MINUTES
BOARD OF SELECTMEN
Regular Meeting
June 1, 2021
5:00 P.M.
TOWN HALL (APPLEBY ROOM)

Members Present: First Selectman Robert Brule and Selectwoman Elizabeth Sabilia, and Selectwoman Jody Nazarchyk.

(Procedural Action: Check register to be signed by Board of Selectmen in accordance with CGS 7-83)

1. **Call to Order & Roll Call-** First Selectman Brule called the meeting to order at 5:00 pm.

2. **Pledge of Allegiance**

3. **Public Comment:**

4. Disposition of Town Property (Ordinance, Chapter 2.112.020):

4a. Disposition of (72) SCBA cylinders: To consider an act on a recommendation from Rawle Dummett, Purchasing Agent, on behalf of the Acting Fire Services Director, Jeff Lathrop, for disposal of 72 SCBA cylinders, there are no asset numbers associated with SCBA cylinders.

MOTION by Nazarchyk, and seconded by Sabilia to approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**

5. Public Works: To Consider an act of the following request for the balance of funds from the Eugene O'Neil Roof Project, account 20511-57859 ($25,767.64), to be transferred to a new CIP, Eugene O'Neil Mansion Roof Repair and Replacement, from Public Works Director, Gary Schneider.

MOTION by Nazarchyk, and seconded by Sabilia to approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**
Discussion: clarification for Fiscal Year 2022/2023

6. **Police Department:** To Consider an act of the following request for an In Series Transfer from the Police Chief, Brett Mahoney.

POLICE DEPARTMENT
DEPARTMENT

Line No.	Org. Code	Object Code	Object Description	APPROVED Budget Amount	CURRENT Available Budget	Budget Transfer INCREASE	Budget Transfer DECREASE	REVISED Available Budget
1	10129	53090	FUELS & LUBRICANTS	$ 114,441	$ 56,644		(22,000.00)	$ 34,644
2	10129	53150	BUILDING MAINTENANCE	$ 42,614	$ (8,083)	22,000.00		$ 13,917
3								$ -
4								$ -
5								$ -
8								$ -
9								$ -
10								$ -
					TOTAL	22,000.00	(22,000.00)	

MOTION by Nazarchyk, and seconded by Sabilia to approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**

7. **Police Department:** To Consider an act of the following request for an In Series Transfer from the Police Chief, Brett Mahoney.

Line No.	Org. Code	Object Code	Object Description	APPROVED Budget Amount	CURRENT Available Budget	Budget Transfer INCREASE	Budget Transfer DECREASE	REVISED Available Budget
1	10129	51830	TRAINING & EDUCZATION	$ 113,967	$ 49,141		(43,400.00)	$ 5,741
2	10129	51820	REPLACEMENT OVERTIME	$ 360,508	$ (13,731)	43,400.00		$ 29,669
3	10129	51830	TRAINING & EDUCZATION	$ 113,967	$ 5,741		(1,600.00)	$ 4,141
4	10129	51421	MARINE PATROL	$ 23,716	$ 3,687	1,600.00		$ 5,287
5								$ -
8								$ -
9								$ -
10								$ -
					TOTAL	45,000.00	(45,000.00)	

MOTION by Nazarchyk, and seconded by Sabilia to approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**

8. Information Technology: To Consider an act of the following request for an Out of Series Transfer from the Police Chief, Brett Mahoney.

INFORMATION TECHNOLOGY
DEPARTMENT

Line No.	Org. Code	Object Code	Object Description	APPROVED Budget Amount	CURRENT Available Budget	ACCOUNT INCREASE	ACCOUNT DECREASE	REVISED Available Budget
1	10147	52043	SERVICE CONTRACTS	773,708.00	77,424.72		(54,000.00)	23,424.72
2	10147	54130	COMPUTER EQUIPMENT	51,260.00	75.35	54,000.00		54,075.35
3								0.00
4								0.00
5								0.00
6								0.00
7								0.00
8								0.00
9								0.00
10								0.00
								0.00
								0.00
					TOTAL	54,000.00	(54,000.00)	

MOTION by Nazarchyk, and seconded by Sabilia to approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**

9. Emergency Management: To Consider an act of the following request for an Out of Series Transfer from the Emergency Management Director, Steve Sinagra.

