

PROPOSAL/ORDER ACKNOWLEDGMENT STANDARD TERMS OF SALE

1. APPLICABLE TERMS.

These terms govern the sale by WILO USA LLC ("WILO") of the equipment and related services, if any (collectively referred to as the "Products"), referred to in WILO's quotation, proposal or order acknowledgment, as the case may be (collectively referred to as the "WILO's Documentation"). If any terms are included in any purchase order or other offer made by Buyer, WILO's acceptance of any such purchase order or offer is conditioned on Buyer's assent to these terms. WILO specifically rejects all additional or different terms in any of Buyer's forms or documents.

2. PAYMENT. All orders are subject to credit approval. Standard terms for all Building Services, Groundwater, and Water Management Products (including Projects, GPS and Fast Flow) are NET 30, and payment must be made within thirty (30) days of the date of invoice. The Buyer agrees that if charges are not paid within thirty (30) days, a service charge of \$250 per month shall apply to each past due invoice. In addition, all amounts that are past due shall bear interest at the rate of two percent (2%) per month (twenty-four percent (24%) annual rate) or the maximum rate allowed by applicable law, whichever is less, will be assessed and due on the past due account. Payment of the service charge is not an alternative to payment in full. Buyer shall pay WILO the full purchase price as set forth in WILO's Documentation. Unless WILO's Documentation provides otherwise, freight, storage, insurance and all taxes, duties or other governmental charges relating to the Products shall be paid by Buyer. If WILO is required to pay any such charges, Buyer shall immediately reimburse WILO. Buyer shall pay all of WILO's reasonable costs (including attorneys' fees) of collecting amounts due but unpaid.

3. ORDER REQUIREMENTS/EXPRESS/CANCELLATIONS/RETURN POLICY. Orders totaling less than \$100 (net price) shall be subject to a **minimum** billing charge of \$100. **Express orders** - Orders requiring special handling to ensure shipment in less than the normal lead time or same day orders are subject to an additional \$50.00 Special Handling Charge. No Special Handling Charge will be applied if the Express Order does not ship by the date committed to by the WILO Buyer Service Representative. **Cancellations** - Orders that have been approved and accepted by WILO are firm commitments and are not subject to cancellation without written consent of WILO. If cancellation is approved, it is subject to a minimum 25% charge for accrued material and fabrication costs, special engineering costs and testing, handling, and accounting costs if they are applicable. **Returned Orders** - A 25% restock fee shall apply to returned orders of off-the-shelf Products. A 15% restock fee shall apply to returned orders of off-the-shelf Products if concurrently placing orders of equal or greater value. A 50% restock fee shall apply to returned offers of assembled Products (IL, IPL, Helix, TWI complete units). A 100% restocking fee shall apply to returned orders of configured or manufactured Products (FA, NL, SCP, Booster Systems)

4. SUBMITTALS. Buyer shall prepare all drawings, specification sheets and related documents ("Submittals"). Upon Buyer's request, WILO can prepare the Submittals. WILO shall have no liability for any claimed loss incurred by the Buyer, including any claim for lost time or expenses until such Submittals are approved by Buyer or the building owner or governmental authority. Changes of any kind to approved Submittals may result in additional expenses to the Buyer, including but not limited to a change in the sale price of equipment, alternate materials of construction, additional materials testing and additional hydraulic or vibration testing. Unless Buyer authorizes and pays such additional charges and compensation, WILO may cancel the purchase agreement without incurring any financial liability.

5. DELIVERY. Buyer orders will be shipped freight collect or PPA, unless the order qualifies for prepaid freight under the following terms. A single purchase order (PO) of Building Services and Groundwater product (excluding SCL/NL/Booster Systems/Skidded Products), with a net value equal to/great than \$6,500 NET with ONE destination within the 48 contiguous states may qualify for freight charges to be prepaid by WILO. "Single orders" are defined as one Buyer requested ship date on one purchase order. On non-prepaid orders WILO may agree to pay freight charges and add these charges, plus a 10% handling charge (on freight charge only) to the Buyer's invoice.

