- B. Location Environment for Installation. If applicable, Customer shall prepare and maintain the location identified in this Agreement in conformance with Company's site specifications, as defined in the applicable site preparation document. Customer shall provide Company with surveys describing the physical characteristics, legal limitations, and utility locations for the installation location.
- C. Access. If Company is performing Services or installing Products, Customer shall provide Company with access to Customer's site and adequate working space and facilities within a reasonable distance of the Products. Company will be free to start and stop all primary equipment incidental to the operation of the Products.
- D. Operating Procedures. Customer shall follow routine operating procedures as specified in the operating manuals for the Products.

- E. Customer Representative. A representative of Customer shall be present at the site at all times Services are being performed by the Company. Unless otherwise agreed to by Customer and Company, Company personnel will not enter or remain at the site in the absence of a Customer representative.
- F. Electric Power Connection. When electric is required for operation of the Products, Customer shall provide a separately fused (120 VAC, 60 Hz, 20 Amp) primary power with ground within 6 feet of control panel location. To assure uninterrupted service, this power should come from the main electric distribution center.
- G. Compliance With Laws. Customer shall comply with all applicable federal, state, and local laws, rules, and ordinances.
- H. Use of Designs and Data. Any knowledge or information, including drawings and data, that Company has disclosed or may hereafter disclose to Customer, incident to installation of the Products, is Company's confidential and proprietary information, and Customer shall take reasonable steps to protect the confidentiality of such information and shall not use or disclose to any other person such information. Company does not grant to Customer any rights to reproduce or use such information.

10. LIMITATIONS.

- A. Deficiency Correction. Customer agrees that any existing system out of warranty prior to the date of this Agreement will be inspected by a Company Field Service Technician. If Company discovers any deficiencies, Company shall provide to Customer a written description of the repair charges at the then-prevailing Company prices and hourly rates. Company shall not be obligated to repair any such deficiencies unless Company expressly agrees in writing to do so.
- B. No Obligation to Make Repairs. Company is not obligated to make any repairs or upgrades to the Products or any existing system at Customer's facility unless and to the extent Company and Customer mutually agree in writing with respect to such repairs or upgrades.
- C. Abnormal Use. The Services do not include, and Company is not obligated to perform, repairs or servicing made necessary by or arising out of:
 - i. any causes other than normal use of the Products, as determined in the sole discretion of Company, including, without limitation: (a) the fault or negligence of Customer or any third party; (b) operation of the Products not in accordance with Company's or the manufacturer's specifications (including without limitation, failure to provide a suitable installation and operation environment); or (c) use of the Products for purposes other than those for which they are designed;
 - ii. any causes external to the Products, including, without limitation: (a) failure or fluctuation of electrical power; (b) use of non-Company approved or recommended suppliers or attachments; (c) moving the Products; or (d) the occurrence of any events set forth in Section 20.D;
 - iii. repair, servicing, or alterations to, or relocation of, the Products by anyone other than an authorized Company service representative or without written consent of the Company;
 - iv. topographical changes to the area protected by the Products; or
 - v. failure of Customer to make repairs or upgrades recommended by Company.
- D. No Representation. Company makes no representation or warranty that the Products or Customer's existing system is in proper working order.
- E. Discontinuation of Products and Services. Company may at any time discontinue offering or providing any or all of the Products and Services without incurring any liability to Customer. Company shall use commercially reasonable efforts to provide Customer with prior notice of such discontinuance.
- F. Tools. Any special equipment, tools, dies, fixtures, or jigs produced or acquired by Company for the manufacture or installation of any Products under this Agreement are, and shall remain, the property of the Company.

11. CUSTOMER REPRESENTATIONS AND WARRANTIES.

- A. Hazard to Personnel. Customer represents and warrants that, except as otherwise disclosed to Company in writing, in the areas where Company will perform Services or install the Products there are no: (i) materials or substances classified as toxic or hazardous on or in the walls, floors, ceilings, or other structural members, or otherwise stored in the work area; (ii) situations requiring special precautions; (iii) equipment required by federal, state, or local health or safety regulations; or (iv) unsafe working conditions.
- B. Authority. Customer represents and warrants to Company that: (i) it is duly organized, validly existing, and validly subsisting or in good standing under the Laws of the state where it was formed, duly qualified to do business and in good standing in every jurisdiction in which such qualification is required; (ii) it has the full right, corporate power and authority to enter into this Agreement and to perform its obligations under this Agreement; and (iii) the execution of this Agreement by the individual whose signature is set forth at the end of this Agreement, and the delivery of this Agreement by Customer, have been duly authorized by all necessary corporate or other entity action on the part of Customer.

