

NW Boiler LLC
TERMS AND CONDITIONS OF SALE

All equipment ("Equipment") sales based upon the enclosed proposal (this "Proposal") by NW Boiler LLC, a Delaware limited liability company ("Seller"), to the purchaser ("Buyer") are subject to the following terms and conditions (these "Terms and Conditions").

1. **ACCEPTANCE OF PROPOSAL:** By signing and returning a copy of this Proposal, Buyer shall be deemed to have accepted this Proposal and these Terms and Conditions. Seller may not amend or revoke this Proposal for a period of 30 days from the date of issuance, and after such time this Proposal will no longer be valid. If Buyer wishes to purchase any Equipment in an expired proposal, Seller may issue a new Proposal or extend the validity of the original Proposal.
2. **SELLER AS INDEPENDENT SALES REP:** Buyer acknowledges that Seller is an independent sales representative and does not own or manufacture the Equipment covered by this Proposal. Seller's obligations hereunder are subject to the condition that the Equipment manufacturer promptly approves the transaction. If the manufacturer does not approve the sale or requires price or term adjustments that are unacceptable to Buyer, Seller may void this Proposal entirely or substitute comparable Equipment at the same or lower price as quoted herein. However, the right of substitution does not apply if this Proposal is part of a bid for a construction project where specifications expressly require Equipment made by a manufacturer who does not approve the sale.
3. **PAYMENT TERMS:** The standard terms of payment are 15 days (O.A.C) from the date of shipment of any Equipment (excluding Rental and Used Equipment). In some instances, progress payments will be required, including all proposals exceeding \$100,000.00. If the sale consists of Equipment and installation services, payment terms shall be Net 30 days from date of shipment, regardless of whether or not such services have been completed. If partial shipments are made or several types of services are to be performed, Buyer may be invoiced as such partial shipment is made or upon completion of each type of service performed. If full purchase price is not paid when due, Buyer shall pay interest on the delinquent amount at the highest rate permissible under applicable law, not to exceed 18% per annum, and all costs of collection, including reasonable attorney's fees.
4. **PRICES; TAXES AND FEES:** Purchase price is stated in this Proposal. If Buyer, after accepting this Proposal, requests changes to the Equipment or services, or causes delays in manufacturing, shipment, or service performance beyond the specified dates, the purchase price shall be adjusted accordingly. Unless expressly stated in Seller's invoice, the purchase price does not include taxes, duties, fees, charges, or assessments. Seller may add these to the invoice or bill them separately if imposed later, unless Buyer provides a timely resale certificate or other acceptable documentation establishing an exemption from such taxes or duties.
5. **SHIPMENT; TITLE AND RISK OF LOSS:** Unless otherwise specified, title and risk of loss pass to Buyer upon delivery of Equipment at the transporting carrier. Any claims for shortages, delays, damages or lost shipments occurring thereafter shall be made by Buyer directly to the transporting carrier. The original invoice from Seller will be required to be paid. Replacement Equipment may be ordered on a new Proposal and paid for as a separate transaction. Buyer shall pay all shipping costs or, if Seller advances such shipping costs by prior arrangement, reimburse Seller for the same. Any claims against Seller for errors, shortages or defective Equipment must be made in writing within 15 days after receipt of Equipment by Buyer.
6. **DELIVERY; DELAYS:** Seller will use commercially reasonable efforts to cause shipment of Equipment as scheduled, but all shipment dates are estimates only. Seller will not be liable for any delays, loss, or damage in transit due to circumstances beyond its reasonable control. Failure of Seller to perform for any reasons beyond its reasonable control shall not be grounds for Buyer's cancellation of its order or recovery of any damages, but the delivery date shall be extended accordingly. If for some reasons, Seller is unable to obtain the Equipment from manufacture or supplier within a reasonable time after the date scheduled, Seller may, at its option, cancel this Agreement without liability, except for return of any amounts previously paid.
7. **FORCE MAJEURE:** Seller shall not be liable for any loss, damage or other claim whatsoever arising out of a delay, failure, or inability to perform any obligations hereunder which is beyond Seller's reasonable control. Such causes may include, but are not limited to, any act of God, fire, flood, lightning, earthquake, tornado, labor disputes, transportation delays, war, terrorism, revolution, riot, sabotage, act of the public enemy, explosion, embargo, confiscation or act or failure to act of any government, agency, board, or commission.
8. **LIMITED EQUIPMENT WARRANTY:** All Equipment warranties are provided by the original manufacturer and governed by their written warranty. Copies are available upon request. Seller only warrants that the Equipment conforms to the description contained in this Proposal on the date of shipment.
