



# Federal Thermal

## STANDARD PROJECT TERMS AND CONDITIONS OF SALE

### Terms and Conditions

#### 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).

#### Terms of Payment:

Payments shall be as follows:

- A. No state, local, or use taxes are included in the cost estimates provided in this proposal and are the sole responsibility of the Customer.
- B. Projects and equipment will be invoiced upon availability of shipment and payment is due within our standard terms and conditions described below (unless alternate terms were negotiated and agreed to by Federal Thermal in writing prior to the issuance of the applicable Purchase Order):
  - a. **30% invoiced** upon receipt of Customer's Purchase Order. Due immediately. **Federal Thermal will not begin ordering parts until initial payment is received.**
  - b. **30% invoiced** upon issuance of the Purchase Order for materials. Net 30-day payment terms.
  - c. **30% invoiced** upon ability to ship parts to Customer's site. If shipment is delayed on Customer's request, the date of notice to Customer of availability for shipment of the materials shall be deemed the date of shipment for issue of an invoice. Net 30-day payment terms.
  - d. **10% invoiced** upon completion of the start-up of the equipment or 30 days after delivery of the materials to Customer's site, whichever is soonest. If shipment of equipment or materials is delayed by Customer longer than 90 days after Federal Thermal has provided notice to Customer of availability for shipment, unless otherwise agreed by the Parties in writing, Federal Thermal shall have the right to send a final invoice to Customer. Net 30-day payment terms.
- C. All 'Services and Labor' not included in a project shall be billed for at time of completion or at such time as the end-user is deemed to have reasonable use of the equipment, whichever is soonest. If Service work becomes ongoing for a period greater than 30 days, an interim bill may be completed for work done through that time.

#### 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 can 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](mailto:Services@FederalThermal.com) Adobe PDF is the preferred file format.

#### By Mail:

Federal Thermal, LLC  
ATTN: Accounting Department  
120 East Main Street  
Oklahoma City, OK 73104

Post Office Box 2600 • 120 East Main Street • Oklahoma City, OK 73101-2600



# Federal Thermal

## **Change Orders:**

For all Change Orders that are requested by the Customer for the duration of the aforementioned project, Federal Thermal shall require documentation with total clarity of the requested change in the Change Order, an authorized signature, and immediate invoicing once the Change Order is completed and approved by Federal Thermal. This procedure shall apply to each Change Order on an individual basis. These invoices shall be in addition to and separate from the payment schedule of the original Purchase Order. Any existing equipment that cannot be used based on the scope of this document can be supplied by Federal Thermal using the Change Order process outlined above.

Any time, labor, and/or materials required over the quoted amount that may be needed to include all additional field labor, travel, and/or expenses requested within the Change Order shall be charged to Customer at Federal Thermal's then-current T&M rates.

## **Commercial Clarifications**

### **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 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 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 is 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.
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.



# Federal Thermal

## General Terms and Conditions

### Conflicts in Documents:

By submitting a Purchase Order in response to this proposal, the Customer agrees to be bound by Federal Thermal's General Terms and Conditions ("Terms and Conditions"). The Parties agree that the Terms and Conditions contained herein shall control and govern the products furnished and/or services performed by Federal Thermal. The Terms and Conditions of this proposal shall take precedence over any other documents, Purchase Orders, or agreements between the Parties, and the Terms and Conditions of this proposal are the complete and exclusive statement of terms and are not varied by a previous or subsequent written agreement or document unless specifically and particularly agreed to in writing and executed by all Parties to this proposal. Further, neither Party's acknowledgement of a document provided by the other Party, including, but not limited to terms and conditions contained on any other purchase order, nor that Party's failure to object to conflicting, different, or additional terms and conditions in such documents shall be deemed an acceptance of such terms and conditions nor a waiver of the Terms and Conditions contained in this proposal.

### Proprietary Statement:

The information contained in this proposal is proprietary to Federal Thermal and shall be retained by the recipient in confidence and shall not be published or otherwise disclosed to third parties without the express written consent of Federal Thermal.

### Cancellation of Order:

In the event of a Customer's cancellation after a Purchase Order has been placed with Federal Thermal, a fifteen (15) percent cancellation fee shall be billed to the Customer in addition to all labor, material, subcontractor, and overhead costs expended up to the date of cancellation.

### Warranty:

- For products not manufactured by Federal Thermal, Federal Thermal agrees to obtain and assign to Customer any manufacturer warranties available to Federal Thermal, if any, and such warranty shall be the exclusive warranty available to Customer.
- Except as otherwise provided herein, design and workmanship of integration from the panel to field components will be warranted by Federal Thermal for a period of 90 days from the date of installation.
- Federal Thermal does not offer a warranty on re-used equipment furnished by the customer in connection with this proposal.
- If Customer elects to use previously owned equipment or materials in connection with the installation of products furnished and installed by Federal Thermal under this proposal, Federal Thermal does not warrant the services performed in connection with the installation of products furnished hereunder. In such instances, any failure resulting after Federal Thermal leaves the site shall be the responsibility of the Customer.



# Federal Thermal

- The customer is responsible for paying all travel expenses incurred by Federal Thermal to and from the job site should a warranty claim require Federal Services 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.
- Combustion tuning should be verified, at least on a quarterly basis, and is the responsibility of the Customer.
- EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH HEREIN, FEDERAL THERMAL DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED.