Emergeny Management
DEPARTMENT

Line No.	Org. Code	Object Code	Object Description	APPROVED Budget Amount	CURRENT Budget Amount	ACCOUNT INCREASE	ACCOUNT DECREASE	REVISED Budget Amount
1	10122	52050	Dues, Conf. & Education	22,084.00	19,696.00		(8,346.71)	11,349.29
2	10122	54120	Disp. Center Equipment	1.00	1.00	8,346.71		8,347.71
3								0.00
4								0.00
5								0.00
6								0.00
7								0.00
8								0.00
9								0.00
10								0.00
								0.00
								0.00
					TOTAL	8,346.71	(8,346.71)	

MOTION by Nazarchyk, and seconded by Sabilia to approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**

10. Fire Department: To Consider an act of the following request for the following Out of Series Transfers from the Acting Fire Services Director, Jeff Lathrop.

FIRE
DEPARTMENT

Line No.	Org. Code	Object Code	Object Description	APPROVED Budget Amount	CURRENT Available Budget	ACCOUNT INCREASE	ACCOUNT DECREASE	REVISED Available Budget
1	10123	52050	DUES, CONFERENCES & EDUC	48,675.00	18,832.33		(11,050.00)	7,782.33
2	10123	54060	OFFICE EQUIPMENT	3,000.00	2,791.50		(600.00)	2,191.50
3	10123	54218	FIREFIGHTING EQUIPMENT	30,000.00	8,230.76		(6,000.00)	2,230.76
4	10123	52090	HEATING OIL	45,410.00	(12.55)	50.00		37.45
5	10123	53070	AUTO REPAIRS	88,000.00	(15,404.28)	17,600.00		2,195.72
6								0.00
7								0.00
8								0.00
9								0.00
10								0.00
								0.00
								0.00
					TOTAL	17,650.00	(17,650.00)	

MOTION by Nazarchyk, and seconded by Sabilia to approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**

11. Fire Department: To Consider an act of the following request for the following In of Series Transfers from the Acting Director of Fire Services, Jeff Lathrop.

FIRE
DEPARTMENT

Line No.	Org. Code	Object Code	Object Description	APPROVED Budget Amount	CURRENT Available Budget	Budget Transfer INCREASE	Budget Transfer DECREASE	REVISED Available Budget
1	10123	52040	SERVICE CONTRACTS & REPAIR	$ 18,130	$ 4,824		$ (2,000)	$ 2,824
2	10123	52377	BREATHING APPARATUS	$ 6,760	$ (1,268)	$ 2,000		$ 732
3	10123	52050	DUES, CONFERENCES & EDUC	$ 48,676	$ 18,832		$ (4,000)	$ 14,832
4	10123	52370	CLOTHING & UNIFORM ALLOW	$ 15,500	$ 5,869		$ (2,200)	$ 3,669
5	10123	52378	BUILDING MAINTENANCE	$ 80,000	$ (4,490)	$ 6,200		$ 1,710
6	10123	53090	FUEL & LUBRICANTS	$ 28,800	$ 7,020		$ (2,500)	$ 4,520
7	10123	53110	COMPUER SUPPLIES	$ 2,500	$ 852		$ (851)	$ 1
8	10123	53020	OTHER SUPPLIES	$ 17,000	$ (2,773)	$ 3,351		$ 578
9	10123	53021	CONSUMABLE SUPPLIES	$ 7,500	$ 2,610		$ (1,000)	$ 1,610
10	10123	53090	FUEL & LUBRICANTS	$ 28,800	$ 7,020		$ (2,000)	$ 5,020
11	10123	53112	FIREFIGHTING SUPPLIES	$ 10,000	$ (2,097)	$ 3,000		$ 903
12	10123	53010	OFFICE SUPPLIES	$ 2,000	$ 1,481		$ (1,000)	$ 481
13	10123	53021	CONSUMABLE SUPPLIES	$ 7,500	$ 2,610		$ (1,000)	$ 1,610
14	10123	53111	PROTECTIVE CLOTHING	$ 78,080	$ (1,775)	$ 2,000		$ 225
15	10123	54060	OFFICE EQUIPMENT	$ 3,000	$ 2,792		$ (1,500)	$ 1,292
16	10123	54220	RADIO/EMERGENCY LIGHTS	$ 9,000	$ (930)	$ 1,500		$ 570
					TOTAL	$ 18,051	$ (18,051)	

MOTION by Nazarchyk, and seconded by Sabilia to approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**

12. Library: To Consider an act of the following request for an In Series Transfer from the Library Director, Chris Johnson.

