

STANDARD TERMS AND CONDITIONS OF THERMATOOL CORP. (SELLER)

EXCLUSIVE: The following Standard Terms and Conditions are intended by the parties to govern all the purchases of equipment, parts or service from Seller. All other terms and conditions are specifically rejected, and by proceeding with the transaction in any manner, both Seller and Purchaser agree that these Standard Terms and Conditions shall control. The price charged by Seller is based on these Standard Terms and Conditions.

TERMS: 1% 10 days after invoicing. Net 30 days. A "late payment" in the form of interest at the rate of 2% per month or a service charge of like amount will be levied on all late payments (the type of charge being consistent with the applicable local law). Invoices will be submitted when the equipment, part, service is supplied. Attention to these terms will eliminate delays in starting up any equipment or providing further service or parts. **NOTE:** Terms pending credit approval.

TAXES: The quoted prices do not include state or local sales, duties, use, excise or similar taxes. To avoid any inconvenience, please supply us with one of the following documents:

1. A tax exemption certificate from your state or
 2. A statement on your order or letterhead that your firm will pay the appropriate state use tax in accordance with the current tax laws of your state.
- Unless we are provided with one of these documents, any such taxes imposed upon Seller will be added to our invoice by a separate item.

TERMINATION: In the event that this purchase is terminated for any reason, including Purchaser's failure to make partial payments as specified, Seller will make a reasonable effort to minimize the damages payable by Purchaser. However, Purchaser shall be liable for all expenses, overheads and allowance of a reasonable profit on work performed up to the date of termination. Purchaser agrees to pay Seller's invoice in accordance with invoice terms.

WARRANTY: Seller warrants that the equipment, service, software, repair or parts supplied shall conform to the description. In the event that any part or parts, excepting expendable items such as, but not limited to, coil liners, thermocouples, refractories and other similar consumable items, that fail due to defects in material or workmanship within the first twelve (12) months of startup of equipment or eighteen (18) months after shipment, whichever occurs first, or in the case of service, repairs, or parts, within twelve (12) months of supplying such service, repair or part, Seller shall at its option, repair or replace EXW (Ex works), such defective part or parts. If the equipment, service, repair or part included software, Seller warrants, for a period of twelve (12) months of startup or eighteen (18) months after shipment, whichever occurs first, that the software supplied or serviced will meet its published functional specifications. Should software fail to meet the specifications, or be otherwise defective, Seller shall promptly correct errors or non-conformities. If correction is not possible, Seller shall replace defective software, or, at Seller's option, refund the purchase price paid for such software. The warranty obligations of Seller with respect to equipment not manufactured by Seller shall conform to and be limited to the warranty actually extended to Seller by its suppliers. Notice of a claim for alleged defective equipment must be given within fifteen (15) days after Purchaser learns of the defect. The defective part or parts shall be returned to Seller, freight prepaid, unless otherwise directed by Seller. This warranty shall be exclusive and in lieu of any other warranties and Seller makes no warranty of merchantability or warranties of any other kind express or implied, including any implied warranty of fitness for a particular purpose which extend beyond the warranty as set forth above. Seller's liability for any and all losses and damages to purchaser resulting from defective parts of equipment shall in no event exceed the cost of repair or replacement, EXW of defective parts or equipment. **IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER.**

PATENTS: Seller agrees to indemnify Purchaser against any proven claim and assessed liability for infringement of any United States patent arising from the manufacture or sale of any apparatus furnished by Seller to Purchaser. **THE FOREGOING STATES SELLER'S ENTIRE LIABILITY FOR CLAIMS OR PATENT INFRINGEMENT.** Seller shall have no liability whatsoever if the claim of infringement arises out of Seller's compliance with Purchaser's specifications. Seller shall have no liability whatsoever if a claim of infringement is based upon the Purchaser's use of the equipment as part of a patented combination where the other elements of the combination are not supplied by Seller, or in the practice of a patented process. Where the specifications, process, design are supplied by Purchaser, then Purchaser agrees to indemnify Seller in like manner.

