

**S.P. THERMAL SYSTEMS INC. 4504 Green Meadow Blvd. Beamsville, On., L0R 1B5, Canada**

**STANDARD TERMS AND CONDITIONS OF SALE**

**ORDER ACCEPTANCE:** S.P. Thermal Systems Inc. (hereinafter referred to as the "Seller") reserves the right to accept or reject any order.

**CONDITIONS:** All Purchase Orders are accepted by the "Seller" based upon the Buyer (hereinafter referred as the "Buyer") agreeing to **these "Terms and Conditions of Sale"** unless otherwise agreed in writing. When a payment / deposit is required with a Purchase Order, the order will not be entered into production or scheduled for delivery, until the deposit has been received in full with the appropriate taxes. The "Seller" reserves the right to correct typographical errors.

**ORDERS RECEIVED:** It is the responsibility of the "Buyer", to make sure that the correct equipment quantities, size and options are being ordered as per specifications shown on "Seller" quotation, including that the equipment meets all necessary Provincial codes for operation, voltage, operating pressure, safety valve settings, type/s of fuel, and the gas pressure required at the equipment, for operation. The "Seller" accepts no responsibility for equipment being ordered, other than what is shown on our quotation and accepts no responsibility for the sizing of the equipment or system design and performance. In the event the "Seller" has made some basic sizing calculations, the "Seller" accepts no responsibility, or liability in any sizing or design responsibility, in the sale of equipment to the "Buyer."

**PAYMENT TERMS:** **25%** on Purchase Order, **75%** on offer to ship or before boiler or equipment is unloaded from transporter, at site. All taxes to be included with payment, in Canadian Dollars unless otherwise indicated. In the event that the **75%** payment is not received when the boiler / equipment arrives at location, the "Buyer" accepts all additional charges including extra transportation and storage of the unit, until payment is received in full. In this situation, Full Payment by Certified Cheque will be required, including any other charges that have occurred, before the equipment is redelivered. These are the "Seller" Standard Terms of Payment. If other Payment Terms have been agreed to by the "Seller" in writing, those Payment Terms will become part of these Terms and Condition of Sale offered to the "Buyer".

**CURRENCY EXCHANGE:** Funds quoted are in Canadian Dollars, if not show differently. Equipment sold by the "Seller", that is made by **Hurst Boiler and Welding Co Inc., Unilux Advanced Manufacturing or other** manufacturers, which are made in the USA, and shipped into Canada, are calculated into Canadian Funds by the "Seller" based on the present currency exchange rate at the time of quoting, which is **\$1.00 Canadian = \$ x.xx US** Dollars. Any deviation on the Exchange Rate, from the time of quoting or acceptance of a Purchase Order by the "Seller" and the time of the equipment delivery or receipt of payment in full, will be invoiced by the "Seller", as an extra payment, or credited back, at the time, the funds are received by the "Seller", based on the current currency exchange rate on the day of receipt of payment. The "Buyer" must accept this clause as part of the Terms and Conditions of Sale. The "Buyer" agrees to pay the "Seller" all extra funds due to the deviation of the currency exchange from the quoted price, verses the price when payment is made to the "Seller". The "Seller" in this event also agrees, to refund to the "Buyer" any deviation on the currency exchange in favour of the "Buyer". The "Buyer" further agrees, to reimburse all legal fees that may be applied to the "Seller" in the collection of the currency deviation, or the collection of payment for the goods purchased.

**PRICE:** Prices are F.O.B job site on transport vehicle, unloading by others, (unless quoted otherwise). All taxes and other charges are in addition to quoted prices . Prices quoted are valid for orders placed within **30** days of issue of quotation.

**UNLOADING EQUIPMENT:** Equipment arriving on site by transport, requires unloading. The "Buyer" accepts and understands that unloading the equipment is the responsibility of the "Buyer". The "Buyer" is responsible to ensure that the contractor hired or personnel responsible for removing the equipment off the vehicle, has sufficient insurance to cover the selling price of the equipment and for any additional loss or damage arising from damaging the equipment, truck and buildings during unloading, and placing the equipment on site. It is the responsibility of the "Buyer" to make sure that the correct lifting equipment is being used, and that it is carried out in a safe manner by the contractor or personnel responsible to unload and place. The "Buyer" will be responsible for payment of all damages, resulting from unloading and placing of equipment to whoever is affected including all legal fees.

**INTERPERATING PRICING:** "Seller" quotation description is based on equipment offered. The "Buyer" cannot assume items not shown in the "Sellers" detailed quotation description is included in the scope of work offered, if not shown.

**OVERDUE INVOICES:** Interest will be charged at a rate of **2%** per month on all overdue invoices. Interest will be charged on the first day of every month.

