

## **Spire Metering Technology – Terms and Conditions**

Unless otherwise noted in the quotation, the lead-times stated are typical. Please contact the undersigned if you need Express Service\* which lead time is about 3-5 business days (the time from receiving the payment to the time to ship out of the manufacturer floor. This service, if available, is charged from \$100~\$300, depending on the volume.

Spire Metering Technology LLC offers unique satisfaction warranty: If you are simply not satisfied with our product, no matter what reason, you are allowed to return the unit to us within 30 days after receiving the unit, and you will get full refund\*\*. Any returns outside 30 days will incur a 20% restocking fee; returns requested outside 90 days will incur a 25% restocking fee.

*Note:*

*\*Express Service, if available, is applicable for US customers only*

*\*\*The returning unit must be our standard product without any customized modifications. It must be also in its original condition in order to get full refund. Non-refundable items include shipping and handling cost, express service cost if ordered, and other consumable items if any. The buyer is for returning shipping cost and shipping liability.*

Subject to the following Terms and Conditions.

1. Price. Quoted prices on the products are exclusive of all sales, excise and other taxes, and exclusive of freight, installation, handling and storage charges, any or all of which, as applicable, will be added to the invoice as separate charges to be paid by the Buyer or otherwise charged as indicated in these Terms and Conditions. Prices are effective for all purchase orders received from Buyer within 30 days of the date of Spire Metering Technology's quotation, and thereafter are subject to changes. Spire Metering reserves the right to increase prices in cases where modifications requested by the Buyer give rise to additional costs. Verbal price estimates are not binding.
2. Payment Terms. Buyer agrees to pay the total amount shown as due on each invoice within the number of days specified in the quotation after the date of such invoice notwithstanding any repairs, corrections or adjustments that may have to be made. Special orders for products pursuant to Buyer specifications are subject to payment of a deposit of 50 percent of quoted price at time of acceptance of purchase order. Invoices will be dated as of date of shipment except if products are stored at Buyer's request for more than 30 days beyond completion of their manufacture, in which case, invoices will be dated as of the date of product completion. Spire Metering shall have the right to charge interest at a rate not in excess of 18% per annum (but in no event more than the amount permitted by applicable law) upon any sum not paid by the due date. Spire Metering shall be entitled to collect from Buyer for all expenses of collection, including attorneys' fees.
3. Delivery. Terms shall be the ones specified in the quotation. In case there is no specific mention on the terms in the quotation, terms should be F.O.B. Spire Metering's premises, Marlborough,

Massachusetts, for delivery by common carrier with all freight charges, including special handling charges of carrier, paid by Buyer. Buyer shall bear all risk of loss or damage upon delivery of products to carrier at point of shipment, Acton, Massachusetts.

4. Delays. Spire Metering is not liable for any delay in the performance of orders or contracts, or in the delivery or shipment of products, or in the support of the products, or for any damages suffered by Buyer by reason of such delay, when such delay is, directly or indirectly, caused by, or in any manner arises from, fires, floods, earthquakes, accidents, acts of God, governmental interference or embargoes, strikes, labor difficulties, shortage of labor, fuel, power, materials or supplies, transportation delays or any other cause or causes beyond its control. All orders or contracts are given and accepted with the understanding that they are subject to Spire Metering's ability to obtain materials from manufacturers and suppliers and are subject to manufacturing schedules and government regulations that may be in effect from time to time. Failure to meet a delivery date shall not give cause to either cancellation of the order, or liability on the part of Spire Metering. Spire Metering may elect to make partial shipments.

5. Title. Upon issuance of Buyer's purchase order and Spire Metering's acceptance thereof, Buyer thereby shall be considered to have granted to Spire Metering's a security interest in all products delivered to secure the payment of invoiced amounts due. Buyer agrees to execute and deliver to Spire Metering, upon request, UCC financing statements and other documents reasonably requested by Spire Metering to perfect its security interest in the products.

6. Cancellations and Change Orders. Accepted purchase orders can be cancelled or changed only with Spire Metering's written consent and upon terms that will indemnify Spire Metering against all losses, costs and damages it sustains directly or indirectly related to the cancellation or change. All special orders are non-cancelable and non-changeable.

7. Inspection and Rejection. All products shall be examined by Buyer upon receipt of Buyer. If products are damaged upon receipt or do not conform to agreed specifications, products shall not be moved from point of delivery, and a written claim must be filed with Spire Metering within 5 business days of date of delivery.

Upon receipt of a written claim for damaged or nonconforming products, Spire Metering will notify Buyer in writing if products are to be returned, or if products will be repaired or if a credit will be issued. Whether products are returned or repaired, or whether a credit is issued, is within Spire Metering's full and complete discretion, subject to the limited warranty set forth below, and shall be Buyer's sole remedy at law or equity.