PROPRIETARY RIGHTS:

Unless otherwise stated herein all design, manufacturing processes, manufacturing information, vendor sources, know-how, equipment, tooling or other hardware, software, or information (collectively referred to as "resources") acquired or utilized by the Seller to produce the finished goods, and any intellectual property rights, including but not limited to patents, copyrights and trade secrets related in any way to the resources, are and shall hereinafter remain the exclusive property of the Seller, regardless of whether such resources are created solely by the Seller, or by Purchaser's collaboration with the Seller, for example, where Seller utilizes Purchaser's specifications to create resources, and the Purchaser shall acquire or receive no rights or title therein or thereto as a result of this purchase whether or not the order provides for Seller's delivery of technical data, drawings or other information to the Purchaser in addition to the finished goods. Unless Seller's prior written consent is given, in no event shall the Purchaser permit such data, drawings or information to be: (1) disclosed to any third party other than the Purchaser's customer; (2) used by the Purchaser or the Purchaser's customer for manufacture of like or similar goods; (3) used for purposes of duplicating or reverse-engineering Seller's proprietary designs or processes; or (4) used by a party other than the Purchaser or the Purchaser's customer for any purpose.

LIMITATION OF LIABILITY: SELLER'S TOTAL AGGREGATE LIABILITY (ARISING OUT OF OR IN CONNECTION WITH BUT NOT LIMITED TO ANY BREACH OF CONTRACT, NEGLIGENCE, TORT, LIQUIDATED DAMAGES, SPECIFIC PERFORMANCE, TERMINATION, CANCELLATION INCLUDING THE REPAYING OF THE CONTRACT PRICE OR PARTS THEREOF, FUNDAMENTAL BREACH, BREACH OF WARRANTIES, MISREPRESENTATION, NONPERFORMANCE, NONPAYMENT, OR ANY OTHER) WHETHER BASED IN CONTRACT, IN TORT, IN EQUITY, ON STATUTE, AT LAW OR ON ANY OTHER THEORY OF LAW, SHALL NOT EXCEED THE PAID CONTRACT PRICE. THE PURCHASER ACKNOWLEDGES THAT THE REMEDIES PROVIDED IN THIS CONTRACT ARE EXCLUSIVE AND IN LIEU OF ALL OTHER REMEDIES AVAILABLE TO THE PURCHASER AT LAW, IN CONTRACT, IN TORT, IN STATUTE OR IN EQUITY OR IN ANY OTHER THEORY OF LAWS.

INSURANCE: Purchaser represents that they have a program of Insurance which adequately protects their interest, and that of their employees and agents, including damage to plant, property and equipment, personal injury of any kind, directly or indirectly related in any way to the equipment, service, repair or parts supplied by Seller. Accordingly, Purchaser waives any claim against Seller for the foregoing, and on behalf of its Insurance Company, any right of subrogation in connection therewith.

SEVERABLE AND INDEPENDENT PROVISION: WITHOUT LIMITING THE FOREGOING, IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT EACH AND EVERY PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED BY THE PARTIES TO BE SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION AND TO BE ENFORCED AS SUCH, FURTHER, IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT IN THE EVENT ANY REMEDY HEREUNDER IS DETERMINED TO HAVE FAILED ITS ESSENTIAL PURPOSE, ALL OTHER LIMITATIONS OF LIABILITY AND EXCLUSION OF DAMAGES SET FORTH HEREIN SHALL REMAIN IN FULL FORCE AND EFFECT. ALL SUCH PROVISIONS SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

LAW: This Agreement shall be governed by the laws of the State of Connecticut, USA, with venue exclusively in the US District Court of Connecticut or the Connecticut State Courts in New Haven County, Connecticut.

