

FEDERAL THERMAL

STANDARD SERVICES TERMS AND CONDITIONS OF SALE

Commercial Clarifications:

Any Purchase Orders placed by the Customer based upon this proposal shall be subject to the acceptance of Federal Thermal. Customer agrees that all Purchase Orders accepted by Federal Thermal shall be governed exclusively by the General Terms and Conditions contained herein and no changes or additions to such terms and conditions shall be binding upon the parties unless clearly marked hereon and signed by both Federal Thermal and the Customer.

Validity: This proposal is valid for 30 days. Because of fluctuation in the market prices of critical equipment and materials, any significant price increase (> 5%), shall be reflected as an adjustment to the quoted item(s).

Purchase Order: Federal Thermal must receive a signed copy of a Purchase Order before any order is accepted and processed. Purchase Orders should be issued to "Federal Thermal, LLC" and should be sent by e-mail to the contact information below. Customer shall reference this proposal in the Purchase Order prior to execution.

By Email: Send your signed Purchase Order as an attachment to Services@FederalThermal.com. Adobe PDF is the preferred file format.

By Mail:

Federal Thermal, LLC
ATTN: Accounting Department
5 N Pennsylvania
Oklahoma City, OK 73107

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Federal Thermal's pricing is based on the following clarifications:

Specifically excluded from this proposal are any components or services, unless itemized in the quotation contained in this proposal.

1. Federal Thermal's firm pricing is based on the included Scope of Work, which captures all documents, drawings, meetings, tasks, and other deliverables that shall be required to complete the Scope of Work. Deliverables not specifically identified in this list are not included in this quotation.
2. Any work added beyond the proposal of Scope of Work shall be addressed with formal Change Orders presented to Client's Manager for approval. No additional work shall be initiated without the Project Manager's approval.
3. The proposal is based upon working a standard forty (40) hour of work week prior to startup and commissioning. Any acceleration or extension of the schedule due to circumstances beyond Federal Thermal's control shall require additional costs for overtime, lost productivity, and incurred overhead costs.
4. Unless otherwise stated in this proposal, Saturday, Sunday, and holiday time are not included. If scheduled work is to be performed over a weekend or on any of the nationally recognized holidays, a Change Order is required to cover the added expense.
5. Any unscheduled downtime or work stoppage resulting from Customer or other crafts events that affect Federal Thermal's access to their work shall result in additional charges to Customer for standby time for the crew assignments as scheduled. Standby time shall be charged at Federal Thermal's then-current T&M rates.
6. Design/Drafting services shall be provided by Federal Thermal under the quotation included in this proposal.
7. Travel expenses are included in the quotation included in this proposal.
8. This proposal is based on all materials being tax exempt. No state, local, or federal taxes are included in the quotation included in this proposal and shall be the responsibility of the Customer.

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9. The quotation included in this proposal does not include shipping costs and shall be the responsibility of the Customer. All prices are F.O.B. shipping points. Freight shall be billed as an added cost and is excluded in this proposal.
10. The quotation included in this proposal does not include any licenses or permits that may be necessary, and, if required, shall be the responsibility of the Customer to obtain prior to the commencement of the work.

General Terms and Conditions:

In consideration of the mutual promises, covenants, and agreements hereinafter set forth, Lippe Federal, LLC dba Federal Thermal ("**Seller**") and the customer identified in the Purchase Order ("**Buyer**") agree that the terms and conditions set forth herein ("**Terms and Conditions**") shall control and govern the sale of any equipment or materials ("**Equipment**") and any services ("**Services**") provided or performed by Seller to Buyer. These Terms and Conditions expressly incorporated into and form a part of every purchase order, sales order, proposal, quotation, or other written agreement between the Parties specifying the Services and/or Equipment to be provided or performed by Seller to Buyer ("**Purchase Order**"). In the event of a conflict between these Terms and Conditions and any other terms contained in a written agreement between the Parties, the Parties agree that these Terms and Conditions shall be controlled. All terms and conditions set forth in any order form, change order, acknowledgement, specifications or other documents supplied by Buyer are hereby expressly rejected by Seller and shall not be binding upon either party.

1. **Acceptance:** These Terms and Conditions are deemed accepted when Seller accepts the Purchase Order or begins performing the Services, whichever is earlier ("**Effective Date**"). These Terms and Conditions will commence on the Effective Date and remain in effect for a period of one (1) year and shall automatically renew for additional one (1) year terms, unless terminated as provided below ("**Term**").

2. **Payment Terms:** Buyer shall pay Seller in the amounts set forth in the Purchase Order.

