

GENERAL TERMS AND CONDITIONS THERMAL EQUIPMENT CORPORATION (TEC)

1. ACCEPTANCE

These General Terms and Conditions are an integral part of TEC's offer as made on the face of this quotation. All orders are taken by TEC based on these terms and conditions. If a customer's order, sales confirmation, or other documentation contains terms or conditions inconsistent with those expressed herein, such other terms and conditions shall be deemed rejected and will not apply unless specifically accepted by TEC in writing in advance of the order placement.

2. APPROVAL OF CREDIT

Shipments and deliveries shall be subject to the prior approval of TEC's credit department, and TEC reserves the right to require payment in full (or other adequate security) prior to shipment, notwithstanding anything to the contrary contained within this quotation. Otherwise terms of payment shall be effective from the date of invoice and/or as detailed on the face of this quotation. Prices quoted are in US currency; all invoices are made out in US currency.

3. LATE CHARGE

In the event a customer does not promptly and fully pay TEC all sums called for and detailed on the face of this quotation, the customer and TEC hereby agree that the actual damage sustained to TEC would be impractical or extremely difficult to fix. Therefore, TEC reserves the right to suspend or cancel (at its option) further orders and/or deliveries in case an invoice remains unpaid after the due date.

4. POINT OF SALE

Unless otherwise specified on the face of this quotation, all goods are FOB TEC's facility in the city of Rancho Dominguez, California, without consideration of outbound freight costs.

5. LIMITATION ON LIABILITY

Customers will inspect the subject goods immediately upon delivery, and will report in writing to TEC within seven (7) days of delivery any shortage, damage or loss. TEC will have no liability for damage, shortage, or loss caused by acts of omissions of the carrier, or by other causes beyond TEC's reasonable control. Goods reportedly damaged or faulty for any reason will be held by Customers for disposition as instructed by TEC. EXCEPT AS STATED IN THE PRECEDING SENTENCE, TEC SHALL HAVE NO OTHER LIABILITY, INCLUDING ANY LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF TEC IS INFORMED OF THE REASONABLE BASIS FOR SAME IN ADVANCE, AND TEC SHALL HAVE NO LIABILITY FOR PUNITIVE OR EXEMPLARY DAMAGES UNDER ANY CIRCUMSTANCES OR ANY THEORY WHATSOEVER. NO LIABILITY SHALL RESULT TO TEC FROM DELAY IN PERFORMANCE OR NON-PERFORMANCE CAUSED BY CIRCUMSTANCES BEYOND TEC'S CONTROL INCLUDING BUT NOT LIMITED TO, ACTS OF GOD, FIRE, EXPLOSION, FLOOD, WAR, GOVERNMENT ACTION, RIOTS, STRIKES, LOCK-OUTS, INABILITY TO OBTAIN RAW MATERIALS OR ENERGY, OR DELAY OF SUPPLIERS.

6. SEPARATE CONTRACT

Each delivery shall constitute a separate contract. Any failure or defect in any one delivery shall not vitiate the contract as to the remaining deliveries.

7. WARRANTY

DISCLAIMER OF WARRANTY:

THE FOLLOWING WARRANTY IS GIVEN IN LIEU OF AND TO THE EXCLUSION OF ANY OTHER WARRANTY OR CONDITION, EITHER EXPRESSED OR IMPLIED BY STATUTE OR OTHERWISE. NO TERM, CONDITION OR WARRANTY IS INCLUDED BY TEC AS TO THE QUALITY, MARKETABILITY OR FITNESS FOR ANY OTHER PURPOSE OF THE GOODS CONTEMPLATED BY THE CUSTOMER, OR AS TO ANY OTHER MATTER IN RESPECT OF WHICH THE GOODS ARE SUPPLIED, WHETHER THE GOODS ARE USED ALONE OR IN COMBINATION WITH OTHER EQUIPMENT. THE CUSTOMER ACKNOWLEDGES AS A TERM OF THE CONTRACT THAT THIS EXCLUSION IS REASONABLE.

ALL GOODS SOLD BY TEC ARE WARRANTED FOR ONE (1) YEAR AFTER SHIPDATE, OR COMPLETION OF INSTALLATION, IF BY TEC, BUT NOT TO EXCEED EIGHTEEN (18) MONTHS AFTER THE CUSTOMER HAS BEEN NOTIFIED THE GOOD(S) ARE READY TO SHIP. GOODS ARE WARRANTED TO BE (1) FREE FROM DEFECTS IN DESIGN, WORKMANSHIP, OR MATERIAL, WHEN SUBJECTED TO NORMAL CONDITIONS OF USE, AND (2) CONFORMS TO THE CUSTOMER'S SPECIFICATIONS AS ACCEPTED IN WRITING BY TEC AND/OR SPECIFIED IN THE QUOTATION ON THE FACE THEREOF. TEC WILL ASSUME NO LIABILITY FOR COMPONENTS PROCESSED IN THE EQUIPMENT, IMPROPER USE OF EQUIPMENT, UNAUTHORIZED REPAIRS WHILE UNDER WARRANTY OR NEGLIGENCE.