U.S. EXPORT CONTROLS: All items furnished by Seller to Purchaser in connection herewith shall at all times be subject to the export control laws and regulations of the U.S. including, but not limited to, 10 CFR Part 810 and U.S. Export Administration Regulations. Purchaser agrees and give assurance that no items, equipment, materials, service, technical data, technology, software or other technical information or assistance furnished by Seller, or any good or product resulting therefrom, shall be exported or re-exported by Purchaser or its authorized transferees, if any, directly or indirectly, unless in accordance with applicable U.S. export laws and regulations. The aforesaid obligations shall survive any satisfaction, expiration, termination or discharge of any other contract obligations.

FORCE MAJEURE: If the performance of any part of this contract by Seller is rendered commercially impracticable by reason of any strike, fire, flood, accident, or any other contingency, the non-occurrence of which was a basic assumption of this contract including war, embargo, government regulation, or any unforeseen shutdown of major supply sources or other like causes beyond the control of Seller such as cannot be circumvented by reasonable diligence and without unusual expense, Seller shall be excused from such performance in whole or in part to the extent that it is prevented and for as long a period of time as these conditions render Seller's performance commercially impractical.

Terms and Conditions

5-02-2008

Hereinafter, Thermatool Corp. is referred to as "Buyer", and the Seller identified on the face of this Purchase Order is referred to as "Seller".

