ThermOmegaTech®
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# TERMS AND CONDITIONS

**AGREEMENT, INTEGRATION, AND CONFLICT OF TERMS:**

These terms and conditions, together with any special conditions expressly incorporated, thereto in the quotation or sales form, are to govern any sale by Therm-Omega-Tech® Inc. ("Seller"). This writing is an offer or counteroffer by Seller to sell the goods and/or services set forth on the quotation or sales form subject to these terms and conditions and is expressly made conditional on Buyer's assent to these terms and conditions. Acceptance by Buyer is expressly limited to these terms and conditions. Any additional or different terms and conditions contained in Buyer's purchase order or other communication shall not be effective or binding upon Seller unless specifically agreed to in writing by Seller; Seller hereby objects to any such conditions, and the failure of Seller to object to specific provisions contained in any purchase order or other communication from Buyer shall not be construed as a waiver of these terms and conditions nor an acceptance of any such provisions. Neither Seller's commencement of performance nor delivery shall be deemed or construed as acceptance of Buyer's additional or different terms and conditions.

Buyer agrees that these terms and conditions, together with any accompanying quotation and any special conditions or limited process guarantees or documents referred to or included within the quotation and expressly made a part of this agreement, (e.g., drawings, illustrations, specifications, or diagrams), is the complete and final agreement between the parties ("Agreement"). This Agreement supersedes all prior negotiations, representations, or agreements, either written or oral, between the parties and, further, can only be altered, modified or amended with the express written consent of Seller.

**PRICES:**

Prices apply to the specific quantities stated on the quotation or sales form Price quotes will be honored for thirty (30) calendar days from issuance, unless otherwise noted. All prices are subject to change without notice.

**SHIPPING:**

All Shipments are FOB Origin. Freight is prepaid and added to the invoice.

**PAYMENT TERMS**:

Buyer shall pay all invoices within thirty (30) days from the date of order shipment unless otherwise, specified on the order acknowledgement. If Buyer fails to make any payments when due, Buyer will be charged interest of one and a half percent (1.5%) per month, eighteen percent (18%) per annum on any overdue balance.

Seller is not obligated to extend credit or financing terms to Buyer. Seller, may in its sole discretion, revoke any credit extended to Buyer and require payment in full prior to Seller's delivery of products. Seller may retain possession of any products until Buyer has paid in advance all amounts due to Seller. If Seller retains, a collection agency or legal counsel or incurs any out-of-pocket expenses to collect payments from Buyer, all such costs will be added to the sums due, will bear interest at the rate set forth above, and will be the responsibility of Buyer.

**CHANGES:**

Buyer shall have the right to make, from time to time upon notice to Seller, changes to their order quantities, delivery schedules, and destinations. Upon receipt of a change request, Seller shall notify Buyer of any increases or decreases in costs caused by such changes, and an equitable adjustment in the prices, or other terms of this Purchase Order. Changes shall be agreed upon by the parties in a written amendment to the Purchase Order.

**WARRANTY:**

(a) Seller warrants that all work, materials, goods and services sold and delivered under the Purchase Agreement (a) conform to all applicable specifications, drawings, samples or other descriptions; (b) are fit for the particular purposes for which they are intended; (c) are of good material and workmanship; (d) are merchantable; ( e) are free of any third-party claim, including but not limited to any claims of infringement or violation of a trade secret. Unless otherwise specified by Seller in writing, this warranty is for the period described below in Schedule "A".

(b) These warranties will not apply if the articles or any parts thereof have been subjected to: (1) any maintenance, overhaul, installation, storage, operation, use handling, or environment which is improper or

not in accordance with ThermOmegaTech's® instructions; (2) any alteration, modification, or repair by anyone other than ThermOmegaTech® or its authorized representative; or (3) any accident, misuse, neglect, or negligence after delivery by ThermOmegaTech®. (4) CircuitSolver only: exposure to fluids that do not meet the criteria established by the US EPA National Primary and Secondary Drinking Water Regulations or Guidelines for Canadian Drinking Water Quality.

(c) The warranty shall not apply to any article to the extent that the defect or nonconformity is attributable to any part not supplied by ThermOmegaTech®.

(d) Seller's liability and Buyer's remedy under this warranty is limited to the repair or replacement, at Seller's election, of goods or parts thereof returned to Seller which are shown to Seller's reasonable satisfaction to have been defective, provided that written notice of the defect is provided by Buyer to seller within thirty (30) days of identification of the defect. Transportation charges for the return of defective goods to Seller and their reshipment to Buyer and the risk of loss thereof will be borne by the Seller only if returned in accordance with written shipping instructions from Seller.

(e) Seller's warranty does not extend to products or services not manufactured or provided by Seller; however, Seller will provide to Buyer the benefits of any supplier's warranty.

(f) **THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED.**

Schedule A:

**Railroad Valves**
Locomotive Valves: Twelve (12) months from date of manufacture, unless stated otherwise.
Passenger Car Valves: Twenty-four (24) months from the date of manufacture, unless stated otherwise.