Library
DEPARTMENT

Line No.	Org. Code	Object Code	Object Description	APPROVED Budget Amount	CURRENT Budget Amount	Budget Transfer INCREASE	Budget Transfer DECREASE	REVISED Budget Amount
1	10136	51110	Administration	$ 122,435	$ 10,619	2,832		$ 13,451
2	10136	51210	Clerical and Technical	$ 687,309	$ 124,868		(2,832)	$ 122,036
3								$ -
4								$ -
5								$ -
8								$ -
9								$ -
10								$ -
					TOTAL	2,832.00	(2,832.00)	

MOTION by Nazarchyk, and seconded by Sabilia to approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**

13. Assessor: To Consider an act of the following request for an Out of Series Transfer from the Assessor, Paige Walton.

ASSESSOR
DEPARTMENT

Line No.	Org. Code	Object Code	Object Description	APPROVED Budget Amount	CURRENT Available Budget	ACCOUNT INCREASE	ACCOUNT DECREASE	REVISED Available Budget
1	10104	52020	POSTAGE	1,204.00	(45.13)	100.00		54.87
2	10104	51110	ADMINISTRATION	196,788.00	33,363.02	0.00	(100.00)	33,263.02
3								0.00
4								0.00
5								0.00
6								0.00
7								0.00
8								0.00
9								0.00
10								0.00
								0.00
								0.00
					TOTAL	100.00	(100.00)	

MOTION by Nazarchyk, and seconded by Sabilia to approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**

12. Retirement Commission: To Consider an act of the following request for an In Series Transfer from the Finance Director, Kim Allen.

Retirement Commission
DEPARTMENT

Line No.	Org. Code	Object Code	Object Description	APPROVED Budget Amount	CURRENT Available Budget	Budget Transfer INCREASE	Budget Transfer DECREASE	REVISED Available Budget
1	10116	51949	OPEB Trust Fund Contribution	$ 1,100,000	$ (1,967)	1,967		$ -
2	10116	51930	Heart and Hypertension	$ 181,100	$ 34,570		(1,967)	$ 32,604
3								$ -
4								$ -
5								$ -
8								$ -
9								$ -
10								$ -
					TOTAL	1,967	(1,967)	

MOTION by Nazarchyk, and seconded by Sabilia to approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**

14. Finance Department: To Consider an act of the following request for an Out of Series Transfer from the Finance Director, Kim Allen.

FINANCE DEPARTMENT

Line No.	Org. Code	Object Code	Object Description	APPROVED Budget Amount	CURRENT Available Budget	ACCOUNT INCREASE	ACCOUNT DECREASE	REVISED Available Budget
1	10107	52050	Dues, Conferences	4,240.00	2,345.00		(70.00)	2,275.00
2	10107	54010	Furniture	0.00	0.00	70.00		70.00
3								0.00
4								0.00
5								0.00
6								0.00
7								0.00
8								0.00
9								0.00
10								0.00
								0.00
								0.00
					TOTAL	70.00	(70.00)	

MOTION by Nazarchyk, and seconded by Sabilia to approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**

15. Appointments and Resignations:

15a. To consider an act on the recommendation to appoint Joseph DiBuono (R) to the Planning and Zoning Commission, Alternate position to fill the term 6/30/20-6/29/23. (Currently on the P&Z Commission)
Mr. Joseph DiBuono

MOTION by Nazarchyk, and seconded by Sabilia to approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**

15b. To consider an act on the recommendation to appoint Kenneth Petrini (R) to the Planning and Zoning Commission position to fill the term 11/15/17-11/14/22.

