

## DETAILED TERMS AND CONDITIONS OF SALE

The provisions of the quotation or acknowledgment form, or invoice, to which these Detailed Terms and Conditions of Sale are attached, including all of the terms and conditions in these Detailed Terms and Conditions of Sale, shall, unless otherwise specifically agreed to by Seller in writing, be the **SOLE TERMS AND CONDITIONS GOVERNING ANY PURCHASE AND SALE** contract evidenced by any such quotation, acknowledgment or invoice, or any order, and shall supersede any and all prior terms and conditions. There are no other representations or warranties, oral or written, expressed or implied, statutory or otherwise, which apply to the purchase and sale evidenced or contemplated hereby. No modification of or adding to or waiver of any such provisions, terms, or conditions will be effective unless agreed to in writing by Seller, and any written terms or conditions supplied by Buyer in respect to such purchase and sale which are not conforming with, or are contrary to, these Detailed Terms and Conditions of Sale are hereby rejected and considered void and of no force or effect.

**1. PRICES:** Prices are not guaranteed to Seller by the manufacturer and are subject to escalation. Therefore, Seller's prices are subject to adjustment to reflect costs in effect at the time of shipment. Payment shall not prejudice claims on account of omissions or shortages in shipment, but no such claim will be allowed unless made within 30 days after receipt of shipment by Buyer. Prices include ordinary pre-delivery packing only, and prices and specifications are subject to change without notice. A minimum order charge of \$100.00 will apply to all orders.

**2. Delivery and Acceptance:** Unless Seller otherwise specifies in a pre-shipment writing, delivery inside the U.S. and Canada shall be made EXW (Incoterms 2010) Factory, Seller's facility, Jenks, OK, USA. Title, possession, and risk of loss shall pass to Buyer at that point. Seller shall have the right to choose means of transportation and to route shipments when specific instructions are not included with Buyer's order. Seller shall have no liability whatsoever, nor shall this order be subject to cancellation for delay in delivery due to act of God or civil or military authority, fire, labor disturbance, war, terrorism, insurrection or riot, failure of or delay in transportation, unusually severe weather, default of a supplier or subcontractor, or due to any other cause beyond Seller's reasonable control. In the event of delay for any such cause, the scheduled delivery date shall be extended for a reasonable length of time, but not less than the period of delay. Buyer shall be deemed to have accepted all of Seller's articles purchased by and delivered to Buyer and subject hereto if not specifically rejected, or any prior acceptance revoked, and notice of such rejection, or such revocation of acceptance, is delivered in writing by Buyer to Seller at Seller's plant no later than five calendar days following delivery or tender of delivery of the article to Buyer, whichever occurs first. Such five-day period following delivery or tender of delivery is specifically agreed to by Buyer and Seller as reasonable for rejection, or revocation of acceptance, of any of the articles and for reasonable notification to Seller of such rejection or revocation. Failure of Buyer to reject, or revoke a prior acceptance, and provide notice within the time period stated will waive any right of Buyer to reject the articles or revoke any acceptance thereof, such time period also being acknowledged and agreed by Buyer and Seller as sufficient time to enable Buyer to discover any basis for rejection, or revocation of acceptance, of such articles.

**3. Terms of Payment:** All orders are taken subject to prior credit approval. Terms of payment shall be Net 30 days, unless otherwise stated in quotation or on Seller's invoice. All accounts older than thirty days will be charged an interest rate of 1½% per month on the unpaid account balance.