**Washdown Systems**
Washdown System Valves: Twelve (12) months from the date of manufacture, unless stated otherwise.

**CircuitSolver**
CircuitSolver Valves: Unless otherwise specified by Seller in writing, this CircuitSolver® Warranty is for 10 Years from the date of manufacture for valves manufactured on or after 4/1/2025.

**ESS Water Heater**
Electrical Components: Twelve (12) months from date of start-up.

**Electronics**
Warrants that the products delivered hereunder conform to final specifications, drawings, and other descriptions agreed in writing to be applicable, and are free from defects in materials and workmanship. These warranties shall run to the Buyer, its successors, assigns and customers for a period of twelve (12) months. These warranties will not apply if the articles or any parts thereof have been subjected to: (1) any maintenance, overhaul, installation, storage, operation, use, handling, or environment which is improper or not in accordance with ThermOmegaTech's instructions; (2) any alteration, modification, or repair by anyone other than ThermOmegaTech® or its authorized representative; or (3) any accident, misuse, neglect, or negligence after delivery by ThermOmegaTech®. The warranty shall not apply to any article to the extent that the defect or nonconformity is attributable to any part not supplied by ThermOmegaTech®.

**All Other Products not previously specified:**
All Seller's own manufactured products are factory tested and covered by an eighteen (18) month warranty from date of manufacture, unless stated otherwise on Price Quote. Products found to be defective will be replaced on a one-to-one basis, FOB Origin. For products found to be defective, Seller will pay for shipment of replacement product to Buyer. Seller disclaims any and all liabilities arising from its installation and/or use.
For goods sold by Seller to Buyer, Seller warrants that the goods sold to the Buyer hereunder will be i) built in accordance with the specifications referred to in the quotation or sales form, is such specifications are expressly made part of this Agreement, and ii) free from defects in and workmanship for a period of

eighteen (18) months from the date of manufacture. The warranty expiration date is calculated from the date of manufacture (MM/YY) as noted on the valve.
Seller shall have no warranty obligations to Buyer with respect to any product or parts of a product that: (a) have been repaired by third parties other than Seller or without Seller's written approval; (b) have been subject to misuse, misapplication, neglect, alteration, accident, or physical damage; (c) have been used in a manner contrary to Seller's instructions for installation, operation and maintenance; (d) have been damaged from ordinary wear and tear, corrosion, or chemical attack; (e) have been damaged due to abnormal conditions, vibration, failure to properly prime, or operation without flow; (f) have been damaged due to a defective power supply or improper electrical protection; or (g) have been damaged resulting from the use of accessory equipment not sold by Seller or not approved by Seller in connection with products supplied by Seller hereunder.

**In any case of products not manufactured by Seller, there is no warranty from Seller; however, Seller will extend to Buyer any warranty received from Seller's supplier of such products.**

**RETURNS:** Seller shall be consulted prior to any return of products. Seller will issue a Return Material Authorization Number (RMA#) and instructions for the return of the product purchased for evaluation. No credits, refunds, returns, nor charges of any kind will be accepted by Seller without prior written approval. Any stocked items returned for credit up to 90 days after delivery will be subject to a twenty-five percent (25%) restocking charge if inspection determines equipment is in first class resalable condition. After the 90 days items are no longer returnable to Therm-Omega-Tech®, Inc. unless due to a manufacturing defect. Any installed/used products are not returnable. Any rework required will be deducted from the credit in addition to the twenty-five percent (25%) restocking fee. All returned material shall be shipped prepaid to the Seller. All returned material shall be shipped in packaging that prevents any damage to the product enclosed within shipment. A purchase order may be required when Seller ships replacement product(s) to Buyer before returned valves are received by Seller. **Stocked items are noted on the price sheet. Any products which are not stocked are not returnable.**

**APPLICABLE LAW:** Performance of this order and all other matters pertaining thereto shall be governed by the laws of the Commonwealth of Pennsylvania, United State of America, without reference to its conflict of law provisions.

**EXPORT/IMPORT:** Buyer hereby certifies that, in connection with the performance of this Purchase Order, it will comply with U.S. export and import control laws and regulations, including but not limited to the International Traffic in Arms Regulations ("ITAR") (22 CFR 120 et seq.), the Export Administration Regulations ("EAR") (15 CFR Part 730-774), the regulations administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") (31 CFR Part 500-598), and all other applicable U.S. Government regulations relating to the importation of goods into the United States (including, but not limited to, the regulations administered by U.S. Customs and Border Protection ("CBP") at 19 CFR 0 et seq. and other import regulations promulgated by other U.S. agencies which may be enforced by CBP) (collectively "U.S. export and import control laws and regulations"). If Buyer engages in the United States in the business of either manufacturing, exporting, or brokering in ITAR-controlled defense articles or furnishing ITAR-controlled defense services, Seller hereby certifies that it is currently registered with the U.S. Department of State Directorate of Defense Trade Controls ("DDTC").

**VENUE:** The legal venue for any and all claims or other legal matters pertaining to the performance of this order shall be the local courts for Bucks County, Pennsylvania.