MOTION by Nazarchyk, and seconded by Sabilia to approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**

16. *Correspondence:*

17. New Business

18. ADDITIONS TO THE AGENDA

MOTION by Sabilia, and seconded by Nazarchyk to accept the Bid Waiver for Connection Fiber lines, submitted by Purchasing Agent Rawle Dummett, on behalf of the Emergency Management Director, Steve Sinagra in the amount of $47,000 be moved to the Board of Selectmen Agenda to be approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**

MOTION by Sabilia, and seconded by Nazarchyk to accept the Bid Waiver for Eaton Single Phase Battery-Supply, Install and Removal, submitted by Purchasing Agent Rawle Dummett, on behalf of the Emergency Management Director, Steve Sinagra in the amount of $36,898.00 be moved to the Board of Selectmen Agenda to be approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**

19. Consent Agenda:

19a. Tax Refund-**NA**

19b. Meeting Minutes April 6, 2021

MOTION by Nazarchyk, and seconded by Sabilia to approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**

19c. Meeting Minutes April 20, 2021

MOTION by Nazarchyk, and seconded by Sabilia to approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**

19d. Meeting Minutes May 4, 2021

MOTION by Nazarchyk, and seconded by Sabilia to approve the request as stated, VOTING IN FAVOR: unanimous **VOTE:3-0**

20. Adjournment: There being no further business to come before the Board, and upon a motion made by Ms. Nazarchyk and seconded by Ms. Sabilia, the Meeting of the Board of Selectmen was adjourned at 5:41 pm.

Respectfully Submitted,

Cindy Dupointe

FIFTEEN ROPE FERRY ROAD

Town of Waterford

WATERFORD, CT 06385-2886

May 26, 2020

Mr. Robert J. Brule
First Selectman
Town of Waterford
15 Rope Ferry Road
Waterford, CT 06385

Re: Bid Waiver – **Connection of Fiber Lines**

Mr. Brule:

The Purchasing Agent, on behalf of the Emergency Management Department, respectfully seeks a Bid Waiver for the connection of two fiber lines by Crown Castle Fiber, in the amount of $47,900.00. These lines are being used to install security cameras at Millstone, and are intended to work in conjunction cameras at Cross Roads and Waterford Parkway North.
This Request is in accordance with The Purchasing Ordinance Section 3.08.050.

Funds will be available from State of Connecticut Nuclear Safety Emergency Program grant (NSEP) which is totally reimbursable.

Please see attached quote.

Sincerely

Rawle Dummett
Purchasing Agent,
Town of Waterford

Waterford Office of Emergency Management

204 BOSTON POST ROAD • WATERFORD, CT • 06385 • (860) 442-9585 • FAX (860) 443-5327

May 25, 2021,

Dear First Selectman Brule,

The Emergency Management Department seeks a bid waiver for the connection of two fiber lines by Crown Castle from Millstone Road to the Public Safety Complex. Crown Castle has done work for the Town of Waterford in the past. These lines will be used to install cameras for viewing the entrance and access area of Dominion/Millstone at its intersection with Route 156. This is to work in conjunction with camera locations at Cross Roads and Waterford Parkway North. These areas are part of the Waterford evacuation plan in the event of a Millstone emergency. Live monitoring of these camera locations during emergencies will be also provided to the State of Connecticut, DEMHS, Region 4 and the State of Connecticut Emergency Operations Center.

Funding for this project has been authorized by the State of Connecticut under the 2021 Nuclear Safety Emergency Program (NSEP) allocation T-2021-85 in the amount of $47,900. The grant authorizes the Town of Waterford to have Crown Castle install the fiber at a cost of $47,900. This grant was accepted by the Town of Waterford. This is a 100% reimbursement grant that does not require any matching funds from the Town of Waterford.

Please contact me should you have any questions.

Very respectfully,

Steven R. Sinagra

Steven Sinagra
Emergency Management Director

Cc: Kim Allen, Director of Finance

CROWN CASTLE | FIBER

Quotation

Date Prepared: 4/21/2021
Quotation Valid Until: 8/21/2021
Quotation # (Customer):

Quotation For: Waterford PD
Project Name (if applicable):
Customer Address:
Prepared By:

Contact Name:

Prepared By (Phone):