## **Delayed Shipment or Erection:**

Federal Thermal shall not be liable for any loss or damage resulting from delay in shipment and/or erection (if Federal Thermal has assumed any obligations with respect to erection hereunder) caused by fires, floods, strikes, riots, thefts, accidents, acts of Government, acute and unusual labor, material, and/or equipment shortages, or any other cause whatsoever beyond the reasonable control of Federal Thermal which may delay or prevent delivery and/or erection of the equipment to be furnished hereunder. If Federal Thermal has provided Customer notice of availability of products for shipment to Customer, and Customer causes a delay in the shipment of available products longer than ninety (90) days from the date of receipt of such notice, Federal Thermal shall have the right to send a final invoice to Customer for such products, and any outstanding labor, materials, subcontractors, or other expenses due and payable by Customer to Federal Thermal hereunder.

## **Custody Transfer of Materials:**

The Customer shall acknowledge transfer custody of all materials at the time of a successful factory Acceptance Test at Federal Thermal location or a subcontractor. This is to clearly meet the nexus tax requirement of the state(s) showing that the purchase and any applicable taxation of the equipment occurred in the state of Oklahoma.

## **Engineering Services:**

Federal Thermal 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 work or product provided by Federal Thermal is the sole responsibility of the Customer.

## **Protection of Equipment:**

Unless erection of the equipment is to be performed by Federal Thermal and, in any case, in the event of delay in or postponed erection arising from causes beyond the control of Federal Thermal, the Customer shall protect any equipment delivered to the project by Federal Thermal against loss of or damage to the equipment resulting from weather or any other causes. Notwithstanding anything contained herein to the contrary, in such instances, Customer shall be liable for any loss of or damage to the equipment following delivery of the equipment to the project by Federal Thermal.

## **Consequential or Other Damages:**

Federal Thermal shall not be liable in any event for loss of anticipated profits, loss by reason of plant shut-down, non-operation or increased expense of operation of other equipment, or other consequential loss or damage of any nature. No Party shall be liable to the other Party for consequential, special, indirect, incidental, punitive, or exemplary damages, including, but not limited to, lost profits or other business



# Federal Thermal

warranty, tort, negligence, strict liability, or otherwise, and whether suffered by the other Party or by any third party, resulting from or arising out of or occurring in connection with this proposal or any Purchase Order.

interruption damages,  
whether based in contract,

## **Warranty and Limitation of Liability of Company:**

With respect to materials and equipment manufactured by Federal Thermal and sold to Customer, Federal Thermal shall repair or replace, F.O.B. point of shipment, any materials and equipment which, within one year from the date of initial shipment, are found to be defective in design, workmanship or material; provided that said materials and equipment are operated by the Customer in accordance with generally approved practices and in accordance with the conditions of service. No other warranty, other than title to the materials or equipment, shall be implied from the sale, furnishing, or erection of any of the equipment furnished by Federal Thermal hereunder, or its use, except as may be otherwise specifically provided herein. If any erection work is performed by Federal Thermal on the equipment purchased by Customer from Federal Thermal, Federal Thermal warrants that the services performed in connection with the erection work shall be free from defect for a period of ninety (90) days from the date of installation; provided, however, that the foregoing service warranty shall not apply where Customer elects to utilize previously owned equipment or materials in connection with the installation of the equipment purchased from Federal Thermal. Federal Thermal shall not be responsible for work performed, equipment or parts furnished, or repairs made by third parties, or for any loss, damage, or expense arising from such third-party work, equipment, parts, or repairs. With respect to products not manufactured by Federal Thermal, Federal Thermal agrees to obtain and assign to Customer any manufacturer warranties available to Federal Thermal, if any, and such warranty shall be the exclusive warranty available to Customer.

EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH HEREIN, FEDERAL THERMAL DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE PROVIDED FOR IN THE UNIFORM COMMERCIAL CODE AS TO ANYTHING COVERED BY THIS PROPOSAL. Notwithstanding anything to the contrary herein, Federal Thermal's liability for any and all claims arising directly or indirectly from the performance of its obligations under this proposal shall not exceed the pro rata price of the applicable equipment, materials, or workmanship provided or performed hereunder with respect to which losses or damages are claimed. The Customer shall give prompt written notice to Federal Thermal within the applicable warranty period of any observed defects.

## **Indemnification:**

Each Party (the "Indemnifying Party") shall release, protect, defend, indemnify, and hold harmless the other Party, its affiliates, its contractors and subcontractors of every tier (other than any member of the Indemnifying Party Group (as defined below)), and its and their officers, directors, managers, representatives, consultants, employees, and invitees (the "Indemnitee Party Group") from and against all claims, demands, and causes of action of any kind and character arising in connection with carrying out the work on account of: (i) bodily injury, sickness, disease, or death of the Indemnifying Party, its affiliates, contractors and subcontractors of every tier (other than any member of the Indemnitee Party Group), and its and their officers, directors, managers, representatives, consultants, employees, and invitees (the "Indemnifying Party Group"); and (ii) loss of or damage to the Indemnifying Party



# Federal Thermal

Group's property (except  
as otherwise provided

herein). This provision shall apply whether or not the claim is caused or contributed to by the negligence or other legal fault of any member of the Indemnatee Party Group but shall not apply to the extent caused by the gross negligence or willful misconduct of any member of the Indemnatee Party Group. Both Parties shall maintain insurance to support their respective defense and indemnity obligations assumed herein to make this knock-for-knock provision effective.