8. Limited Warranty; Disclaimer. Spire Metering Technology warrants that for a period 6 years for ultrasonic water meter and 2 years for flow meters and other products following the date of delivery to Buyer Spire Metering's products shall conform to the specifications, drawings or other written descriptions contained in any purchase order and shall be free from defects in material and workmanship. This limited warranty applies to the initial purchaser only and may be acted upon only by the initial purchaser. Buyer's sole remedy and Spire Metering's exclusive liability for a breach of this limited warranty shall be, at Spire Metering option, the repair or replacement of the nonconforming

product or part thereof or a refund of the price paid by Buyer for such nonconforming product or part thereof. This limited warranty does not cover normal wear and tear and shall not apply to any product which has been damaged or misused or modified, altered or repaired by any party other than an authorized representative of Spire Metering.

*Note that, in order to meet the product specifications as noted within our products data sheets, Spire Metering warrants their meters under the following conditions:*

*For all ultrasonic flowmeters, the pipe must be full of liquids with no air bubbles. Minor air bubbles may be allowable.*

*For all magnetic flowmeters, the pipe must be full at all times. If this is not the case, the meter may not work to its noted specification.*

THE FOREGOING LIMITED WARRANTY IS IN LIEU OF ANY OTHER WARRANTY, WHETHER EXPRESS OR IMPLIED, WRITTEN OR ORAL (INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT).

9. IN NO EVENT SHALL SPIRE METERING BE LIABLE TO BUYER FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR OTHER INDIRECT DAMAGES, OR FOR LOSS OF PROFITS, LOSS OF DATA OR LOSS OF USE DAMAGES, ARISING OUT OF THE MANUFACTURE, SALE, SUPPLYING OR FAILURE OR DELAY IN SUPPLYING OF THE PRODUCTS OR THE SERVICES RELATED THERETO, WHETHER BASED UPON WARRANTY, CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF SPIRE METERING HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES.

SPIRE METERING'S LIABILITY ARISING OUT OF THE MANUFACTURE, SALE, SUPPLYING OR FAILURE OR DELAY IN SUPPLYING OF THE PRODUCTS OR THEIR USE OR DISPOSITION, WHETHER BASED UPON WARRANTY, CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED THE PRICE PAID FOR THE PRODUCT.

10. Controlling Provisions. To the extent there is a conflict between these Terms and Conditions of Sale and Buyer's purchase order, these Terms and Conditions of Sale shall be controlling.

11. Termination. Each purchase order issued by Buyer in connection with Spire Metering's quotation is subject to acceptance by Spire Metering. If Buyer defaults in the payment of any sum due Spire Metering or commits any other breach of any of the terms or conditions herein or if there is a material change in the ownership or financial conditions of Buyer which is considered unsatisfactory to Spire Metering, then Spire Metering may, without any prejudice to any other rights which may have accrued or which may accrue to it, whether under contract or at law or equity, refuse to accept any purchase order and may terminate any order immediately.

12. Governing Law. Any contract between the parties shall be construed and governed in accordance with the laws of the Commonwealth of Massachusetts.

13. Spire Metering's Property. All specifications, drawings, tools, jigs, dies, fixtures, materials, equipment and other items furnished by Spire Metering or the cost of which is charged against this order, shall be confidential and shall be and remain the property of Spire Metering Technology. The sale

of products by Spire Metering Technology to Buyer shall not be construed as a license of any trade secret right, trademark, patent or copyright.

14. Patents. The Buyer agrees to defend, indemnify and hold Spire Metering Technology and its distributors and dealers in and users of the products of Spire Metering harmless against any and all losses, damages or liabilities arising out of any demand, claim, action, litigation or judgment (each, a "Claim") involving infringement or alleged infringement of the U.S. and/or foreign Patent by any product furnished hereunder.

15. Patent Rights. Patent rights to all improvements embodied in products, designs, tools, patterns, drawings, information and equipment supplied by Spire Metering under this contract and exclusive rights for the use and reproduction thereof are reserved by Spire Metering.

16. Confidential Information. Buyer agrees to treat the products supplied by Spire Metering related documentation, specifications and any other papers accompanying purchase orders as the confidential information ("Confidential Information") of Spire Metering and shall not disclose such Confidential Information other than to its employees and agents who need to know such information and who are informed of the confidential nature of such information. In addition, Buyer agrees not to incorporate or permit its' affiliates to incorporate any features of design or construction peculiar to the products supplied by Spire Metering into any other product.

17. Indemnification. Buyer will indemnify, defend and hold harmless (including paying reasonable attorneys' fees) Spire Metering and its employees, agents and permitted assigns against all liability to third parties that: (1) arises from Buyer's negligence or willfully wrongful, wanton or reckless conduct that results in death or bodily injury or damage to real or tangible personal property; or (2) arises from or in connection with Buyer's use or resale of any product furnished under this Agreement that violates any third party's trade secrets, proprietary information, trademark, copyright or patent rights.

18. Errors. Any stenographic or clerical errors contained on the face hereof are subject to correction by Buyer.