Prepared By (E-mail): Steve.Spivey@CrownCastle.com

Qty	Service	Internet / Ethernet Bandwidth (if app.)	Market	Address	Service	Term (Years)	Monthly Charge (MRC)	Non-Recurring Charge (NRC)
2	Dark Fiber	Other	* Conn.	0 RopeFerry and Millstone Waterford, CT	204 Boston Post Road Waterford, CT 1st floor	20	$125	$47,900
Totals								

Comments / Demarc Description (if applicable)

60 - 120 days from receipt of PO FOC DATE

Notes:
1. The above pricing may require a site survey prior to order execution.
2. Subject to Lightower's general Terms and Conditions and/or Master Services Agreement.
3. Additional fees and taxes may apply.
4. All discounts are reflected in the pricing above.
5. Quote assumes customer is responsible for easement into building and power for CPE.

FIFTEEN ROPE FERRY ROAD

Town of Waterford

WATERFORD, CT 06385-2886

May 26, 2020

Mr. Robert J. Brule
First Selectman
Town of Waterford
15 Rope Ferry Road
Waterford, CT 06385

Re: Bid Waiver – **Eaton Single Phase Battery - Supply, Install and Removal**

Mr. Brule:

The Purchasing Agent, on behalf of the Emergency Management Department, respectfully seeks a Bid Waiver for the purchase of Sixty-five (65) batteries from Genoa Power, Cooling and Management, LLC. in the amount of $36,898.00. This Request is in accordance with The Purchasing Ordinance Section 3.08.050.

Funds will be available from State of Connecticut Nuclear Safety Emergency Program grant (NSEP) which is totally reimbursable.

Please see attached quote.

Sincerely,

Rawle Dummett
Purchasing Agent,
Town of Waterford

Waterford Office of Emergency Management

204 BOSTON POST ROAD • WATERFORD, CT • 06385 • (860) 442-9585 • FAX (860) 443-5327

May 25, 2021,

Dear First Selectman Brule,

The Emergency Management Department seeks a bid waiver for the purchase and installation of sixty batteries in the Uninterruptible Power Supplies (UPS) at the five remote radio sites of the town's public safety radio system by Genoa Power, Cooling and Management, LLC. Six of these batteries have failed and the remaining fifty-four batteries are at the end of their life-cycle.

Funding for this project has been authorized by the State of Connecticut under the 2021 Nuclear Safety Emergency Program (NSEP) pool funding for allocation T-2021-104 in the amount of $36,898. The grant authorizes the Town of Waterford to have Genoa Power, Cooling and Management, LLC install the replacement batteries and remove and dispose of the old batteries at a cost of $36,898. This grant was accepted by the Town of Waterford. This is a 100% reimbursement grant that does not require any matching funds from the Town of Waterford.

This pool funding was recently made available and awarded. All work must be completed and paperwork must be filed by July 31, 2021. Genoa Power, Cooling and Management, LLC has advised that that they can complete the work in that timeframe if they receive a purchase order as soon as possible to reserve the batteries for this project.

Please contact me should you have any questions.

Very respectfully,

Steven R. Sinagra

Steven Sinagra
Emergency Management Director

Cc: Kim Allen, Director of Finance

Quote: Q04052021348 REV 2 date refresh

Date Proposed: May 17, 2021

Project Name: Town of Waterford Battery Replacement proposal 9170 serial number EB032T0032

EB141T0051, EB141T0026, EB141T0025, EB141T0024

Genoa PCM is pleased to provide you with our proposal for your Uninterruptible Power System requirements. We appreciate the opportunity to present a solution that offers unparalleled reliability and efficiency.

Our Proposed Bill of Materials Includes the following items and services:

Option 1: Eaton Single Phase Battery, Battery Installation, Removal and Disposal for 60 Batteries 24X7

FRS724INST072 (Install, Removal ,Disposal)		$4998
ASY-0529 / PW9170 BATT PACK 60V	$531.66 each	$31,900

Solution Total: $36,898.00

Option 2: Eaton Single Phase Battery, Battery Installation, Removal and Disposal for 6 Batteries 24X7

FRS724INST072 (Install, Removal ,Disposal)		$1100
ASY-0529 / PW9170 BATT PACK 60V	$592.00 each	$3552

Solution Total: $4652.00

Specification Compliance Statement: All items included in this bid are shown in the bill of material shown above. There is no suggested or implied inclusion or compliance of equipment or services not listed. We have included Eaton's standard terms and conditions of sale for your review.

