

Terms and Conditions

All Customer Purchase Orders are subject to these terms and conditions and all additional terms and conditions presented on or accompanying a WPL Quotation or WPL Order Acknowledgment. WPL specifically rejects and Customer disclaims all printed provisions in Customer's printed Purchase Orders including associated forms and/or documents. These terms and conditions, together with the WPL Order Acknowledgment shall constitute the entire agreement between WPL and Customer with respect to any Customer Purchase Order and the Equipment and/or Services provided hereunder. These terms and conditions supersede any prior or contemporaneous agreements or representations written or oral. Any amendment of these terms and conditions must be in writing and signed by WPL to be binding on WPL.

DEFINITIONS AND INTERPRETATION

Within this document definitions are defined as follows:

"WPL" means Winchester Procurement Ltd and/or its designated affiliates.

"Customer" means the person or entity however constituted to whom the Equipment or Services are provided.

"Delivery" means the date delivery defined by the current INCOTERM specified on WPL's Quotation.

"Goods" means the Products offered for sale to Customer at time of sale.

"OEM" is defined as the Original Equipment Manufacturer of the base product or any licensed or approved component manufacturer.

"Order Acknowledgment" means a document furnished by WPL acknowledging the receipt of Customer's Purchase Order and WPL's agreement to supply the Equipment and/or Services stated therein under the terms and conditions stated herein.

"Product" means equipment of WPL design and manufacture, or other manufacturer's equipment offered for sale by WPL to Customer.

"Purchase Order" means Customer's document for the acquisition of Equipment and/or Services, exclusive of all printed terms and conditions contained thereon.

"Quotation" means WPL's conditional offer of sale for Services and/or Equipment. (Refer to Paragraph 2)

"Services" means various types of services as provided by WPL to Customer covering items such as Seafreight, Insurance, training, site engineering and installation. Services are not Equipment. Additional fees apply for Services

"Shipment Date" means the provisional date on which WPL has scheduled shipment of Equipment to Customer. (Refer to Paragraph 7)

Interpretation within this document is defined as follows:

1. headings are for convenience only and do not affect interpretation;
2. the singular includes the plural and conversely;
3. reference to a party means WPL and Customer exclusively; and
4. in the event of a conflict between Customer's Purchase Order or associated documents and the terms and conditions herein, the terms and conditions herein including the Order Acknowledgment shall govern.

2. QUOTATIONS AND ACCEPTANCE OF PURCHASE ORDERS

Written Pro-forma Quotations, signed by an Authorised WPL Signatory/Company Director are the only acceptable offers to contract from WPL to any client. No verbal undertaking by any WPL employee will be considered as binding on the company. In the event of any calculation anomaly on the quotation, the unit price shall prevail. If WPL provides manufacturer's literature in support of a quotation it is the client's obligation to study the manufacturer's specifications supplied and assess the suitability of the equipment quoted. Notwithstanding any description provided by WPL in the pro-forma invoice, the manufacturer's description shall prevail. As used herein, "Acceptance of Customer's Purchase Order" shall mean WPL's agreement, as evidenced by the issuance of an Order Acknowledgment, to supply the Equipment and/or Services identified in Customer's Purchase Order under the terms and conditions herein. All Customer Purchase Orders are subject to written acceptance by WPL, at its sole discretion, even if received elsewhere by a salesperson, selling agent or representative. No Customer Purchase Order will be binding upon WPL until WPL issues its written Order Acknowledgment.

3. PURCHASE ORDER CHANGES

Customer may not change its Purchase Order without WPL's written consent. Any revision in drawings, designs, specifications, shipment completion dates or Purchase Order termination requested by Customer may result in additional cost to Customer. Any additional cost to Customer will be at WPL's standard rates in effect at the time of Customer's request. WPL's performance of Customer's request shall commence only upon the issuance of a new Purchase Order or written amendment to an existing Purchase Order authorizing the applicable charge.

Customer's oral requests for Services shall be binding on Customer and deemed by WPL as valid Customer Purchase Orders, governed by these terms and conditions. Customer further agrees, as a result of any request made hereunder to pay any and all charges associated with such Service request. Customer requested changes in performance of Services shall be reviewed upon WPL's receipt of Customer's request to determine if additional charges are applicable.

4. PRICE OF EQUIPMENT AND/OR SERVICES

The price for Equipment and Services are based on WPL's Quotation, Statement of Work or proposal. A Quotation, Statement of Work or proposal is valid for the period of days from date of issue as mentioned in our pro-forma quotation. Errors or omissions in price are subject to correction by WPL.

All price disputes must be advised in writing to Winchester Supply within 14 days of invoice date.