12. LIMITED WARRANTY; DISCLAIMER OF WARRANTIES.

- A. Product Warranty. Company warrants to Customer that for a period of twelve (12) months after the date of installation or first use by Customer, whichever is earlier, the Products will be free from defects in materials and workmanship; provided, however, that the foregoing warranty shall not apply to any repairs or servicing made necessary by or arising out of any of the events set forth in Section 10.C of these Terms. Customer's sole remedy, and Company's sole liability, for breach of the warranty set forth in this Section 12.A shall be for Company to repair or replace, at Company's option, free of charge for parts or labor, any part which, in its opinion shall be proved defective in materials or workmanship under normal use and service.
- B. Service Warranty. Company warrants that all Services will be performed in a good and workmanlike manner and in compliance with all applicable laws and regulations. Customer's sole remedy, and Company's sole liability, for breach of the warranty set forth in this Section 12.B shall be for Company to re-perform the defective Services.
- C. Third-Party Products. Products manufactured by a third party ("**Third-Party Products**") are not covered by the warranty in Section 12.A. Warranties for Third-Party Products, if any, are provided by the manufacturer or supplier of such Third-Party Products.
- D. Disclaimer. ***Except for the warranties set forth in Sections 12.A and 12.B, Company makes no warranty regarding the Products or Services, including, without limitation, warranties of merchantability, fitness for a particular purpose, title, and non-infringement, whether express or implied by law, course of dealing, course of performance, usage of trade, or otherwise, and Customer expressly waives all such warranties.***

13. TERM; TERMINATION.

- A. Term. The following is applicable only if this Agreement involves the provision of Services: The initial term (the "**Initial Term**") of this Agreement will commence on the effective date indicated this Agreement and will continue for the duration set forth in the Agreement, or, if no duration is specified in the Agreement, for a duration of one (1) year. This Agreement will automatically renew for successive one (1) year periods (each a "**Renewal Term**" and, together with the Initial Term, the "**Term**") until terminated as provided in this Agreement. Each Renewal Term will be subject to the terms and conditions of this Agreement, except that the fees for the Services for each Renewal Term will be at the rate then charged by Company for similar services. Either party may terminate this Agreement by giving the other party written notice of termination at least thirty (30) days prior to the end of the then-current Initial Term or Renewal Term, as applicable, unless earlier terminated by Company in accordance with these Terms.
- B. Termination by Company. Company may terminate this Agreement immediately or cease or suspend performance of Services upon the occurrence of a "Default" (defined below). In the event this Agreement is terminated for any reason, the balance of the purchase price and all costs and charges required to be paid by Customer under this Agreement including, without limitation, an amount equal to the profit Company would have received had the work been completed, shall be immediately due and payable by Customer.