9. **LIMITED SERVICES WARRANTY:** Seller warrants that all installation, start-up or other services to be performed by Seller as described in this proposal will be performed in a workmanlike manner and in accordance with the applicable laws and regulations. However, Buyer shall be responsible for obtaining any required permits or other governmental approvals required as a condition precedent to Seller's performance of such services. Such warranty hereunder is valid for 90 days from the completion of such services. For multiple types of services, the 90-day period applies separately to each service, starting from its completion date. Any claimed deficiency in which such services are performed must be reported to Seller in writing within the applicable 90-day period. Upon lapse thereof without such claim being made, this warranty shall lapse. This warranty is limited to repairing or re-performing the applicable services without charge to Buyer, which is Buyer's sole and exclusive remedy and seller's entire liability for any breach of the limited services warranty. At seller's discretion, warranty work will be performed only during regular working days. This warranty shall be inapplicable if Buyer or any third party first attempts such repairs or redoing or if the Equipment involved has been tampered with, altered, abused, subjected to abnormal treatment, or not maintained and operated in accordance with the seller's or manufacturer's instructions and applicable methods.
10. **WARRANTIES DISCLAIMER:** EXCEPT FOR THE LIMITED EQUIPMENT WARRANTY IN SECTION 8, SELLER MAKES NO WARRANTIES WHATSOEVER WITH RESPECT TO THE EQUIPMENT, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (C) WARRANTY OF TITLE; OR (D) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE. EXCEPT FOR THE SERVICE WARRANTY SET FORTH IN SECTION 9, SELLER MAKES NO WARRANTIES WHATSOEVER WITH RESPECT TO THE SERVICES, AND ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, ARE EXPRESSLY DISCLAIMED.
11. **LIMITATION OF LIABILITY:** IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE EQUIPMENT AND SERVICES SOLD HEREUNDER.
12. **INDEMNIFICATION:** Buyer shall indemnify and hold harmless Seller against any claims or liabilities asserted against Seller by a third party in connection with the sale, delivery, re-sale, install, or repair of the Equipment arising out of or related to Buyer's negligence, willful misconduct, or breach of this Agreement.
13. **INTELLECTUAL PROPERTY INFRINGEMENT:** Seller shall not be liable for any costs, losses or expenses incurred by Buyer in the event of any lawsuits or claims alleging intellectual property infringement related to the Equipment. However, nothing herein shall be construed as relieving the manufacturer of the Equipment from any responsibilities it may have to Buyer in connection with such claims.
14. **SECURITY INTEREST:** Except in cases where payment of the purchase price has been guaranteed by the posting of an adequate bond benefiting Seller and to secure payment of the purchase price, Seller reserves a purchase money security interest under the Uniform Commercial Code in the Equipment and in the proceeds derived from the Equipment. Upon Seller's request, Buyer shall execute and deliver to Seller any financing statement(s), security agreement, or other documents requested by Seller reflecting the security interest. Buyer agrees and hereby appoints Seller as the attorney in fact to perform all acts Seller may deem desirable to perfect and continue to perfect the security interest, including Seller's authority to file financing statements. Buyer agrees that the Seller shall retain the security interest in the Equipment until Buyer shall have paid the full purchase price.
15. **INSURANCE:** Seller maintains and carries insurance in full force and effect, including commercial general liability coverage. Seller takes exception to any language requiring additional insured status broader than that provided by forms CG2010 10/04 and CG2037 10/04. So long as any portion of the purchase price remains unpaid, Buyer at its own expense shall maintain and carry insurance in full force and effect against loss or damage from all external causes, naming Seller as an insured in an amount and form sufficient to protect Seller's security interest in the Equipment.
16. **GOVERNING LAW; VENUE:** The validity, performance and construction of this Agreement shall be governed by the laws of the State of Washington without giving effect to any conflict of laws provisions thereof. All legal proceedings shall be instituted in the state or federal courts of the State of Washington. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts.
17. **ENTIRE AGREEMENT:** These Terms and Conditions and this Proposal (this "Agreement") constitute the entire agreement between Seller and Buyer regarding the matters set forth herein, and supersede all prior oral or written representations, proposals, correspondence, discussions, negotiations and agreements. Any modification or waiver of this Agreement shall be made in writing signed by both parties.
18. **NO ASSIGNMENT:** Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Seller. Any purported assignment or delegation without the prior written consent of Seller is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.
19. **SEVERABILITY:** If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.