5. PRICES; ADJUSTMENTS

The price of Services may subsequently be adjusted to reasonably reflect the adverse cost impact to WPL of :

- i. Customer changes or delays which are outside of the scope of Services;
- ii. Legal/regulatory changes which occur after the issuance of the Quotation and/or Statement of Work for the particular Services in question; and
- iii. The failure of Customer to perform its obligations under Sections 6, 7, and 8.

WPL will provide a written notice and reason for an adjustment to the price within a reasonable period of time after WPL becomes aware of an event under which WPL intends to request an adjustment. The parties will then determine, in a commercially reasonable manner, the price adjustment that is appropriate. Pending such agreement, WPL will continue to perform the Services specified in the Purchase Order for ten (10) business days or such other greater time that may be agreed to in writing by WPL, unless (a) Customer has fails to pay amounts due to WPL when due; (b) or an event specifically identified in the Quotation and/or Statement of Work permitting suspension or termination of the Services occurs; or (c) Customer is otherwise in breach.

In the event an adjustment to the price has not been made within the aforementioned ten (10) business days, WPL shall have the right to terminate this Purchase Order, in whole or in part and in addition to any other remedy available to WPL, Customer shall make immediate payment to WPL on account of all Equipments delivered and/or Services rendered.

6. SCHEDULE FOR PERFORMANCE OF SERVICES

WPL will perform the Services in accordance with the schedule stated in the Quotation and/or Statement of Work.

7. PACKAGING, SHIPMENT AND SERVICE DATES

All Products shall be suitably packed for shipment. WPL may charge for packing and/or packaging including special documentation to comply with Customer requirements. Shipment Date for Equipment or date for performance of Service is estimated by WPL but is not guaranteed by WPL.

8. FREIGHT

Goods will be supplied FOB ex Winchester Supply warehouse unless otherwise arranged.

9. DELAYS CAUSED BY THIRD PARTY CONTRACTORS

Customer, regardless of the circumstances, will not hold WPL liable for any liabilities, penalties, or charges of any nature due to the late performance of any Service date. WPL assumes no liability for any direct or liquidated damages during shipment or delivery of Equipment. Equipment may be tendered in partial shipments at WPL's discretion.

In the event of shipment delay requested by Customer or a delay caused by lack of shipping instructions, WPL will store all Equipment covered thereby at Customer's risk and expense. WPL will invoice the Customer at the full price for the Equipment including an additional storage fee.

10. TITLE, RISK OF LOSS AND INSURANCE

It is customary to provide Marine Insurance Cover for clients' shipped orders. Premiums are calculated on each Pro-Forma quotation. Clients should note that excesses are applicable in the event of any claim being made. Excesses are subject to periodic adjustment by underwriters but for claims made from 1st Sept 2007 are £500 on Sterling quotations, US\$1000.00 on US Dollar quotations and €750.00 on Euro quotations.

Title, risk of loss, damage and insurance responsibilities for the Products pass from WPL to Customer upon acceptance of Product by the shipping agent or carrier. Risk of loss, damage and insurance responsibilities shall pass to Customer at WPL's shipping location.

For all Equipment shipped, WPL shall retain a security interest in the Equipment until payment, in full, has been received by WPL for such Equipment delivered and Services performed. Customer shall execute any instrument reasonably required for WPL's protection of such security interest.

11. ACCEPTANCE OR REJECTION OF EQUIPMENT/SERVICES

After the Delivery of the Equipment, or the performance of Services, Customer will inspect the Equipment/Services for conformity to the Purchase Order, Statement of Work or Quotation (as the case may be) within a period of thirty (30) calendar days or as agreed in writing (hereinafter "Acceptance Period"). Acceptance of Equipment/Services by Customer shall automatically occur after the passage of the Acceptance Period stated herein unless WPL is advised otherwise in writing within the stated Acceptance Period or upon Customer's commercial use of the Equipment/Services.

If any Equipment or Service does not substantially conform to the applicable Purchase Order, Statement of Work or quotation (as the case may be) Customer shall notify WPL in writing of the non-conformance, and for Equipment, obtain an authorization for return, and return such Equipment to WPL for correction or completion as required. With respect to Services, WPL shall, at no additional charge (if determined by WPL to be WPL's fault), take prompt action to correct such unsatisfactory Services.

12. PAYMENT TERMS

Payment shall be made by the Customer within thirty (30) days from the invoice date, unless otherwise agreed in writing. Invoices for Services will be rendered in accordance with an established milestone schedule or upon completion of any Services. Late charges of two and one-half percent (2½ %) per month on outstanding balances may be charged. Legal costs for recovery of any overdue amounts will be recoverable as debt due by the Customer. All amounts due shall be payable in the currency of WPL quotation unless otherwise specifically agreed upon in WPL's Order Acknowledgement.