TEC WILL EITHER REPAIR OR REPLACE, AT TEC'S OPTION, ANY DEFECTIVE COMPONENTS. TEC MAY, AT ITS OPTION, PROVIDE LABOR WITH CUSTOMER ASSISTANCE. LABOR FOR EASILY REPLACABLE COMPONENTS, AS DETERMINED BY TEC, IS TO BE PROVIDED BY THE CUSTOMER EXCLUSIVELY. UPS GROUND SHIPPING COSTS FOR REPLACEMENT PARTS ARE INCLUDED UNDER THIS WARRANTY. SHIPPING ARRANGMENTS AND ANY FREIGHT COSTS OUTSIDE OF THIS ARE THE RESPONSIBILITY OF THE CUSTOMER AND NOT COVERED BY THIS WARRANTY. TEC CAN, AT ITS OPTION, REQUIRE THE CUSTOMER TO RETURN BROKEN AND/OR DAMAGED PARTS TO TEC AT TEC'S COST.

EXCEPT AS STATED IN THE PRECEDING SENTENCE, TEC SHALL HAVE NO OTHER LIABILITY, INCLUDING ANY LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF TEC IS INFORMED OF THE REASONABLE BASIS FOR SAME IN ADVANCE, AND TEC SHALL HAVE NO LIABILITY FOR LOST PROFITS, PUNITIVE OR EXEMPLARY DAMAGE UNDER ANY CIRCUMSTANCES OR ANY THEORY WHATSOEVER. FLUIDS AND CONSUMABLE ITEMS ARE EXEMPT FROM THE WARRANTY HEREUNDER

TEC WILL PASS THROUGH TO THE CUSTOMER, TO THE EXTEND PERMITTED, ALL THIRD PARTY VENDOR WARRANTIES, WITHOUT ANY DELETIONS OR CHANGES. TEC'S LIABILITY ON THIRD PARTY VENDOR EQUIPMENT IS, IN ALL CASES, LIMITED TO THAT PROVIDED BY THE VENDOR TO TEC.

8. CUSTOMER RESPONSIBILITIES

The customer shall provide and pay for all necessary preparations for the placement and use of the equipment, according to the specifications given by TEC, including but not limited to, power connections, foundations, exhaust and ventilation, public inspections, licenses, air pollution control and building permits. Failure to do so shall excuse performance, further performance or nonperformance by TEC, but shall not affect the customer's duty to pay TEC in accordance with the terms of this quotation.

9. TAXES

Prices set forth on the face of this quotation shall be subject to an additional charge for any existing or future manufacturing, sales use, or similar tax, which may be applicable.

10. SPECIFICATION

If equipment furnished on this proposal is standard equipment as supplied by TEC, the specifications are subject to change at TEC's option.

11. CANCELLATION AND/OR CHANGE OF ORDERS

TEC reserves the right to refuse any cancellation by Customer. In particular and without limiting the foregoing, no cancellation will be accepted by TEC if TEC manufactures such goods and is in the process of completing the manufacture of the goods. In the event TEC elects to accept a cancellation, TEC reserves the right to charge back to the customer all costs incurred in the cancellation including, without limitation, charges applicable to the return of the goods.

No changes may be made to the goods as specified in this agreement without the prior written consent of TEC. If a customer requests additions, deletions or other revisions with respect to the specifications of the goods, TEC shall advise the customer of changes in the pricing, time of delivery or other matters arising from the proposed change. TEC shall not be obligated to implement a requested change in the goods, pricing or terms or method of delivery unless TEC has executed a written document making specific reference to being a Change Order setting forth the change.

12. DELIVERY

TEC shall use commercially reasonable efforts to meet any schedule or date shown on the face of this quotation. TEC, however, will not be liable for any delay or failure in the estimated delivery or shipment or for any damages that may result to a customer from such delay.

13. JURISDICTION; VENUE

The Customer agrees that the jurisdiction and venue for any litigation arising in connection with this agreement or the performance of either party hereunder shall be in the appropriate state or federal court for the county in which TEC's principal place of business is located and no other court whatsoever. Notwithstanding the foregoing, the customer agrees that TEC may waive the benefit of the preceding sentence and, at its sole option, commence litigation against the customer in a court of appropriate jurisdiction in the county and/or country where the customer's principal place of business is located.

In the event that litigation is instituted to interpret or enforce any term or provision hereof, the prevailing party shall be entitled to reasonable attorneys fees to be awarded by the court in the same action or in a separate action brought for that purpose.

14. SEVERABILITY

In case of partial or total invalidity of any of the foregoing clauses herein, the invalidity does not affect the remainder of the respective clauses nor the remaining clauses.

15. GOVERNING LAW

This quotation and related matters shall be governed by the substantive laws of the State of California, without regard to conflicts of law and with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).