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# Thermal Specialties, LLC

**Thermal Specialties Construction Services, LLC**

# Terms & Conditions of Sale

The foregoing proposal by Thermal Specialties, LLC., a Corporation, hereafter referred to as TSCS, is subject to the following terms and conditions of sale unless otherwise stated in the proposal.

**No agent or representative is authorized to alter the conditions, except in writing duly signed by an officer of Thermal.**

**Prices & Terms**

All prices are subject to change without notice. Terms are 30 days net subject to approved credit. Shipments can be expedited, prior to establishing credit, by cash, check, or credit card payment with order for full amount. Any order valued at $ 75,000 or more shall be subject to progress payment terms**:

- 30% of the total purchase price upon receipt of purchase order
- 30% upon completion of 50% of project, or delivery of project materials
- 30% upon completion of 90% of project
- Balance of 10% due upon startup of equipment, or 30 days from shipment, whichever is shorter.

**Note: On larger or extended delivery orders invoices will be submitted monthly for labor and/or material expended and will be due as submitted, total not to exceed 90% of total contract due before shipment.

A signed purchase order constitutes acceptance of, and does not replace these terms and conditions of sale.

Any order originating outside the contiguous United States, Alaska, Hawaii or Canada shall be subject to an Irrevocable Letter of Credit, in English, confirmed by a U.S. Bank or sight draft. If, at Purchaser's option, completion of manufacturing is delayed beyond 180 days after receipt of an order, starting on that date a price escalation of 1% per month of the gross order amount will apply. Further, if at the Purchaser's option, shipment of an order is delayed more than ten days after completion of manufacturing, Purchaser will be invoiced at that date and will be responsible for any storage costs involved. The Company reserves the right to ship equipment and invoice for same even though minor components are backordered, if the missing items are late due to circumstances beyond the Company's control and said components will not prohibit initial installation work by the Purchaser. A finance charge at a rate of 2% per month (annual percentage of 24%) or the maximum allowable rate, whichever is less will be added to unpaid invoices over 60 days old, said interest shall relate back and commence from date of invoice.

A signed purchase order constitutes acceptance of, and does not subrogate the attached terms and conditions of sale.

**Acceptance**

The proposal is void at TSCS's option unless accepted within 30 days of the dated submitted hereof. All previous agreements, understanding and quotation are superseded by this proposal and no modification hereof shall be binding unless duly accepted in writing by the purchaser and approved by TSCS.

**Delivery / Force Majeure**

Delivery of product shall be made FOB shipping point unless otherwise expressly indicated on the Purchase Order. Manufacture, shipment or delivery will be subject to any prohibition, restriction or regulation imposed by the Federal or any State government or any subdivision or agency thereof and Seller shall not be liable for any delay or failure to perform, in whole or in part, caused by any such prohibition, restriction or regulation, or by fires, floods, strikes, work stoppages, accidents, casualties, inability to procure supplies and raw materials, delays in transportation, shortage of cars or other force majeure causes beyond Seller's control. If delivery of any special items is delayed by Buyer for more than 30 days after completion, Seller may invoice for such items and hold for Buyer's disposition for a reasonable period of time.

**Shipping Dates**

All dates fixed for shipment, delivery and installation as set forth herein are made in good faith and TSCS will use all reasonable diligence to insure adherence to these promises, but TSCS shall not be liable for damage or loss due to delay.

**Duty, Taxes, Permits and Bonds**
Any federal, state, local, or import duty or tax arising out of either sale, manufacture or installation of the equipment or performance of the contract is not included in the quoted price, and where necessary will be made an additional charge, to be paid by the customer.

All building and erection licenses and permits, if necessary, shall be applied for and paid for by the customer, and should TSCS be required to furnish any bond or bonds on the within contract, the cost therefore shall be added to the quoted price.