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a. Payment for any reoccurring Services shall be fixed for a period of twelve (12) months from the date of the Purchase Order and shall automatically increase once every twelve (12) months by up to five percent (5%), effective upon the anniversary of the Effective Date. Seller reserves the right to increase its rates by more than five percent (5%) each year, by providing written notice to Buyer.

b. Payment for all Services shall be due upon receipt of Seller's invoice after the completion of the Services. Seller reserves the right to invoice Buyer for any portion(s) of the Services performed or provided by Seller prior to the full completion thereof.

Payment for any Equipment sold in connection with the Services shall be due thirty (30) days from the date of receipt of Seller's invoice, unless otherwise specified in the Purchase Order. Seller may, in its sole discretion, require a deposit to be made for Equipment purchased at the time the Purchase Order is placed. The prices set forth in the applicable Purchase Order shall be exclusive of any shipping costs or applicable taxes, which shall be the responsibility of Buyer and included as a separate line item in Seller's invoice. Any outstanding invoices over thirty (30) days shall be subject to interest at a rate of 1.5% per month or the greatest amount permitted by the applicable laws, whichever greater. If Buyer defaults in the payment of any sums due to the Seller, the Buyer agrees to pay all necessary and reasonable attorneys' fees, court costs, and other expenses incurred by the Seller which are necessary and reasonable for collection of the sums due to the Seller.

3. **Change Orders:** Any changes to an accepted Purchase Order shall be requested in writing by Buyer ("**Change Order**"). Change Orders are not valid unless and until accepted by Seller in writing. Any accepted Change Orders may affect the original shipment date for the Equipment and/or the compensation to be paid for the Services or Equipment. Buyer shall be responsible for the cost of any time, materials and/or labor incurred prior to the acceptance of a Change Order, in addition to any additional increase in cost determined by Seller in connection with the change in scope of the Services and/or Equipment.

4. **Delivery:** Buyer acknowledges and agrees that any shipment or completion date is an estimated date, not a guaranteed date of delivery or completion, and Buyer shall not be

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entitled to refuse delivery and/or cancel the Purchase Order if the Equipment is not delivered or the related Services are not completed by the estimated date included in any Purchase Order. In the case of delay by Buyer in furnishing any required information, change in any specification at the insistence of Buyer, other delays caused by Buyer, or delays resulting from waiting on the shipment of a part or other material necessary for the completion of the Services, shipment or completion will be extended as reasonably necessary, taking into consideration the nature of such change or delay and Seller shall reserve the right to invoice Buyer for any portion(s) of the shipment or completed Services performed or provided by Seller. If there are multiple

shipments: (i) each shipment shall constitute a separate and independent transaction, (ii) Seller may invoice and collect payment for each such shipment without reference to any other, and (iii) Seller may defer further shipments until Buyer's approval, if applicable. Any delay in delivery of any installment shall not relieve Buyer of its obligations to accept remaining deliveries.

5. Acceptance: Buyer shall be deemed to have accepted any Services or Equipment unless it notifies Seller within forty-eight (48) hours of completion or receipt thereof of the nonconformity of such Services or Equipment with the specifications therefor. Failure of Buyer to provide Seller with an itemized list of defects within such forty-eight (48) hours or to permit Seller a reasonable opportunity to correct any listed defects shall be deemed acceptance of the Services or Equipment.

6. Risk of Loss; Purchase Money Security Interest: Unless otherwise specified in the Purchase Order, risk of loss shall be transferred to Buyer upon shipment by Seller (F.O.B. Shipping Point). Buyer hereby grants to Seller a valid, priority, purchase money security interest in and to all Equipment to secure Buyer's payment of the purchase price, therefore. Buyer shall cooperate with Seller in filing appropriate UCC-1 or other financing statements in order to perfect such security interest. In the event Buyer fails to pay any amount due within thirty (30) days of the date of receipt of Seller's invoice therefor or violates any other material term or condition hereof, Seller may, at its election and without demand or notice of any kind, enter into Buyer's premises and retake possession of any and all of the Equipment, and pursue any other remedy

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available at law or in equity. To the extent permitted by applicable law, all of Seller's rights and remedies are cumulative and not alternative and may be enforced successively or concurrently.

7. Return; Restocking Fee: Equipment may be returned only upon written authorization of Seller. Buyers shall pay for all carrier charges for returns and shall be responsible for damage resulting in transit, and a 25% minimum restocking charge. Equipment may be returned only if in new and unused condition and returned within thirty (30) days from the original date of shipment. Any credit given by Seller will be based on the original invoice price or the current price, whichever is lower, less than the applicable restocking charge.

8. Additional Costs: Buyer shall be responsible to Seller for any costs incurred as a result of (a) any accepted Change Orders; (b) any delays in delivery or performance requested by Buyer; and (c) changes in the laws, codes, rules or regulations applicable to the Equipment or Services after the acceptance of a Purchase Order.