14. **DEFAULT.** Any one or more of the following shall constitute a default by Customer under this Agreement (each, a “Default”): (i) Customer is delinquent in payment of any sums due under this Agreement; (ii) Customer fails to comply with any term or provision of this Agreement; (iii) Customer files a petition in bankruptcy or Customer has a bankruptcy petition filed against it; (iv) Customer is unable to pay its debts as they mature, as determined by Company in its sole discretion; or (v) Customer makes an assignment for the benefit of its creditors.
15. **REMEDIES.** In the event of a Default, Company may exercise any one or more of the following remedies, in any combination:
- A. Discontinuance of Services. Company may immediately terminate this Agreement, refuse to continue to provide the Services, or provide the Services on another basis, including, without limitation, requiring Customer to pay in advance or to have a credit card on file with Company.
 - B. Acceleration. Company may accelerate all amounts due under this Agreement for the then-current Initial Term or Renewal Term of this Agreement, as applicable. The parties agree that such acceleration is not a penalty, but is in the nature of liquidated damages because the parties agree Company’s actual damages would be impossible to determine.
 - C. UCC. To the extent applicable, Company may exercise all remedies of a secured creditor under the Pennsylvania Uniform Commercial Code, 13 Pa.C.S. §§ 1101 *et seq.*
16. **INDEMNIFICATION.** Customer assumes financial and legal responsibility for damage or injury (including, without limitation, death) to all persons, and property damage or loss of use of property, caused by, resulting from, or arising out of any negligence by or contributed to by Customer, its agents, servants, or employees, and from failure to make any repairs or upgrades recommended by Company. Customer shall, at its cost, indemnify, hold harmless, and, at Company’s option, defend, Company and its officers, directors, employees, agents, and contractors against any and all claims, demands, causes of action, proceedings, assessments, damages, liabilities, settlements, judgments, fines, penalties, interest, costs, and expenses (including, without limitation, reasonable attorneys’ fees), arising from or relating to: (a) Customer’s breach of any of its representations, warranties, or covenants in this Agreement; (b) any negligence or other tortious conduct by Customer or any of its agents, employees, or servants; or (c) any violation of any applicable law, rule, regulation, or order by Customer or any of its agents, employees, or servants. This Section 16 will survive termination of this Agreement and payment in full by Customer for the Products and Services.
17. **INSURANCE.** Customer represents and warrants to Company that it has adequate liability insurance coverage to cover the Services to be performed under this Agreement. Customer shall provide evidence of such insurance coverage to Company upon request. Company maintains general liability insurance in the amount of \$1,000,000 per occurrence with a general aggregate limit of \$2,000,000. Company maintains a \$2,000,000 umbrella and statutory limits for worker’s compensation insurance. Customer may request that Company obtain insurance limits greater than those set forth in the prior sentence, but Customer shall pay the cost of any additional premiums for such increased coverage.
18. **WAIVER OF SUBROGATION.** Customer shall waive all rights of subrogation as allowed by governing insurance policies. Customer acknowledges that Company does not assume risk or liability for loss due to fire or damages to Customer’s premises, any existing system, or the Products, or personal injury due to either the operation or non-operation of the existing system or the Products. Customer acknowledges that Company is relying upon this waiver in determining the cost of the Products and Services.
19. **LIMITATION OF LIABILITY.**
- A. ***Company shall have no liability to Customer or any third party for indirect, incidental, exemplary, consequential, punitive, or special damages, including, without limitation, lost profits, loss of income, loss of use, or loss of goodwill, arising out of this Agreement or the use or possession of the Services or Products, however caused and under any theory of liability (including, without limitation, negligence), whether based in contract, tort, or any other cause of action, regardless of whether such damages were foreseeable, and whether or not Company has been advised of the possibility of such damages, and notwithstanding the failure of any remedy of its essential purpose.***
 - B. ***Company’s total liability to Customer for any breach by Company under this Agreement or any claim of Customer against Company related to this Agreement, directly or indirectly, whether arising out of***

or related to breach of contract, tort (including negligence), or otherwise, is limited to the lesser of: (i) the total amount paid by Customer to Company under this Agreement in the twelve-month period immediately preceding the event giving rise to the liability; (ii) the actual direct damage suffered by Customer; and (iii) \$ [REDACTED].

- C. **Customer acknowledges that Company is not an insurer and that Company is relying upon the limitations in this Section 19 to determine the cost of the Services and Products.**

