



**CSF-007 SELLER'S TERMS AND CONDITIONS**

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These Terms and Conditions supersede all previous agreements and representations relating to the subject matter hereof. Any representation, promise, or condition in connection with this order, not incorporated herein, shall not be binding upon the Seller, STULZ Air Technology Systems, Inc. (STULZ).

Any terms that differ in any respect from these Terms and Conditions are hereby null and void. Such proposed terms are null and void whether they are introduced by the party placing this order, or if they are contained in any master agreement, subcontract, or other agreement among third parties related to this order, but to which STULZ is not a party. In addition, and without limitation, the terms and conditions of this Agreement shall govern and take precedence over any terms and conditions that may be required to accept by way of clicking an "Accept" button, "Agree" button, or similar button at either party's designated website in order to access, download and/or use the Software or Documentation.

**Name/Address** - All Purchase Orders must be made out to: STULZ Air Technology Systems, Inc., 1572 Tilco Drive, Frederick, MD 21704.

**Payment Terms** – Net 30 Days from date of the Invoice – contingent upon credit approval. On all past due accounts an interest of 18% per annum will be charged and STULZ reserves the right to file liens. Retainage must be authorized before acceptance.

**Freight Terms** – STULZ freight terms are FOB point of Origin (Factory) for all orders. Any exception must be authorized before acceptance and additional charges will apply.

**Plans & Specifications** – All equipment is manufactured per stamped and approved submittals or referenced quotation in writing.

**Warranty** - STULZ warranty terms as published on [www.STULZ-USA.com](http://www.STULZ-USA.com), Product Support, are incorporated herein.

**Indemnification** – Purchaser agrees to indemnify, save harmless, and defend STULZ and its officers, employees, and agents from and against any and all liabilities, claims, penalties, judgments, awards, suits, and the costs and expenses incident thereto (including costs of defense, settlement, and reasonable attorney's fees), which STULZ may hereafter incur, come responsible for, or pay out as a result of death or bodily injuries to any person or destruction or damage to any property or infringement of intellectual property rights, to the extent caused by (1) purchaser's breach of any term or provision of the Agreement, or (2) the negligence, gross negligence, recklessness, or intentional misconduct of purchaser, its employees, and its subcontractors in the performance of the Agreement. Any requirement by purchaser for indemnification shall be limited to the extent of the applicable insurance policy coverage of the vendor.

**Acts of God** - STULZ shall not be liable for any delay in delivery caused by Acts of God, war conditions, riot, governmental regulations (domestic or foreign), fire, flood, explosion, strike, labor trouble, accident, delay of carrier, transportation difficulty, embargoes, pandemic or supply chain disruption beyond the reasonable control of either party which interferes with normal operation of STULZ's factory. STULZ may deliver within a reasonable time after such cause for delay has been removed.

**Sales Tax** - The prices do not include, except as expressly stated in the quotation, any present or future sales, use, excise, similar taxes or any increase in such taxes. Consequently, in addition to the price specified herein, the amount of any present or future taxes or increase in such taxes applicable to the sale, or use of the equipment hereunder shall be paid by the purchaser, or in lieu thereof the Purchaser shall provide the Company with the tax-exempt certificate acceptable to the tax authorities.

**Cancellations/Change Orders/Delays**

- In the event the customer **cancel**s any purchase order (or part, thereof), the customer will be subject to a charge based upon the purchase order price. The cancellation fee will be determined by evaluating the stage of completion of the order so affected and can be as high as 100% of the purchase order, per the chart below.
- In the event the customer **change**s an order for any reason, a notification must be received in writing at STULZ incorporating all of the details of the change. A change order fee will be charged in conjunction with the stage of completion, per the chart below. All change orders will affect lead-times. Upon authorization of the change order fee, new ship dates will be acknowledged.
- In the event the customer **delays** acceptance of delivery of an order more than 1 week, authorization must be obtained and storage fees will apply. Any unauthorized delays will be considered cancelled and a cancellation fee of 100% applies.

Status of Order	Commercial Order Processing	Technical Order Processing	Production Released	Production Started	Production Completed
Cancellation fees	USD 250	USD 500 - Not to exceed 10% of PO Value	40%	90%	100%
Change Order fees	USD 250	USD 500 - Not to exceed 10% of PO Value	In general, not possible. Exceptions determined at factory		

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**Time is of the Essence** – STULZ is committed to meet customer's ship dates but is limited to the availability of material and capacity. Hence, time specific clauses are not accepted.

**Damages** - STULZ'S liability for consequential, liquidated, punitive or other damages on any claim for losses arising out of, or connected with the supplying of its products, their sale, resale or use, or arising out of any contracts for sale of its products, shall in no case exceed 25% of the purchase order price paid to STULZ for the products involved in the claim.