9. Force Majeure: Seller shall not be liable for any failure or delay in performing any obligation under these Terms and Conditions due to circumstances beyond its reasonable control including, without limitation, acts of God or nature, act of government or insurrections, fires, floods, hurricanes, labor disputes, acts of terrorism, war, accident, embargoes, delays or interruptions of power, communication, transportation, material or labor shortages, failure to obtain delivery from manufacturers or subcontractors, or by any ruling, regulation or law of any governmental bureau or agency. In the event of any such delay, the date of delivery shall be extended for a period equal to the time lost to be reason of such delay.

10. Warranty:

a. Limited Warranty. Seller warrants that the Services shall be performed in a good and workmanlike manner and in accordance with prevailing industry standards. Provided that Buyer notifies Seller within thirty (30) days from the date of completion of the Services, Seller will, at its option and as Buyer's sole remedy, either repair or reperform such defective Services. Seller must be afforded a reasonable opportunity to examine

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the defective Services and to investigate the claimed defect; otherwise, the Seller shall not be required to repair or reperform the Services. Seller's warranty obligations hereunder shall not apply in the event of: (a) the non-conformity is due to corrosion, other environmental factors, or ordinary wear and tear; (b) the non-conformity is due to delivery or other circumstances beyond the control of Seller; (c) the unauthorized modification or repair by Buyer or a third party; (d) the utilization of parts and/or replacement parts not furnished by Seller; or (e) use or handling of the Services and/or Equipment in any manner inconsistent with Seller's recommendations. Further, Seller's warranty obligations under this Section shall terminate if (a) Buyer fails to perform its obligations under this or any other agreement between the parties, or (b) if Buyer fails to pay any amounts due to Seller. This Section sets forth Buyer's sole remedy and Seller's exclusive obligation regarding non-conforming Services. EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN THIS SECTION, SELLER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE.

b. Third Party Equipment. With respect to Equipment sold by Seller but not manufactured by Seller, such Equipment is not warranted by Seller, but Seller agrees to use commercially reasonable efforts to assist with the enforcement of any available manufacturer's warranty, if any, for such Equipment on behalf of Buyer, upon request by Buyer. In the event of any warranty claim with respect to such Equipment, Buyer shall promptly notify Seller thereof, in writing, and shall provide Seller with all information and assistance necessary to enable Seller to assist with pursuing the warranty claim against the manufacturer of the Equipment. Buyer shall be responsible to Seller for the costs of Seller's labor to repair or replace the Equipment covered under the warranty available from the manufacturer.

c. Buyer is responsible for paying all travel expenses incurred by Seller to and from the job site should a warranty claim require the Seller's personnel to be on site to resolve the warranty claim. Combustion tuning (if included) is expected to be completed at the time of commissioning. Any additional tuning outside of commission will be billed at then-current T&M rates unless a preventative maintenance contract is applicable.

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Combustion tuning should be verified, at least on a quarterly basis, and is the responsibility of the Buyer.

11. Limitation of Liability: NOTWITHSTANDING ANY OTHER PROVISION CONTAINED HEREIN, SELLER SHALL NOT BE LIABLE TO BUYER OR ANY OTHER PARTY FOR CONSEQUENTIAL, INDIRECT, OR INCIDENTAL DAMAGES ARISING FROM THE PERFORMANCE OR NON-PERFORMANCE OF THESE TERMS AND CONDITIONS OR THE PURCHASE ORDER, INCLUDING BY WAY OF EXAMPLE, BUT NOT LIMITATION, DAMAGES RESULTING FROM LOSS OF USE, LOSS OF INCOME, LOST PROFITS OR REVENUE, INTEREST, OR GOODWILL. IN NO EVENT SHALL SELLER'S LIABILITY TO BUYER OR ANY OTHER INDIVIDUAL OR ENTITY FOR CLAIMS ARISING UNDER THESE TERMS AND CONDITIONS AND/OR ANY INDIVIDUAL PURCHASE ORDER EXCEED THE PRICE PAID BY BUYER FOR THE EQUIPMENT OR SERVICES.

12. Indemnity: BUYER AGREES TO RELEASE, PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS SELLER, AND ANY OF ITS PARENT, AFFILIATE, OR SUBSIDIARY CORPORATIONS, JOINT VENTURERS, PARTNERS, CO-OWNERS OR ITS SUBCONTRACTORS OF EVERY TIER, AND ITS AND THEIR RESPECTIVE OFFICERS DIRECTORS, AGENTS, SERVANTS, EMPLOYEES, LICENSEES AND INVITEES ("SELLER INDEMNIFIED PARTIES") FROM AND AGAINST ANY AND ALL LOSSES, DAMAGES, INJURIES, CLAIMS, CAUSES OF ACTION, LIABILITIES, DEMANDS AND EXPENSES (INCLUDING ATTORNEY FEES AND OTHER LEGAL EXPENSES) OF ANY KIND OR CHARACTER ("CLAIMS"), WITHOUT LIMIT AND WITHOUT REGARD TO THE CAUSE OR CAUSES THEREOF, ARISING IN OUT OF OR IN CONNECTION WITH THE EQUIPMENT OR SERVICES PURCHASED OR PROVIDED HEREUNDER OR IN CONNECTION WITH THE USE, CONDITION, POSSESSION, INSTALLATION, OWNERSHIP, SELECTION, TRANSPORTATION, LOADING, MAINTENANCE, OR RETURN OF ANY EQUIPMENT SOLD HEREUNDER, INCLUDING, WITHOUT LIMITATION, CLAIMS FOR BODILY INJURY, ILLNESS OR DEATH OF ANY PERSON OR DAMAGE TO, LOSS OR DESTRUCTION OF PROPERTY. The foregoing indemnity is a material part of this transaction, supported by and in consideration of a reduction