13. CREDIT FACILITY

Customer credit facilities will be established based on a signed credit application. After six (6) months of inactivity on the Customer's account, all credit terms will default to cash in advance. Credit terms will be renewed upon application by the Customer.

If, in WPL's judgment, Customer's financial condition does not justify continuation of the existing payment terms, WPL may:

1. require full or partial payment of Customer's account;
2. require payment in advance of Equipment shipment;
3. require payment in advance for performance of any Services;
4. change Customer's credit terms; or
5. any combination of the above.

14. PRODUCT AND SERVICES WARRANTY

WPL warrants that all equipment supplied by WPL shall be new, of current manufacture and shall carry the manufacturers' standard warranty unless specific exception is made in writing.

Customer must promptly notify WPL of any claimed defect in the Product and/or Services. WPL or its agent may inspect the Product or workmanship on Customer's premises. Product returned to WPL under warranty must be shipped prepaid by Customer.

15. PRODUCT AND SERVICES WARRANTY LIMITATIONS

WPL's entire liability and Customer's exclusive remedy whether in contract, tort or otherwise, for any claim related to or arising out of breach of the warranty covering Product or Services shall be as determined by the manufacturer whose decision in all matters of warranty, will be final.

WPL does not warrant that the operation of the Product will be uninterrupted or error-free. Similarly, WPL does not warrant that the functions of the Product will meet Customer's requirements or that the Product will operate in combination with other products selected by Customer for its use.

WPL assumes no liability with respect to (a) defects caused by modification, repair, installation, operation or maintenance except as described in WPL's documentation; or, (b) negligent or other improper use of the Product.

No agent, distributor, or representative is authorized to make any warranties on behalf of WPL or to assume for WPL any other liability in connection with any Product or Services.

With respect to all purchases of product and/or services from WPL by the customer, the above warranty replaces all other warranties, express or implied, and all other obligations of WPL, including any warranties of merchantability and fitness for a particular purpose. All other warranties are disclaimed and excluded by WPL.

16. RETURNS

The return of Equipment for credit will only be accepted under the following circumstances:

- a) All returns to be advised in writing with Winchester Supply invoice number quoted. Equipment may not be returned to WPL without prior authorization. Any Equipment returned to WPL without proper authorization will be returned to Customer at Customer expense.
- b) Goods to be returned to Winchester Supply, freight paid within 7 days from invoice date.
- c) Goods must be in original packaging and original condition.
- d) Freight and delivery charges are not eligible for credit.
- e) Subject to a 15% restocking fee.

The following goods will not be accepted for credit;

- 1) Any product which has been manufactured or modified at the Customers request.
- 2) Products that have been bought specifically for the Customer.
- 3) Any product which has been damaged or altered in any way.

17. DISCLAIMER OF LIABILITY

WPL will not be liable for injuries or damages to persons or property resulting from any cause whatsoever, with the exception of bodily injuries, death or tangible property damage caused by the wilful misconduct or gross negligence of WPL. This limitation applies to all equipment and services performed during and after the warranty period.

In no event shall WPL be liable for any damages resulting from loss of data, loss of use or loss of revenue or profit and wpl further disclaims any and all liability for indirect, incidental, special, consequential, or other similar damages.

If any remedy hereunder fails of its essential purpose, or in any other event, WPL's aggregate liability hereunder shall not exceed the depreciated value of the affected equipment or the actual amount paid to WPL for services.

18. ASSIGNMENT

WPL may assign its rights and obligations by giving Customer written notice thereof but without being obligated to obtain Customer's consent prior thereto. In the event if an assignment, WPL shall be discharged of any liability pursuant to those Purchase Orders which have been assigned or delegated.

Customer may not assign its rights nor delegate its obligations under any or all of its Purchase Orders unless WPL's written consent is obtained prior thereto and any such assignment or delegation without such consent shall be void.

19. COMPLIANCE WITH APPLICABLE LAWS

The Customer will comply with all applicable laws affecting the purchase and use of Equipment. Customer agrees to maintain all registrations with governmental agencies, commercial registries, chambers of commerce, or other offices which may be required under law in order to properly conduct commercial business.

20. CONFIDENTIAL INFORMATION

Customer will not disclose to any person or entity any information or data fixed in a tangible medium and marked as the confidential or proprietary information (hereinafter referred to as "Confidential Information") of WPL, or if provided orally, confirmed in writing to be confidential or proprietary within twenty (20) calendar days after its disclosure.