20. MISCELLANEOUS.

- A. **Breach by Company.** Customer expressly agrees that no action at law or in equity shall be maintained by Customer against Company for Company's alleged breach of this Agreement or violation of any federal or state law now in effect or enacted in the future with respect to any obligation or duty incurred under this Agreement by Company unless Customer notifies Company in writing at the address specified in this Agreement within ten (10) days from date of such alleged breach or violation, and provided Company does not remedy or correct the breach or violation within sixty (60) days from the receipt of such notice.
- B. **Time Limitation.** All claims, actions, or proceedings, legal or equitable, against Company must be commenced in court within one (1) year after the cause of action has accrued, without judicial extension of time, or such claim, action or proceeding is barred, time being of the essence of this Section 20.B.
- C. **Commercial Transaction.** The parties acknowledge that the transactions contemplated by this Agreement are commercial transactions and not for personal, family, or household use.
- D. **Force Majeure.** Company shall not be liable for failure to perform, or for delay in performing, any of its obligations under this Agreement when and to the extent such failure or delay is caused by or results from: (i) an act of God, including elements of nature, flood, earthquake, hurricane, blizzard, tornado, tsunami, epidemic, or other natural phenomenon; (ii) civil disorder, including riot, rebellion, revolution in any country, act of terrorism, sabotage and war; (iii) accident, including fire, explosion and the breakage or failure of machinery or apparatus; (iv) a change in governmental laws or regulations, order or action, including any change in market prices precipitated by government action or shutdown and national defense requirements; (v) power outages or failures, including transportation outages, electric outages, telecommunications outages and other computer and system failures; (vi) labor trouble, including strike, lockout or injunction (except when such labor event is within the reasonable control of Company); (vii) Customer's denial to Company of full access to the site; or (viii) any other event or act of third parties beyond Company's reasonable control.
- E. **Remedies Cumulative.** The remedies provided in this Agreement in favor of Company upon a breach of this Agreement by Customer will not be construed to be exclusive, but are cumulative and in addition to all other remedies in Company's favor existing at law or in equity. Company may exercise all remedies, whether or not expressed successively or concurrently, and any such action will not operate to release Customer until the all amounts due and to become due under this Agreement have been paid in full.
- F. **Attorneys' Fees.** Customer shall pay Company's costs, attorneys' fees, and professionals' fees in the event of a dispute between Customer and Company regarding the interpretation or enforcement of this Agreement that results in litigation in which Company is the prevailing party.
- G. **Notices.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to be sufficiently delivered if sent by: (i) hand delivery; (ii) nationally recognized overnight courier; or (iii) first class mail, to Company at Keystone Fire Protection Company, 433 Industrial Drive, North Wales, PA 19454, Attn: President, and to Customer at the address on the invoice accompanying this Agreement. Such notice shall be effective on the earlier of actual receipt, refusal by the recipient, or three (3) days after sending. Any party may change the address to which communications are sent by delivering notice of such change to the other party in accordance with this paragraph.
- H. **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be illegal, unenforceable, or invalid, such provision shall be modified to the extent necessary to eliminate such illegality, unenforceability, or invalidity. If the amendment or modification of such provision is impossible, the Agreement shall be construed as if it never contained the invalid, illegal, or unenforceable provision, and such provision shall not affect any other provision of this Agreement.

- I. Assignment; Binding Effect. Customer shall not assign, delegate, or otherwise transfer any of its rights or obligations under this Agreement, either directly or indirectly (including, without limitation, by merger or sale of capital stock or assets), without Company's prior written consent, which consent may be withheld in Company's sole discretion. Any attempted assignment in violation of this paragraph will be void and of no effect. This Agreement will inure to the benefit of and be legally binding upon Company and Customer and their respective successors and permitted assigns.
- J. Modifications. No amendment or modification of this Agreement will be effective unless in writing and signed by all parties.
- K. Waiver. No claim or right arising out of this Agreement may be discharged in whole or in part by a waiver of the claim or right unless the waiver is in writing and signed by the waiving party. The waiver or acceptance of any breach by either party of any provision of this Agreement shall not constitute a waiver of or excuse for non-performance as to any other provision of this Agreement, nor as to any prior or subsequent breach of the same provision.
- L. Governing Law. All matters arising out of or relating to this Agreement will be construed and enforced in accordance with the substantive and procedural laws of the Commonwealth of Pennsylvania, without regard to any conflict of law rules and without regard to any rules of construction or interpretation relating to which party drafted this Agreement. Nothing in this Agreement is intended to supersede, conflict with, or alter Company's rights and Customer's obligations under the Pennsylvania Contractor and Subcontractor Payment Act, 73 P.S. §§ 501 *et seq.* This Agreement shall not be governed by the provisions of the United Nations Convention on Contracts for the International Sales of Goods.
- M. Jurisdiction. Customer consents to the exclusive jurisdiction and venue of the Montgomery County Court of Common Pleas of the Commonwealth of Pennsylvania or the United States District Court for the Eastern District of Pennsylvania with respect to the interpretation and enforcement of this Agreement, the collection of any amounts due under this Agreement, and any claims disputes arising under or relating to this Agreement, and Customer waives any objections to such exclusive jurisdiction and venue, including objection as to an inconvenient forum. Customer agrees that effective service of process may be made upon Customer by U.S. mail under the notice provision contained in Section 20.G.
- N. Waiver of Jury Trial. ***The parties expressly waive the right to a trial by jury in any action or proceeding brought relating to this Agreement. The parties prefer that such a dispute be determined by a judge.***
- O. No Set-Off. Customer shall not set off against amounts due to Company. Any violation of this Section 20.O by Customer will constitute a material breach of this Agreement and will entitle Company to all of its rights and remedies under this Agreement, including, without limitation, the right to recover interest and attorneys' fees.
- P. Survival. The following provisions of this Agreement will survive termination or expiration of this Agreement: Sections 7, 8, 12, 16, 18, 19, 20, and any provision that should by its nature survive termination or expiration of this Agreement.
- Q. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.