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in the purchase price and is intended to apply notwithstanding the joint or concurrent negligence of Seller.

13. Insurance: Buyer shall maintain, in full force and effect at all times during the term of these Terms and Conditions, policies providing the types and amounts of insurance as specified below:

a. Workers' Compensation and Occupational Disease Insurance, in accordance with the statutory requirements of the state in which work is to be performed, the state in which the Buyer's employees reside and the state in which the Buyer is domiciled; Employer's Liability Insurance with limits of \$1,000,000.

b. Commercial General Liability Insurance, with limits of \$1,000,000 per occurrence. Bodily Injury and Property Damage combined single limits, including the following coverages, if applicable: Contractual Liability covering liabilities assumed under this contract; Broad Form Property Damage Liability Endorsement; Personal Injury Liability.

c. Coverage against loss or damage to Equipment until delivered to Buyer's facility and after delivery to Buyer's facilities any awaiting installation by Seller in an amount equal to the full value of the Equipment.

d. Any other such insurance that is standard in Buyer's industry or as the Seller may reasonably request.

e. All such insurance shall be carried with financially responsible insurance companies satisfactory to Seller. Buyer shall, on Seller's request, furnish or cause to be furnished with Certificates of Insurance evidencing such insurance coverage. The insurance and indemnity obligations in these Terms and Conditions shall be separate, and the insurance obligation shall not be construed to limit the indemnity obligation, nor shall the indemnity obligation be construed to limit the insurance obligation. All of Buyer's liability insurance policies will name Seller as an additional insured and contain a waiver on the part of the

insurer, by subrogation or otherwise, of all rights against Seller. The cost of all deductibles in Buyer's insurance shall be borne solely by Buyer.

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14. **Engineering:** Buyer understands that Seller is not a Registered Professional Engineering firm and does not carry a Certificate of Authorization from the State of Oklahoma to provide Professional Engineering services. All Professional Engineering services required for any Services or Equipment provided by Seller are the sole responsibility of the Buyer.

15. **Termination:** These Terms and Conditions may be terminated by either party effectively as of the end of the then current term, by providing the other party with thirty (30) days written notice before the end of the then current term. If a party materially breaches these Terms and Conditions and fails to cure such breach within fifteen (15) days after the non-breaching party provides written notice of such breach to the breaching party, the non-breaching part may immediately terminate these Terms and Conditions by giving written notice of termination to the breaching party.

16. **Confidentiality:** Buyer acknowledges and agrees that it will not divulge any confidential or proprietary information of Seller which Buyer receives, obtains, learns, or ascertains in connection with these Terms and Conditions. The obligations of this paragraph shall survive termination of these Terms and Conditions.

17. **Waiver:** Failure of the Seller to enforce any of these conditions or to exercise any right accruing from any default of the Buyer shall not affect or impair the Seller's rights, should such default continue, or in case of any subsequent default of Seller, nor shall such forbearance or failure be deemed a waiver of the Seller's rights in case of other or future defaults of the Seller.

18. **Governing Law:** These Terms and Conditions shall be governed by and interpreted in accordance with the laws of the State of Oklahoma excluding any conflicts of law principles that would direct the application of the laws of any other state. The Parties agree that any dispute arising hereunder shall be brought before the state or federal court located in Oklahoma County, Oklahoma.

19. **Survival:** All provisions of these Terms and Conditions which by their nature should apply beyond its Term will remain in force after any termination or expiration of these Terms and Conditions.

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20. **Entire Agreement:** These Terms and Conditions and the Purchase Order contain the entire agreement between the parties with respect to the subject matter hereof and may not be amended except by writing signed by the party against whom enforcement is sought. These Terms and Conditions shall supersede any contrary terms in other agreements between the parties.

21. **Severability:** If any provision or portion of these Terms and Conditions are determined to be unenforceable or void, then the parties hereto agree that the remainder of these Terms and Conditions shall be construed, interpreted, and enforceable to the maximum extent permitted by law.