**4. Limited Warranty:** Seller warrants that each article sold to Buyer under this order, quote, acknowledgment and/or invoice shall at the time of shipment (i) conform to applicable specifications, and (ii) be free from defects in material and workmanship during normal and ordinary use and service (the "Warranty"). Buyer's exclusive remedy and Seller's sole obligation under this Warranty shall be, at Seller's option, to repair or replace any article or part thereof which has proven to be defective, or to refund the purchase price of such article or part thereof. Buyer acknowledges that Buyer is knowledgeable concerning the articles covered by this Warranty and sold in connection therewith which are being purchased, that Buyer has reviewed this Warranty and that the remedies provided hereunder are adequate and acceptable to Buyer. This Warranty shall expire twenty-four (24) months from the date the mechanical article is first shipped by Seller or eighteen (18) months from the date the electronic article is first shipped by Seller unless otherwise authorized in writing by TWG. Notice of claimed breach of this Warranty must be given by Buyer to Seller within the applicable period. Such notice shall include an explanation of the claimed warranty defect and proof of date of purchase of the article or part thereof for which warranty coverage is sought. No allowances shall be made by Seller for any transportation, labor charges, parts, "in and out" costs, adjustments or repairs, or any other work, unless such items are authorized in writing and in advance by Seller. Nor shall Seller have any obligation to repair or replace items which by their nature are expendable. If an article is claimed to be defective in material or workmanship, or not to conform to the applicable specifications, Seller will either examine the article at Buyer's site or issue shipping instructions for return to Seller. This Warranty shall not extend to any articles or parts thereof which have been installed, used, or serviced otherwise than in conformity with Seller's applicable specifications, manuals, bulletins, or instructions, or which shall have been subjected to improper installation, operation, or usage, misapplication, neglect, incorrect installation, overloading, or employment for other than normal and ordinary use and service. This Warranty shall not apply to any article which has been repaired, altered or disassembled, or assembled by personnel other than those of Seller. This Warranty shall not apply to any article upon which repairs or alterations have been made (unless authorized in writing and in advance by Seller). This Warranty shall not apply to any articles or parts thereof furnished by Seller to Buyer's specifications and/or furnished by Buyer or acquired from others at Buyer's request. SELLER MAKES NO EXPRESS WARRANTIES AND NO IMPLIED WARRANTIES OF ANY KIND, OTHER THAN THE WARRANTY EXPRESSLY SET FORTH ABOVE. SUCH WARRANTY IS EXCLUSIVE AND IS MADE AND ACCEPTED IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. The remedies for this Warranty shall be only those expressly set forth above, to the exclusion of any and all other remedies of whatsoever kind. The limited remedies set forth above shall be deemed exclusive, even though they may fail their essential purpose. No agreement varying or extending the foregoing Warranty, remedies, exclusions, or limitations shall be effective unless in a writing signed by an executive officer of Seller and Buyer. This Warranty is non-transferable. If a party who had purchased articles from Buyer, or from persons in privity with Buyer, brings any action or proceeding against Seller for remedies other than those set forth in this Warranty, Buyer agrees to defend Seller against the claims asserted in such action or proceeding at Buyer's expense, including the payment of attorneys' fees and costs, and indemnify Seller and hold Seller harmless of, from and against all such claims, actions, proceedings or judgments therein. Buyer also agrees to defend and indemnify Seller of, from and against any loss, cost, damage, claim, debt or expenses, including attorneys' fees, resulting from any claims by Buyer or third parties to property or injury to persons resulting from faulty installation, repair or modification of the article and misuse or negligent operation or use of the article, whether or not such damage to property or injury to persons may be caused by defective material, workmanship, or construction. **ADVISORY:** *Winches and hoists are not approved for lifting or handling personnel or persons unless specifically approved in writing by Seller for the specific application intended. LMI and RCIs are operational aids that only provide information to the operator.* Under no circumstances shall Seller be liable (i) for any damage or loss to any property other than the warranted article or part thereof, or (ii) for any special, indirect, incidental, or consequential damage or loss, even though such expenses, damages, or losses may be foreseeable. The foregoing limitations on Seller's liability in the event of breach of warranty shall also be the absolute limit of Seller's liability in the event of Seller's negligence in manufacture, installation, or otherwise, with regard to the articles covered by this Warranty, and at the expiration of the Warranty period as above stated, all such liabilities shall terminate. Buyer's purchase of any article(s) covered by this Warranty shall constitute acceptance of the terms and conditions hereof and shall be binding upon Buyer and Buyer's representatives, heirs and assigns. The laws of the State of Oklahoma, USA, shall govern Buyer's rights and responsibilities in regard to this Warranty and the transaction(s) subject thereto, and the state or federal court of competent jurisdiction located in Oklahoma, USA, shall be the exclusive forum and jurisdiction for any action or proceedings brought by Buyer in connection herewith or any dispute hereunder. If any of the terms and conditions contained within this Warranty are void, the remaining provisions thereof are and shall remain valid and enforceable. **Note:** *Prices and specifications contained in this price book are subject to change without notice.*