**CREDIT APPROVAL:** "Buyer" credit approval may be required prior to order acceptance.

**CANCELLATIONS:** No order may be cancelled or changed without the written consent of the "Seller". Items supplied with accessories, customized options, any equipment fabrication, or products in quantities not regularly stocked by the "Seller" but are ordered directly from the manufacturing supplier and started into production , are not subject to cancellation once the

order is entered. Should any order or part of an order be cancelled by the "**Buyer**" after a purchase order or down payment is received, it is agreed that the "**Buyer**" will reimburse all costs including any legal fees, that are applied to the "**Seller**" from the equipment manufacturer, as a result of the cancellation. The exact cancellation charges applied to the "**Buyer**", will depend on the equipment supplier cancellation Terms and Conditions, accepted by the "**Seller**"

**USED EQUIPMENT CANCELLATION:** Used equipment is not subject to cancellation once a purchase order and /or an agreement of sale has been received by the "**Seller**". Should any order or part of an order be cancelled by the "**Buyer**", after a purchase order is received, it is agreed that the "**Buyer**" will forfeit all advances and or down payment and will reimburse all costs including any legal fees that are applied to the "**Seller**" to recover payment.

**USED EQUIPMENT:** Any used boiler/s / equipment sold, may require Field approval by (Technical Standards and Safety Authority) hereinafter referred to as TSSA. The selling price quoted does not include any related TSSA charges and are not the responsibility of the "**Seller**". In addition approvals by ESA (Electrical Safety Authorities) may be required and is not included in the "**Seller**" quotation. In both situations all costs for such approvals are the responsibility of the "**Buyer**".

All used Boilers / equipment sold by the "**Seller**" is sold "**as is**" if not described in writing differently. No warranties on used equipment is offered ,except if shown in writing differently.

**TAXES:** All sales taxes and / or other charges levied or imposed by any Government authority, foreign or domestic, upon any merchandise sold or contracted to be sold shall be paid by the "**Buyer**" and added to the purchase price unless appropriate and satisfactory Tax Exemption Certificates are supplied by the "**Buyer**" to the "**Seller**".

**PRODUCT CHANGES:** The "**Seller**" suppliers, reserve the right to alter, modify or redesign its products without any obligation to replace products previously shipped with such altered, modified or redesigned products.

**DELIVERY:** The "**Buyer**" is advised that quoted delivery dates or schedules are based on estimates at the time of quotation and that the "**Seller**" will devote its best efforts to meeting such schedules. However, the "**Seller**" assumes no liability for additional cost or damage resulting from late deliveries. The "**Seller**" also assumes no liability for additional cost or damage due to deliveries arriving after normal receiving working hours, resulting in overtime / equipment / labour cost being charged to the "**Buyer**". It is the "**Buyer's**" responsibility at all times to pay and arrange for the removal of equipment from the transportation vehicles, arriving on site, that requires special off loading equipment, such as forklifts, cranes or other means. The "**Buyer**" is also responsible for any back charges incurred by the "**Seller**", resulting from delay of the transportation vehicle, due to the "**Buyer**" failing to arrange the necessary and proper means for the unloading of the equipment at the job site, in a reasonable amount of time. Having the proper and adequate receiving dock for unloading is the responsibility of the "**Buyer**". All equipment shipped is F.O.B manufacturer or supplier's warehouse if not indicated otherwise. Please review F.O.B location of shipment on Final quotation before placing a Purchase Order. All quoted delivery dates start from receipt of deposit with appropriate taxes and release of approved drawings, if required by the "**Buyer**".

**TITLE / RISK / LEGAL:** Title to all goods shall remain with the "**Seller**" and at the "**Buyer's**" risk , until fully paid for. Any legal fees and court costs encountered by the "**Seller**", to recover payments due from the "**Buyer**", shall be at the "**Buyer**" expense.

**DAMAGE, LOSS OR SHORTAGE CLAIMS:** All goods are accepted in good condition by the carrier. Claims for damage to the goods must, be made by the "**Buyer**" against the carrier exclusively. All claims for missing items or inaccuracies on the invoice must be made within **10 days**, of receipt of goods. The "**Buyer**" is responsible to inspect and record on the Bill of Lading any damages which are visible or found, prior to unloading the equipment at job site. A copy of the Bill of Lading with signature of the transport driver acknowledging damage found, must be recorded prior to removal of the equipment from the transporter vehicle, with pictures. This is required, to pursue a successful damage claim against the carrier.

**RETURNS:** Returns, when authorized, are for credit only, not for refund. No returns will be accepted without the "**Seller's**" prior written authorization. Only standard stock items returned in a condition approved by the "**Seller**", may be accepted within **30 days** from date of invoice. Credit will be issued for the lower of invoiced price and "**Seller's**" current price, less a cancellation and restocking fee. All goods are returned at "**Buyer**" expenses.

**RISK:** Where relevant goods shall be deemed as shipped or delivered to the "**Buyer**" when placed in the hands of a carrier designated by the "**Buyer**" and all responsibility for loss, damage, or destruction of any of the aforesaid goods is assumed by the "**Buyer**".

**PPSA Statutory Lien:** The "**Buyer**" authorises the "**Seller**" to register a "PPSA" lien under the PPSA system for all outstanding monies of the sale. The "**Buyer**" agrees that in the event of the "**Seller**" having to execute a PPSA lien, that all legal cost to the "**Seller**" will be the responsibility of the "**Buyer**". The "**Buyer**" agrees that failure to remit payment, or payment with post dated cheques without sufficient funds to cover payment, will result in the "**Seller**" having the right to execute the PPSA statutory lien.