Notwithstanding the provisions herein, if Customer receives Confidential Information it shall treat such Confidential Information as confidential, prohibit recopying and use such Confidential Information only in connection with fulfilling its obligations under Customer's Purchase Order. Customer will return all Confidential Information to WPL upon completion of such obligations for its use, or upon the request of WPL.

Customer recognizes and agrees that the unauthorized use or disclosure of the Confidential Information would cause irreparable injury to WPL for which it would have no adequate remedy at law, and that any actual or contemplated breach of this clause will entitle WPL to obtain immediate injunctive relief prohibiting such breach, in addition to any other rights and remedies available to it. The obligations herein contained will expressly survive the final payment of any/or all Customer Purchase Orders.

21. SEVERABILITY

If any provision of these terms and conditions is held by a court, government agency or other legal authority of competent jurisdiction to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not invalidate, void or render unenforceable any other portion of these terms and conditions but rather these terms and conditions shall be construed as if it did not contain the particular invalid, illegal or unenforceable provision or provisions, and the rights and obligations of the parties shall be construed and enforced accordingly.

22. FORCE MAJEURE

WPL is not liable for failure or delay in fulfilling its obligations due to any causes beyond its control. In the event of any such delay, the date for shipment or performance of Services will be extended correspondingly. WPL retains the right to determine the allocation of its inventory of Equipment among itself, its present and future customers and Customer. In the event WPL partially fills Customer's Purchase Order, Customer shall, nonetheless, continue to make payments on WPL's invoices during the period in which the delay is in effect for those Equipments and/or Services delivered. If an event of force majeure prevents or delays WPL's performance for more than six (6) months, WPL shall have the right to terminate the applicable Purchase Order, with immediate effect.

23. GOVERNING LANGUAGE

The parties hereby confirm that they have agreed that all written documents between them be prepared in the English language only and such language shall be the governing language.

24. GOVERNING LAW/Venue

The contract created by the issuance of an Order Acknowledgment shall be construed, interpreted and applied in accordance with the internal laws (but not the law of conflicts) of the jurisdiction in which is located the main office of the WPL affiliate which is authorized to issue the Order Acknowledgment and any applicable law of that jurisdiction and the United Kingdom. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to the sale of Equipments hereunder.

Customer hereby irrevocably consents to the exclusive personal jurisdiction of the Laws of the United Kingdom. If Customer institutes any legal proceeding in any other court, it shall assume all of WPL's costs in connection therewith, including reasonable legal fees. Registered or certified mail of any legal process shall constitute lawful and valid service of process in any such proceeding, suit or controversy.

25. SURVIVAL OF TERMS

The termination or cancellation of any Customer Purchase Order or any relationship created hereunder between the parties or the delivery of Equipment or performance of Services under Customer's Purchase Order shall not affect each party's obligations and rights under these terms and conditions, which by their nature, survive, notwithstanding such termination, cancellation, delivery or performance.

26. TAXES

WPL is not responsible for any taxes, tariffs or duties imposed by the country of the importer.

27. CANCELLATION FOR DEFAULT

WPL may, upon written notice to Customer, cancel any and/or all Customer Purchase Orders effective immediately if:

1. Customer makes an assignment for the benefit of creditors, is unable to pay its debts as they become due; files a voluntary petition in bankruptcy; is adjudicated to be a bankrupt or an insolvent debtor; files a petition seeking for itself any reorganization; or consents to or acquiesces in the appointment of a trustee, receiver or liquidator;
2. any proceeding seeking involuntary reorganization, or similar relief is filed against Customer which is not dismissed within one (1) month after filing, or if any trustee, receiver or liquidator of Customer or any substantial part of its business assets, or properties is appointed without WPL's consent or acquiescence and such appointment is not vacated within one (1) month after such appointment;
3. Customer ceases doing business as a going concern or it or its shareholders take any action looking to its dissolution or liquidation; or
4. fails to perform any Equipment obligations and such failure is not remedied within fifteen (15) calendar days after notice has been given Customer.
5. Customer fails to pay for any Purchase Order in accordance with the invoice payment terms;
6. Any change occurs in the direct or indirect ownership of Customer if, in WPL's opinion, such change may be detrimental to WPL's interest hereunder; or
7. Any cancellation pursuant to this clause will be in addition to and will not be exclusive of or prejudicial to any other rights or remedies at law or in equity available to WPL.

28. WAIVER

No waiver will be valid unless in writing, signed by an authorized representative of WPL and no waiver granted will release Customer from subsequent strict compliance herewith.