**Intellectual Property** - STULZ retains and reserves unto itself all intellectual property rights, including copyright, trademark, trade names, trade dress, and all patent rights ("IP Rights"), to all products subject to these terms and conditions. By selling its products pursuant to these terms and conditions, STULZ is not selling, conveying, assigning, or licensing any IP Rights to its customers, as all such rights belong to STULZ. No efforts to claim that STULZ products, or any IP Rights contained within them, constitute works made for hire, or to otherwise convey IP Rights to the customer, shall be effective. STULZ shall not be liable for customer's misuse, alteration, or application of any of its products in a manner which may give rise to a claim of patent infringement.

**Re-consignment** - In no event shall STULZ be liable for any re-consignment charges, where changes to shipping locations may change prior to delivery or where the customer refuses the delivery of equipment. All charges / fees will be the responsibility of the customer.

**Waivers** - No waiver, alteration or modification of the foregoing conditions shall be valid unless made in writing and signed by an officer of STULZ. No provisions of any purchase order or any form of acknowledgement used by the buyer, which are inconsistent with, or in addition to, the terms and conditions on the face, except additional provisions specifying delivery schedules or invoicing and shipping instructions, shall be considered applicable to the purchase of STULZ's products; no such provision shall be binding upon STULZ unless specifically accepted and signed by an officer of STULZ.

**Disputes** - The interpretation, construction, effect, and performance of this document and an agreement of sales therefrom, is to be governed by the laws of the State of Maryland. Customer agrees and consents to the jurisdiction of the federal and state courts of Maryland for the resolution of any disputes, without regard to conflict of laws principles. At the sole option of STULZ, any disputes arising out of this Agreement shall first be submitted to mediation with JAMS/En dispute. Mediation shall be conducted in Frederick County, Maryland. If STULZ chooses to mediate any dispute, it shall request mediation by written demand. Should Customer refuse to mediate, Customer shall pay all attorneys' fees, costs, and interest associated with STULZ's enforcement of its demand for mediation. If STULZ demands mediation, then both sides will attend at least one session of mediation in a good faith effort to resolve the dispute. STULZ is entitled to recover attorney's fees, interest, cost, and expenses in any litigation arising out of these Terms or any aspect of the agreement between the parties. Any action by customer arising out of this agreement or these terms, must be brought within one (1) year from the date of accrual.

**Confidentiality** – To the extent that the parties agree to confidentiality and/or non-disclosure obligations, STULZ is permitted to disclose details of the agreement to any of its subcontractors which STULZ deems, in its sole discretion, to have a need to know the information being disclosed.

**Assignment** – STULZ shall have the right to issue a subcontract agreement to a member of its Network Service Partners (PSN) to perform any service(s) on behalf of purchaser.

**Buyers Responsibility** - Site conditions in agricultural and/or grow facility applications vary widely, and Buyer understands that conditions beyond STULZ's control may materially affect such applications. It is the Buyer's responsibility to obtain and apply expertise specific to their industry as to a particular product application and environmental control solution. STULZ disclaims any liability for the use of its products in agricultural applications including, without limitation, any liability to any end user for any claims based upon the presence of mold or fungi in or on any agricultural product.

**Price Volatility** - The parties acknowledge that the costs for raw material, freight, and related services, have become volatile and subject to rapid increases. STULZ will always attempt to secure the lowest price from its suppliers and servicers with availability of sufficient quantities of raw material for its pending customers. If the price that STULZ pays for raw material, freight, or other service increases between the date that STULZ quotes the job and the time that STULZ begins to fabricate or ship the unit(s) ordered, then STULZ may increase the contract price to recoup the increased cost. If the customer does not agree to the increase, either party has the right to cancel the contract without further liability.

**COVID-19 Limitation on Liability** - The transmission of COVID-19 may occur in a variety of ways and circumstances, many of the aspects of which are currently not known. HVAC systems, products, services and other offerings have not been tested for their effectiveness in reducing the spread of COVID-19, including through the air in closed environments. IN NO EVENT WILL STULZ BE LIABLE UNDER THIS AGREEMENT OR OTHERWISE FOR ANY ACTION OR CLAIM, WHETHER BASED ON WARRANTY, CONTRACT, TORT OR OTHERWISE, FOR ANY BODILY INJURY (INCLUDING DEATH) OR ANY OTHER LIABILITIES, DAMAGES OR COSTS RELATED TO COVID-19 (INCLUDING THE SPREAD, TRANSMISSION OR CONTAMINATION THEREOF) (COLLECTIVELY, "COVID-19 LIABILITIES") AND CUSTOMER HEREBY EXPRESSLY RELEASES STULZ FROM ANY SUCH COVID-19 LIABILITIES.

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