- DELIVERY AND ACCEPTANCE** – The time of delivery stated is of the essence of this contract. The date specified for delivery is the required delivery date at Buyer's plant, unless otherwise specifically noted hereon. Buyer reserves the right to refuse any goods or services and to cancel all or any part hereof if Seller fails to deliver all or any part or any goods or perform all or any part of any services in accordance with the terms specified herein. If Seller's deliveries will not meet agreed schedule, Buyer may require Seller to ship via a more rapid route or carrier in order to expedite such delivery and any difference in cost caused by such change shall be paid by Seller provided, nevertheless, that such right shall be in addition to any other rights and remedies of Buyer. Acceptance of any part of the order shall not bind Buyer to accept future shipments or performance of services nor deprive it of the right to return goods already accepted and shall not be deemed to be a waiver of Buyer's right to cancel or return all or any part of the goods because of failure to conform to order or by reason of defects latent or patent, or other breach of warranty, or to make any claim for damages, including manufacturing cost or loss of profits, injury to reputation or other special, consequential and incidental damages occasioned by Buyer. Such right shall be in addition to any other remedies provided hereunder or provided by law or otherwise. Delivery shall not be deemed to be complete until goods have been actually received and accepted by Buyer, notwithstanding delivery to any carrier or until any services have been performed, received and accepted.
 - PACKING AND SHIPPING** – The goods purchased hereunder must be suitably packed and prepared for shipment to secure the lowest transportation rates or appropriately packed to comply with any specific transportation specifications of Buyer, and in all cases, to comply with carrier's regulations. All charges for packing, crating, and transportation are included in the price for the goods set forth herein and will be paid by Seller except as otherwise specifically stated on the reverse side of this Purchase Order. A Packing List shall accompany each box or package shipment showing the order number specified hereon as well as the item number and a description of the goods. In the event that no such Packing List accompanies any shipment, the count or weight or other measure of Buyer shall be final and conclusive. Buyer shall not be obligated to accept any shipments in excess of the ordered quantity and any excess or advance shipments may be returned to Seller at Seller's expense.
 - PAYMENT** – The original and one copy of a Bill of Lading or comparable shipping document must accompany Seller's invoices. Payment of such invoices shall be subject to a pro rata adjustment by Buyer for any shortage in the goods shipped or defective goods rejected by Buyer or for any failure to perform services or defective performance thereof. Any discount period shall be calculated for the date of receipt by Buyer of an appropriate invoice.
 - WARRANTIES** – Seller represents and warrants (1) that the price charged for the goods and or services purchased pursuant hereto shall be no higher than Seller's current price to any other customer for the same quality and quantity of such goods or services; (2) that all goods delivered pursuant hereto will be new, unless otherwise specified and free from defects in material and workmanship, that all goods will conform to applicable specifications, drawings, and standards of quality and performances and that all items will be free from defects in design and suitable for their intended purposes; (3) that the goods covered by this order are fit and safe for consume use, if so intended; (4) that all services performed pursuant hereto will be free from defects in material and workmanship and will be performed in accordance with the specifications and instructions of Buyer provided nevertheless that Seller shall retain discretion and control with respect to the manner and means of performing such services and shall at all times remain an independent contractor. All the representations and warranties of Seller together with its service warranties and guarantees, if any, shall run to Buyer and Buyer's customers. Seller agrees to indemnify and hold Buyer harmless from all claims, liability, loss, damage and expense including special, consequential and incidental damages incurred or sustained by Buyer by reason of any breach of any warranty with respect to the goods or services which are purchased in accordance herewith.
