



MATERIAL PROPOSAL TERMS AND CONDITIONS

1. **ACCEPTANCE:** This quotation will be accepted and an order placed by Customer by signing the acceptance and returning to Western GeoSystems (WGS) within 30 days from the date of this proposal.

- 1.1 As a condition precedent, all sales are subject to approved credit and acknowledgement by WGS of Customer's acceptance.
- 1.2 All orders are subject to approval and acceptance by WGS.
- 1.3 Customer is responsible for cancellation fees after WGS has acknowledged the order. If Customer cancels all, or any portion of, the order after WGS has been instructed to proceed, Customer shall pay for all fabricated and/or purchased components pertaining to the cancelled order and all other non-recoverable costs incurred by WGS pertaining to the cancelled order.

2. CLARIFICATIONS:

- 2.1 Pricing assumes payment via Bank Transfer or Company Check. Credit Card payment is available with a 4.5% fee. Credit terms are at the sole discretion of WGS.
- 2.2 Payment for materials is due at the time of ordering.
- 2.3 All pricing is provided in current material pricing. WGS reserves the right to adjust pricing for verifiable changes in costs of raw materials and resins.
- 2.4 Freight (if included and applicable) is quoted as current freight costs. WGS reserves the right to increase freight costs if materials do not ship within (30) days of receiving order.
- 2.5 All taxes including federal, state, local, excise, sales, use and any other applicable taxes are excluded in this quotation and are the responsibility of Customer to pay to WGS if acting as collecting agent or directly to tax entity.
- 2.6 No costs are included in the price for bonds, permits, fees, installation accessories or any other item unless specifically described in the quotation. Any such costs shall be the sole responsibility of Customer.
- 2.7 Price quoted makes no provision for actual damages or liquidated damages or similar charges and WGS shall not be liable for any such damages.
- 2.8 WGS specifically excludes any flow down, conduit clause or reference to any contractual document not provided to WGS and signed for as acknowledgement of receipt and agreement.
- 2.09 The warranty for the material will be provided by and subject to the material manufacturer's standard warranty.
- 2.10 WGS Indemnification - Indemnification will not be limited to the following: To the fullest extent permitted by law, WGS shall indemnify, defend and hold harmless the Contractor/Owner from and against claims and damages arising out of or resulting from, or alleged to arise out of or arise from, the performance of Subcontractor's Work under the Subcontract, whether such claim, damage, demand, loss or expense is attributable to bodily injury, personal injury, sickness, disease or death, or injury to or destruction of the Subcontract, whether such claim, damage, demand, loss or expense is attributable to bodily injury, personal injury, sickness, disease or death, or injury to or destruction of tangible property, including the loss of use resulting therefrom; but only to the extent attributable to the negligence of the Subcontractor or any entity for which it is legally responsible. Such indemnity obligation shall be in derogation or limitation of any other obligation or liability of WGS or the rights of the Contractor/Owner contained in this contract or otherwise. This indemnification shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the WGS under any worker's compensation acts, disability benefits acts or other employee benefits acts. This indemnification shall be in lieu of any indemnity liability imposed by the Contract Documents, and shall survive the completion of the Work or the termination of the Subcontract.

3. **PAYMENT:** Unless credit terms have been established, the Customer shall make payment in full for all materials and freight prior to custom material ordering.

- 3.1 Interest will be charged on all amounts past due at the rate of 2.5% per month (18% per annum).
- 3.2 Retainage is not applicable. All invoices must be paid in full.
- 3.3 WGS takes Visa and MasterCard for payment. A credit card fee of 4.5% will be added for this convenience to cover Credit Card fees.
- 3.4 If WGS is required to take any action to collect sums due under this agreement, Customer will pay all costs of collection, including reasonable attorney fees.
- 3.5 Purchaser hereby acknowledges that WGS relies solely and exclusively on the credit of the purchaser for payment for its work. All payments are the sole responsibility of the Contractor and shall be paid according to the terms of payment stipulated herein and on invoice documents. Receipt of payment from the Owner is specifically not a condition precedent to payment for payments due to WGS.

4. **CREDIT:** WGS reserves the right to extend credit terms solely at WGS' discretion. WGS' Maximum credit terms are NET 30 after invoice regardless of terms on Purchase Orders.

- 4.1 A completed Credit Application must be submitted (14) business days prior to CCS performing any work.
- 4.2 A completed Job Information sheet is required to be submitted service order.
- 4.3 Approved credit will be reevaluated by WGS with each project.
- 4.4 Companies with overdue invoices will not receive credit and prepayment for materials may be required.
- 4.5 Contractor hereby acknowledges that WGS relies solely and exclusively on the credit of the Contractor for payment for its work. All payments, including progress payments, payments for change orders and extra work, retainage and final payment are the sole responsibility of the Contractor and shall be paid according to the terms of payment stipulated herein and on invoice documents. Receipt of payment from the Owner by the Contractor is specifically not a condition precedent to payment for payments due to WGS by the Contractor.

5. **DISPUTES:** In the event of a dispute, controversy or claim arising out of, or relating to, this Agreement or the breach or performance thereof, the parties shall negotiate in good faith in an effort to resolve such dispute. In the event the dispute is not resolved within 10 days, then such dispute shall be settled by arbitration in Jefferson County CO in accordance with the American Arbitration Association arbitration rules for commercial disputes as in effect on the date of this order. The Customer hereby expressly consents to jurisdiction in the State of Colorado, including the Arbitrator and, if necessary, the State District Courts in Colorado. No award shall be made for punitive, special, or consequential damages, including loss of profits or loss of business opportunity. The decision of the Arbitrator pursuant hereto shall be final and binding upon the parties. The Arbitrator shall have the authority to award attorney's fees and Arbitrator's fees to the prevailing party. This transaction shall be governed and construed according to the Laws of the State of Colorado.

6. **COMPLETE AGREEMENT:** This document any quotation to which it is a part, together constitute the entire agreement between the parties. There are no other agreements, oral or written, between the Parties except at otherwise specifically stated herein. Waiver by WGS of any breach of the terms and conditions hereof shall not be construed as a waiver of any other breach.