**5. Patents; Intellectual Property Rights:** Seller will defend any suit or proceeding against Buyer, insofar as it is based on a claim that any article or part thereof furnished under this order constitutes an infringement of any patent of the United States, if Seller is notified promptly in writing and given authority, information, and assistance (at Seller's expense) for the defense or settlement of the same, and Seller will pay all damages and costs which by final judgment (or by settlement agreed to by Seller) are awarded therein against Buyer, *provided, however*, that no obligation or liability shall result from the foregoing provision if (a) any such

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article or part is manufactured in accordance with any design, drawing, or specification that is furnished to Seller by or for Buyer and that it is not based upon Seller's design, drawing, or specification, or (b) such infringement or alleged infringement arises out of or is based upon the use of the article or part with another article or material or in a particular manner. If, in a suit or proceeding in respect of which Seller is liable, as above provided, the article or part is held to constitute infringement and the use thereof is enjoined (or Seller consents to the non-use thereof), Seller will, at Seller's expense and at Seller's option, procure for Buyer that right to continue using such article or part, or replace it with a non-infringing article or part, or modify it so that it becomes non-infringing, or refund the purchase price and the transportation costs upon return to Seller of the infringing article or part. The foregoing provisions sets forth Seller's entire liability for, or resulting from, patent infringement or claim thereof. No right or license is granted to the Buyer under any patent, copyright, registered design, trademark or other industrial property right except the right to use or resell the goods (unless otherwise specifically granted).

**6. Taxes:** Prices do not include any present or future federal, state, or local sales, use, excise, manufacturing, processing, or importation tax, or any other tax or charges, that is/are or may be imposed on the articles or services covered by this order or on subsidiary articles or material incorporated therein, unless otherwise stated on quotation or current published price lists. Any such taxes or charges will be added to the invoices as separate items, unless appropriate exemption certificates are furnished to Seller.

**7. Compliance with Laws:** Seller, to the best of Seller's knowledge and belief, is complying with all state and federal laws, orders, and regulations applicable to the manufacture of the articles ordered.

a. Seller shall comply with the U.S. Foreign Corrupt Practices Act which prohibits providing a payment of money or anything of value to a foreign government official, public international organization official, foreign political party, foreign political party official or candidates for such offices, either directly or indirectly, for the purpose of influencing official acts and decisions (including failures to act and decide) in order to assist in obtaining or retaining business or directing business to any entity. Information regarding the Foreign Corrupt Practices Act is available at [www.usdoj.gov/criminal/fraud/fcpa](http://www.usdoj.gov/criminal/fraud/fcpa).

b. Seller agrees to comply with all foreign, federal, state and local laws regarding Imports and Exports, including any laws of the United States regarding unsanctioned foreign boycotts, anti-boycott laws, and embargoed countries. Information is available at: [www.ustreas.gov/ofac](http://www.ustreas.gov/ofac), [www.bis.doc.gov/dpl/thedeniallist.asp](http://www.bis.doc.gov/dpl/thedeniallist.asp), [www.ftc.gov/oia/competition.shtm](http://www.ftc.gov/oia/competition.shtm) and [www.bis.doc.gov/antiboycottcompliance/](http://www.bis.doc.gov/antiboycottcompliance/).

**8. Partial Shipments:** Seller reserves the right to make and to invoice for partial shipments of completed articles.

**9. Cancellation:** Orders are not subject to cancellation, complete or partial, without Seller's prior written consent. Any reduction in quantities ordered shall constitute a partial cancellation subject to this clause. Where Seller consents to cancellation, settlement will be made on the following basis. Buyer will pay to Seller, upon delivery, the full purchase price of all articles completed at the time Seller agrees to cancellation, and if Seller elects to complete any part or all of the articles scheduled for delivery within 30 days from such time, the full purchase price of all such articles so completed. Buyer will further pay to Seller a percentage of the purchase price of all other articles equivalent to the percentage of completion thereof as determined by Seller's normal cost accounting methods. Buyer will also pay the full unamortized costs of materials, dies, tools, patterns, and fixtures made or contracted specifically for Buyer's order. Invoices for all cancellation charges are payable promptly upon presentation. If within 90 days from the presentation of such invoice Buyer does not instruct Seller as to the disposition of the material, etc., arising from the cancellation, Seller may sell the same, crediting Buyer for the proceeds. Buyer will also pay the reasonable costs and expenses incurred by Seller in making a settlement and in protecting property in which Buyer has an interest. Where United States Government contracts are involved, cancellation shall be in accordance with the appropriate armed services procurement regulations. Seller will defer manufacture or delivery of any articles only if and to the extent agreed to in writing.