- All goods supplied and services performed pursuant hereto shall be subject to inspection and test by Buyer and its agents and by the United States at all times and places, whether during or after manufacturer as to goods, or performance as to services, and notwithstanding the terms of delivery or payment or, as to goods, that title has not yet passed to Buyer or to the United States. In the event that goods supplied pursuant hereto or services performed hereunder contain defects in material or workmanship or, as to services, are not performed in accordance with the specifications and instructions of Buyer, Buyer may require prompt correction thereof or, as to services, require that the services be rendered again at Seller's expense or as to goods, require that the goods be replaced at Seller's expense. If such defects exist or if Seller is unable or refuses to replace the goods or render the service again promptly, Buyer may contract or otherwise replace such goods or obtain such services and charge Seller or deduct from amounts owed by Buyer to Seller the costs, expenses and losses including incidental and consequential damages incurred thereby which are in excess of Seller's price for such goods or services. After notification to Seller that goods are defective, all risk of loss with respect to such goods shall be in Seller and Seller shall pay all packing and shipping charges in connection with defective goods returned by the Buyer. Buyer's approval of design furnished by Seller shall not relieve Seller of its obligations herein. The goods covered by this order are intended for the manufacture and sale of Buyer's established products in which Buyer has built a substantial and valuable reputation for quality and efficiency and any defect in the goods hereunder may occasion special damage to Buyer. All rights and remedies of the Buyer hereunder shall be in addition to any other remedies provided by law.
 - CHANGES** – Buyer may at any time by written or telegraphic notice make changes within the general scope of this order in any one of more of the following:
 - Drawings, designs, or specifications;
 - Method of shipment or packing;
 - Quantities;
 - Delivery schedules;
 - Place of delivery; and
 - Instructions with respect to the rendition of services.If any such change increases or decreases the cost of, or the time required for the performance of the order, and equitable adjustment in the price and/or delivery schedule will be made and set forth in a written modification to this order. Any claim or adjustment by Seller under this clause must be made within thirty (30) days from the date of receipt of the written notification by Seller.
 - TAXES** – Federal, state or local taxes which are properly billable to Buyer shall be stated separately in Seller's invoices. All tax exemption certificates will be accepted by Seller.
 - TOOLING** – In the case of any tools, dies, jigs, fixtures, patterns, equipment or other facilities of Buyer which may be in the possession of Seller in connection with this order, Seller agrees that his responsibility shall be that of a bailee and that he shall indemnify and hold harmless Buyer from any loss or damage thereto which is caused by or as a result of negligence, act or omission on the part of Seller or its agents, employees or others until such time as such facilities are delivered into the possession of Buyer.
 - RESPONSIBILITY FOR PROPERTY** – Any property of Buyer or of the United States which in connection with this Purchase Order is in the possession or control of Seller or Seller's sub contractors vendor or agents shall be returned to Buyer in the condition in which it was received by Seller, except for ordinary wear and tear and except to the extent such property has been incorporated into goods delivered hereunder or has been consumed in the production of such goods. Risk of loss with respect to all such property shall be in Seller.
 - "With reference to the Merchandise and/or service Seller shall supply, Seller expressly agrees to include all necessary and effective safety features and provide all necessary and effective safety warnings and/or notices for protecting personnel from being injured as a result of coming into contact with the Merchandise or material being produced by the Merchandise during operation. Seller shall also include all necessary and effective safety features and provide all necessary and effective warnings and/or notice for protecting personnel performing, repairing, starting up or providing maintenance on the Merchandise.**
You are requested, prior to shipment of the Merchandise, to supply a certified list including an appropriate description of all safety features incorporated in the Merchandise or service, a copy of any warning signs and safety notices and instructions in your operating and maintenance manuals which Seller will furnish to the operator.
In the event the Buyer furnishes advice requests or suggestions of Buyer or its customer on matter of safety to be incorporated in the Merchandise or service, or if Buyer or its customer approves Seller's drawing of Merchandise or service, the furnishing of such advice, requests suggestions, or approval of drawings, shall in no way relieve or reduce Seller's responsibility to Buyer, its customers or third parties which by law, contract or otherwise is placed on Seller nor in any way with respect thereto subject the Buyer to any liability."

