



# ThermOmegaTech®

353 Ivyland Road, Warminster, PA 18974-2205 USA

ThermOmegaTech.com • 215-674-9992 • 1-877-379-8258

## 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.

### **WARRANTY:**

**Railroad Valves:** All Seller's own manufactured products for locomotive valves are factory tested and covered by a twelve (12) month warranty from date of manufacture, unless stated otherwise on Price Quote. All Seller's own manufactured products for passenger car valves are factory tested and covered by a twenty-four (24) 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 twelve (12) months from the date of manufacture for locomotive valves and a twenty-

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four (24) month warranty from date of manufacture for passenger car valves respectively. The warranty expiration date is calculated from the date of manufacture (MM/YY) as noted on the valve. **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.**

**Washdown Systems:** All Seller's own manufactured products for washdown systems valves are factory tested and covered by a twelve (12) 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 twelve (12) months from the date of manufacture. The warranty expiration date is calculated from the date of manufacture (MM/YY) as noted on the valve.

**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.**

**Circuit Solver®:** All Seller's own manufactured products for Circuit Solver® valves are factory tested and covered by a thirty-six (36) 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 thirty-six (36) months from the date of manufacture. The warranty expiration date is calculated from the date of manufacture (MM/YY) as noted on the valve.

**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.**

**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.

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**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<sup>®</sup>, 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.

**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.