**10. Return of Material for Credit Consideration:** All returns shall be made at the sole discretion of Seller. All items returned must have an authorized RGA (Returned Goods Authorization) number. When applying for the RGA number, Buyer should be prepared to provide the winch or article/product serial number, date of original shipment, and any other details requested. Material returned, whether for the purpose of a customer's inventory balancing, resulting from the customer's error in ordering or for any reason beyond the control of Seller, will be subject to a handling and restocking fee of \$100.00, or 25%, whichever is greater. A time limit of six months from the date of shipment will be enforced in these situations. All items returned to Seller must be shipped DDP-Seller's Plant (Incoterms 2010). The return of any non-standard items may be subject to higher restocking fees. All items returned must be in new and unused condition and will be inspected prior to credit being issued. No obsolete parts may be returned. Unless specified writing by the Seller, collect shipments, any other shipment deviating from the DDP-Seller's Plant (Incoterms 2010), and shipments without clearly marked RGA numbers will be refused.

**11. Default:** If Buyer shall fail to pay promptly when due any sum owing to Seller or to perform any agreement under this order or under any other order heretofore or hereafter placed with Seller, or if Buyer shall become insolvent or shall make an assignment for the benefit of creditors or if there shall be instituted by or against Buyer any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, or insolvency law of any jurisdiction, or for the appointment of a receiver or trustee in respect of any of Buyer's property, and if any such proceeding shall be instituted against Buyer, it shall not be dismissed within 20 days, or if Seller shall reasonably believe that Buyer is unable to meet Buyer's debts as they mature, then, and in any such event, Seller may, in addition to exercising any or all other rights and remedies that Seller may have, require payment of cash upon delivery, and Seller may at any time and without notice to Buyer, cancel any or all of Seller's unperformed obligations under any one or more of such orders. Upon any cancellation under this clause, Buyer shall thereupon become obligated to pay to Seller the same sum in respect to each such order as if such order had been cancelled by Buyer with Seller's consent and settlement had been made on the basis set forth in Paragraph 9 of these Detailed Terms and Conditions of Sale. In the event legal action or other proceedings are instituted to collect any sums due to Seller hereunder, Buyer agrees to pay Seller all of Seller's reasonable attorneys' fees and expenses incurred in connection with such action or proceeding.

**12. Indemnification; Defense:** Buyer agrees to defend and indemnify Seller of, from and against any and all loss, damage, cost, claim or expense including reasonable attorneys' fees resulting from any claims made by Buyer or by third parties for damage to property or injury to persons resulting from faulty or improper installation, use, repair, alteration or negligent operation of the article(s) sold hereunder, whether or not such damage to property or injury to persons may have been caused or be caused by defective material, workmanship or construction.

**13. Governing Law; Jurisdiction:** All transactions covered by this order shall be construed and enforced in accordance with, and shall be governed by, the laws of the State of Oklahoma (excluding rules on conflicts of laws and excluding the Convention on Contracts for the International Sale of Goods), and the state or federal court of competent jurisdiction located within Oklahoma, USA, shall be the exclusive forum and jurisdiction for bringing any action with respect to disputes regarding this order or items sold hereunder.

**14. Export Control:** Buyer agrees that unless prior authorization is obtained from the U.S. Department of Commerce, neither Buyer nor its subsidiaries shall export, re-export, or release, directly or indirectly, any technology, (as defined in Part 772 of the Export Administration Regulations of the U.S. Department of Commerce ("EAR")), received from Tulsa Winch, Inc., or export, re-export, or release, directly or indirectly, any direct product of such technology, (as defined in Part 734 of the EAR), to any destination or country to which the export, re-export or release of the technology, or direct product is prohibited by the EAR.