Prepaid freight on a single PO of \$6,500 NET or more, with multiple requested ship dates, must individually qualify under ONE of the following conditions:

- a. The order includes at least 25 COMPLETE UNITS, excluding boxed domestic circulator pumps. One complete unit is defined as one pump/motor combination, or one pump end and one motor. A pump end only does not qualify.
- b. The order includes domestic circulator pumps in full skid quantities (quantity varies by product type)

On qualifying prepaid shipments, Buyers may choose to ship on a carrier other than that of the WILO preferred carrier and Buyer will be billed for any applicable freight variance. Drop shipments are allowable and subject to the prepaid freight conditions above and additionally must be to a pre-approved "ship to" location. Emergency situations will require approval from WILO Regional Sales Manager. Buyer may also pick up from WILO facility during normal warehouse hours given reasonable notice.

6. **OWNERSHIP OF MATERIALS.** All devices, designs (including drawings, plans and specifications), estimates, prices, notes, electronic data and other documents or information prepared or disclosed by WILO, and all related intellectual property rights (hereinafter collectively referred to as "Trade Secrets"), shall remain WILO's property. Buyer shall not in any fashion, form or manner, misappropriate (or cause the misappropriation of) any confidential information or "Trade Secret" (as defined in the Uniform Trade Secrets Act) of WILO. WILO grants Buyer a nonexclusive, non-transferable, revocable license to use any such material solely for Buyer's use of the Equipment. Buyer shall not disclose any confidential information or trade secret to any third parties without WILO's prior written consent.

7. **CHANGES.** WILO shall not implement any changes in the scope of work described in WILO's Documentation unless Buyer and WILO agree in writing to the details of the change and any resulting price, delivery schedule or other contractual modifications. This includes any changes necessitated by a change in applicable law occurring after the effective date of any contract including these terms.

8. **WARRANTY.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, WILO MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED WITH RESPECT TO ANY PUMPS, PRODUCTS, PARTS OR SERVICES PROVIDED BY WILO INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, APPLICATION OR USE. The Limited Warranty provided herewith and hereby made a part hereof states the sole and exclusive limited warranty applicable to the equipment. Such Limited Warranty can also be found at www.wilo-usa.com.

9. **FORCE MAJEURE.** Neither WILO nor Buyer shall have any liability for any breach (except for breach of payment obligations) caused by extreme weather or other act of God, strike or other labor shortage or disturbance, fire, accident, war or civil disturbance, delay of carriers, failure of normal sources of supply, act of government or any other cause beyond such party's reasonable control.

10. **LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY, WILO SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR OTHER INDIRECT DAMAGES, AND WILO'S TOTAL LIABILITY ARISING AT ANY TIME FROM THE SALE OR USE OF THE EQUIPMENT SHALL NOT EXCEED THE PURCHASE PRICE PAID FOR THE EQUIPMENT. THESE LIMITATIONS APPLY WHETHER THE LIABILITY IS BASED ON CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE RECOVERY THEORY.

11. **MISCELLANEOUS.** If Buyer has advised in advance that the equipment is being sold in connection with a contract with the Federal government, these terms shall be deemed to include those federal acquisition regulations that are required by law to be included. These terms, together with any quotation or acknowledgement issued or signed by the WILO, comprise the complete and exclusive statement of the agreement between the parties (hereinafter referred to as the "Agreement") and supersede any terms contained in Buyer's documents, unless separately signed by WILO. No part of the Agreement may be changed or cancelled except by a written document signed by WILO and Buyer. No course of dealing or performance, usage of trade or failure to enforce any term shall be used to modify the Agreement. If any of these terms is unenforceable, such term shall be limited only to the extent necessary to make it enforceable, and all other terms shall remain in full force and effect. Buyer may not assign or permit any other transfer of the Agreement without WILO's prior written consent. The Agreement shall be governed by the laws of the State of Georgia without regard to its conflict of law provisions. Any litigation or other proceeding involving any dispute between Buyer and WILO shall be brought and maintained exclusively in either the state or federal courts located in Thomas County, Georgia or Cook County, Illinois and Buyer and WILO expressly consent to the exclusive jurisdiction of such Courts.