**Title**
The title to the equipment quoted herein will remain with TSCS until TSCS is paid in full.

**Liability & Indemnity**
TSCS shall not be liable for loss, damage or delays to work caused by defective material or workmanship, transportation, accident, fire, strike, civil, or military commotion or riot, war, labor troubles, act of God or any other cause beyond TSCS's control. Purchaser further agrees that in no event, shall seller on any claim of any kind have any liability for loss of use, loss of profits or for any indirect, incidental, or consequential damages. Nothing in these Terms and Conditions shall be constructed to limit in any way the rights and remedies available under the Uniform Commercial Code.

Upon order acceptance, except to the extent that an injury or damage to person or property is due to the negligence of TSCS, Purchaser shall indemnify, defend and hold TSCS, its officers, employees, agents and representatives, harmless from liabilities, losses, damages, claims, suits, costs or expenses, including reasonable attorney's fees, arising out of or in connection with performance of work hereunder or any act or omission of TSCS, its employees, subcontractors or agents to the extent its insurance applies.

**Environmental Test**
Purchaser is to pay for any and all environmental test that may be deemed necessary by purchaser or any other authority, whether state, city or Federal.

**Safety Devices**
TSCS will supply such safety devices or fire protection equipment as is specified in this proposal. If Purchaser desires or requires through local, state or insurance underwriter's specifications or regulations other additional safety devices or equipment, TSCS will undertake without being obligated therefore, to furnish same at TSCS's cost. TSCS assumes no liability for loss or damage to persons or property occasioned by any accident or casualty resulting from the use of fuel gas, fuel oil, oven or immersion tube atmosphere gas in connection with the equipment.

**Resale**
In the event that the goods sold hereunder are purchased by Buyer for resale, Buyer agrees and warrants that it will obtain contractual protection for Seller in its resale contracts with its Customers equivalent to the protection provided herein.

**Use of Specifications and Drawings**
In all cases where this proposal includes drawing reference, a copy of the approved drawing or drawings signed by the Purchaser must accompany the order. Changes to the approved drawing or drawings will be made by written change order and agreed to by both the Purchaser and TSCS.

The design described in this proposal and shown on our drawings is the exclusive property of TSCS and is submitted with the understanding that it is strictly confidential and is subject to recall at any time. If used, disclosed, reproduced or copied in whole or in part without our written consent, or used in anyway prejudicial to the interest of this company, the Purchaser will be subject to a service and engineering charge of 5% of the amount of this proposal.

All drawings, specifications, and engineering data pertinent to this proposal shall become the property of the Purchaser upon payment in full of the agreed contract price.

**Design Changes**
We reserve the right to institute design changes to the equipment as quoted that improves the performance and manufacture components, which are integral to the system.

**Change Orders & Cancellations**

-Returns - Customer pays for return freight and any other charges related to the return of a special order along with a restocking fee. This provision **only applies if** the manufacturer will accept a return.
-Restocking fee will vary base on the manufacturer's restocking fee.
-Fabricated items are non-returnable and non-refundable.

**Damage in Transit**

TSCS's responsibility ceases upon delivery of material in good order to common carrier at point of shipment. The Purchaser is to check incoming shipment upon arrival and to file claims with the carrier's agent for shortages or in-transit damages.

**Use or Misuse**

TSCS is not liable for damages resulting from the use or misuse of the equipment.

**Insurance**

TSCS will comply with Workers Compensation or Employer's Liability laws that apply to our operations under this proposal; and upon request we will furnish certificates from out carrier evidencing the type of public liability and property damage insurance and limits or polices carried.

**Warranties**

TSCS warrants good and unencumbered title to the equipment upon payment in full of all invoices. TSCS will repair or replace FOB Tulsa, Oklahoma, equipment in which effects either in workmanship or materials, have developed under proper and normal use during the period of one (1) year after date of delivery of completion of installation, if performed by TSCS. No warranty of the equipment is effective unless the equipment is erected and put into operation under TSCS supervision, or approved by TSCS. TSCS assumes no responsibility in any manner for operation of the equipment in the Purchaser's plant. TSCS does not warrant or guarantee the process of your manufacture or quality of our product for which this equipment may be used. If properly operated by competent persons, the equipment should prove satisfactory and serve the required purpose.

Orders are accepted and approved in Tulsa, Oklahoma.