**NEW EQUIPMENT WARRANTY:** The "**Seller**" commits to making every effort to have their suppliers provide inspection of their products prior to shipping. However, it is not always possible to detect hidden defects, or defects caused by carrier during

shipping. Such products are warranted only to the extent that the **"Seller" / manufacturer** will replace without charge, products proven to have failed due to manufacturing defects within One (1) Year of the date of delivery, (or according to individual components manufacturer warranty). This is providing the **"Seller"** or Manufacturer has been given the opportunity to inspect the product alleged to be defective and the installation or use thereof. All labour / equipment charges to repair, modify or replace the product with similar products not supplied by the **"Seller"** are not the responsibilities of the **"Seller"**. The **"Buyer"** is responsible at all times for **all shipping charges** of the defective parts back to the manufacturer for inspection and shipping cost to location for the replacement part. **"Seller"** shall not be liable for any injury, loss or damage direct or consequential arising out of the inability to use the product. This warranty does not cover any damage or defect directly or indirectly, or wholly or partly, attributable to accident or the misuse, abuse or neglect of the products, including any damage to the products resulting from alterations or modifications made by any person not authorized by the **"Seller"**. No labour warranty is included against any expense for removal, fixing, reinstallation, or other consequential damages arising from any defects. No Water Treatment related failures are covered by warranty by the **"Seller"** or the Equipment Manufacturer/s. Boiler warranties are offered by the Boiler manufacturer only, and not the **"Seller"**. and this is a General warranty description. The **"Seller"** makes all efforts to make the **"Buyer"** aware of the manufacturer warranties. The manufacturers warranties are posted on the manufacturer website on the internet, or can be provided by the **"Seller"** on request. It is the **"Buyer"** responsibility to read and understand the warranties offered before ordering.

**EQUIPMENT FAILURE WARRANTY:** In the event that a potential warranty part replacement is required, in the warranty period and prior to the manufacturer examination of the claimed failed item, the **"Seller"** will require a Purchase Order to cover the deemed part, including shipping cost and broker fees, before any replacement part is shipped back to the **"Buyer"**. In the event the manufacturer accepts responsibility for the failed part, the **"Seller"** will credit back the cost of the part, less shipping and broker fees to the **"Buyer"**, once the failure cause is established. Acceptance of the Boiler Manufacturer Warranty is part of the Terms and Conditions of Sale. Please review warranty offered by The Boiler Manufacturer or request a copy for your review, prior to ordering.

**SPECIFICATION DISCLAIMER:** In the case of boilers, pumps or any equipment that has specific outputs at certain operating conditions, the equipment is designed to meet those conditions. Any attempt to over fire boilers or to operate equipment that is outside of the operating specifications, will cause damage and will void all Manufacturer Warranties.

The **"Seller"** accepts no responsibility for any errors in equipment sizing. The **"Seller"** will only select equipment sizing, based on the operating data provided to the **"Seller"**. The process, system piping, design and operation parameters are not part of the **"Seller"** scope of work and therefore not the responsibility of the **"Seller"**.

**EQUIPMENT INSTALLATION:** On boiler installations, only licensed Boiler Technicians / Gas Fitters may work on the equipment to maintain warranties offered by the Manufacturer. The **"Buyer"** is responsible for the hiring of the installing contractor, if not indicated otherwise in the **"Seller"** quotation. The installing contractor must be TSSA Licensed in Ontario or similar bodies in other Provinces in Canada, and is solely responsible for all permits, licensing applications and inspections related to the installation. The Start up or Commissioning of equipment can only be done by licensed properly trained Technicians, who are familiar with and have previously been trained in the equipment. In the event this is not the case, the **"Seller"** or the manufacturer of the equipment, accepts no responsibility for any damage to the equipment, building, process or for human life. The **"Buyer"** is responsible to provide the Start Up contractor all information shown in the Operating manual, for a safe Start Up, which includes, quality of water, curing procedures, equipment rotation and any details to make a safe start up. The **"Seller"** quotation description, determines who is responsible for Start up and Commissioning. The **"Buyer"** is responsible for obtaining the Ministry of Environment Air and Noise approvals, if applicable, before operating the boiler at plant location. To operate boilers in Ontario, Canada, under the Low Water Volume TSSA ruling, the **"Buyer"** must adhere to certain ruling & safety requirements issued by TSSA, including maintaining a Daily Log book. Please consult with your TSSA Officer for details.

**JURISDICTION:** These Terms and Condition of Sale, its interpretation, its execution, its application, its validity and its effects are subject to the applicable laws in effect in the Province of Ontario, and in Canada which governs in whole and in part all of the provisions herein.

**BUYER ACCEPTANCE:** The **"Buyer"** or the Buyer's representative has read and accepted the Terms and Condition of Sale outlined in the (3) pages attached. These Terms and Conditions of Sale are also posted on the **"Seller"** Web site and become integral in the **"Seller"** accepting the Purchase Order from the **"Buyer"**