- INSURANCE** – The Seller hereby undertakes and agrees to protect, defend, hold harmless and indemnify Thermatool Corp. from and against any demand, liability, cost or expenses (including reasonable attorney's fees) arising from death or injury to any persons or person or damages to property alleged to have resulted from the handling, display, sale, use, consumption or distribution of Seller's products or services (including, but not limited to any repair or maintenance service) hereunder sold or to be supplied to or for the benefit of Buyer, or arising out of or in connection with any negligence, malfeasance, design failure, breach of warranty, failure to meet specifications or other default on the part of the Seller in their manufacture, shipment or sale or its products or the rendition of its service; and Seller warrants and agrees that Seller now has and will keep in full force and effect, at all times, a public liability insurance policy or policies with coverage for both products and completed operations written by an insurance carrier acceptable to Buyer in aggregate amounts required by Buyer which shall not be less than \$100,000 for injury to any one person, \$300,000 for injuries arising out of any one occurrence, and \$100,000 for property damage; and Seller will deliver to Buyer a completed certificate or certificates of insurance on forms supplied by Buyer for that purpose and signed by an authorized representative of each of Seller's insurance carriers involved, certifying that such insurance has been issued to the Seller and is in full force and that if such insurance is cancelled or changed so as to affect the coverage, at least ten days prior written notice of such cancellation or change will be sent to Buyer.
- ASSIGNMENTS** – This Purchase Order is not assignable and shall not be assigned by Seller without the prior written consent to Buyer
- USE OF DESIGNS, DATA, ETC.** – Seller agrees that it will keep confidential the features of any equipment, tools, gauges, patterns, designs, drawings, engineering data or other technical or proprietary information furnished by Buyer and use such items only in the production of items under this order or other orders from Buyer and not otherwise, unless Buyer's written consent is first obtained. Upon completion or termination of this order, Seller shall return all such items to Buyer or make such other disposition thereof as may be directed or approved by Buyer.
- PATENTS AND DATA** – Seller shall indemnify and hold harmless Buyer, Buyer's customers and users of Buyer's products against liability or suit of any nature, including costs and expenses, for infringement of any patent or patent right arising from the manufacture, use or sale of any items called for in this order, except to the extent that any such liability of suit shall have arisen because of Seller's manufacture of articles of Original design of Buyer and made by Seller in accordance with specifications and drawings which are furnished herewith by Buyer.
If any experimental, developmental or research work is called for or required hereunder Seller agrees to and hereby does grant to Buyer an irrevocable, non-exclusive, full transferable royalty-free license to make, have made, use and sell any invention, improvement or discovery (whether or not patentable) that Seller conceives or first actually reduces to practice in the performance of this order.
Seller agrees to and hereby does grant Buyer (I) an irrevocable, non-exclusive, fully transferable, royalty-free license to reproduce, translate, publish use and dispose of and to authorize others so to do, any copyrighted or copyrightable material ordered as articles or incorporated in, or supplied as a supplement with, any article, and (II) the right to reproduce, use and disclose for any purpose all or any part of the reports, drawings, blueprints, data, and technical information delivered or specified to be delivered by Seller to Buyer under this order.
- NOTICE OF LABOR DISPUTE** – Whenever any actual or potential labor dispute is delaying or threatens to delay the timely performance of this order, Seller shall immediately give notice thereof, including all relevant information with respect thereto, to Buyer.
- COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS** – The Seller warrants that the goods covered by this order have been produced in accordance with the requirements of the Fair Labor Standards Act (29 USCA §§ 201-219) and all other applicable federal, state and municipal laws and regulations. If any of the goods covered by this order are subject to the Wool Products Labeling Act of 1939, the Fur Products Labeling Act or the Flammable Fabrics Act, Seller's invoice shall bear the separate guaranties provided for under such acts or shall contain appropriate notice that a continuing guaranty has been filed with the Federal Trade Commissions in accordance herewith.
- TERMINATION** – Buyer may by written notice to Seller terminate the whole or any part of this order if:
 - Seller fails to perform any provisions of this order or so fails to make progress as to endanger performance of this order in accordance with its terms, or
 - Seller becomes insolvent or the subject of proceedings under any law relating to bankruptcy or the relief of debtors or admits in writing its inability to pay its debts as they become due.If this order is so terminated, Buyer may procure or otherwise obtain, upon such terms and in such manner as Buyer may deem appropriate, supplies or services similar to those terminated Seller, subject to the exceptions set forth below, shall be liable to Buyer for any excess costs of such supplies or services.
Seller shall transfer title and deliver to Buyer, in the manner and to the extent requested in writing by Buyer at or after termination such complete articles, partially completed articles and materials, parts, tools, dies, patterns, jigs, fixtures, plans, drawings, information and contract rights as Seller has produced or acquired for the performance of the terminated part of this order; and Buyer will pay Seller the contract price for completed articles delivered to and accepted by Buyer and the fair value of the property of Seller so requested and delivered.
Seller shall continue performance of this order to the extent not terminated.
Buyer shall have no obligation to Seller in respect of the terminated part of this order except as herein provided. Buyer's right as set forth herein shall be in addition to Buyer's other rights in case of Seller's default, whether set forth in this order or not.
- DEFAULT BEYOND CONTROL** – Seller shall not be liable for damages or for default due to causes beyond Seller's control and without Seller's fault or negligence, provided Seller exercises due diligence in promptly notifying Buyer of conditions which will result in delay, and provided further, if Seller delay is caused by the default of a sub-contractor or supplier, such default arises out of causes beyond the control of both Seller and sub-contractor or supplier and without the fault of negligence of either of them, and the supplies or services to be furnished by the sub-contractor or supplier were not obtainable from other sources.
- RELEASE OF INFORMATION** – Seller agrees that prior to the issuance if any publicity or publication of any advertising which in either case makes reference to this order or to Buyer, Seller will obtain the written permission of Buyer with respect thereto.
- NON WAIVER OF RIGHTS** – The failure of Buyer to insist upon strict performance of any of the terms and conditions in the Purchase Order or to exercise any rights or remedies, shall not be construed as a waiver of its rights to Assert any of the same or to rely on any such terms or conditions at any time thereafter.
- ENTIRE AGREEMENT** – This Purchase Order is intended by the parties as a final expression of their agreement and also is a complete and exclusive statement of the terms thereof, any prior oral or written agreements as to the same subject matter notwithstanding. This contract may not be modified or terminated orally, and no modification nor any claimed waiver of any of the provisions hereof shall be binding unless in writing and signed by the party against whom such modification or waiver is sought to be enforced.
- HEADINGS** – The headings at the beginning of each numbered section hereof have been inserted for ease of reference only and are not part of this contract.
- The Equal Employment Opportunity clause in section 202, paragraphs 1 through 7 of Executive Order 11246 as amended relative to equal employment opportunity and the implementing Rules and Regulations of the Office of Federal Contracts Compliance are incorporated herein by specific reference.
- HAZARDOUS MATERIALS** – All Hazardous materials must be properly labeled in accordance with Federal and State law. If this order includes hazardous materials, a Materials Safety Data sheet must be supplied with the shipment unless the vendor has already furnished the MSDS covering this material to the Thermatool Corp. purchasing department.