Shipping & Taxes are Not Included

Eaton Corporation's terms and conditions shall apply (copy attached) to any purchase order received under this quote. Any additional or different terms proposed by customer, whether on its purchase order or any other document shall not be binding upon Eaton Corporation and are hereby rejected unless expressly agreed upon in writing by Eaton Corporation.

Seller shall not be responsible for any failure to perform, or delay in performance of, its obligations resulting from the COVID-19 pandemic or any future epidemic, and Buyer shall not be entitled to any damages resulting thereof.

Important: Batteries are consumable products and must be stored and operated under the specified environmental conditions. Batteries may be shipped with as little as 3-months of charge on them. Field recharging or the unit startup will need to occur before this date. Cabinets containing batteries will be marked on the outside packaging as well as internally for when the batteries must be recharged, or the warranty is void. Customers should note this date upon delivery to ensure batteries are not only maintained per our environmental recommendations for warranty purposes but also recharged in time to maintain their warranty. Failure to follow these requirements may result in battery replacement at the purchaser's expense. After an initial field recharge the next recharge date will be in 6 months. Eaton allows only 2 field recharges (Eaton batteries). Other battery manufacturers may limit the number of recharges on a case by case basis. Recharging require a dedicated 120V 15-Amp outlet. The 15A Circuit must have no other loads on it other than the charger. Please reference Eaton's Battery Application Note on Shelf Life & Recharging.

Taxes are not included in this quotation. Terms are Net 30. Pricing is good for 30 Days from quotation date.. Should this proposal result in a purchase order, please issue it to Eaton's Chicago address listed below. Return all attachments with this signed agreement & purchase order to katherine@genoapcm.com

Eaton Corporation

C/O Genoa PCM, LLC

29085 Network Place

Chicago IL 60673-1290

Regards,

Katherine Davis | Genoa PCM, LLC | 401-575-8048 | katherine@genoapcm.com

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Accepted By: Name: Title Date Purchase Order Number

EATON
Powering Business Worldwide

Eaton Corporation
Terms and Conditions of Sale

1) PRICES. All prices are firm for equipment ordered within thirty (30) days from date of quote, otherwise prices may escalate. Prices stated do not include installation, freight, and handling charges unless these items are specifically listed and priced. If Eaton Corporation ("Seller") is required to pay or collect any tax, excise, duty or levy, an additional charge will be made and paid by Purchaser unless Seller is furnished with a proper exemption certificate. Prices stated are F.O.B. factory (unless otherwise stated) and title and risk of loss to each article sold by Seller to Purchaser shall pass to Purchaser upon delivery at the F.O.B. point.

2) PAYMENT. Purchaser will be invoiced on date of shipment for all deliverable items of hardware, software, and services. Applicable taxes and/or freight charges will be billed as a separate line item. Payment of these invoices is due within thirty (30) days of the invoice date. Payment to Seller shall not be contingent on third party payments to Purchaser. Any payment not made when due shall be subject to an interest charge at the maximum rate permitted by law. Additionally, if any payment is not made when due, Seller reserves the right to refuse to provide any further services until such payment and the applicable interest charge have been received.

3) CANCELLATION/TERMINATION/CHANGE. Purchaser may not cancel or terminate its purchase order without prior written notice to Seller and upon payment of cancellation charges which shall take into account, among other things, expenses already incurred and commitments made by Seller. Cancellation charges are as follows: (a) for standard items, cancellation between 61-90 days prior to shipment, 25% of the total invoice; between 31-60 days prior to shipment, 50% of the total invoice; between 0-30 days prior to shipment, or after order has shipped, 100% of the total invoice; (b) 100% of total invoice on all custom aspects of an order; (c) 100% of the total invoice on all drop ship items (e.g. batteries, racks, MBPs, PDUs etc.). Changes made to an order may be subject to increase or decrease in purchase order amount, change order charges, and changes in schedule date.

4) SHIPMENT. Shipment estimates are after receipt of a purchase order at the factory. If drawings are required for approval before Seller is authorized to proceed with manufacture, then shipment estimates are after receipt of written approval to proceed. If Purchaser cannot accept delivery of equipment, it will arrange for storage. Seller shall not be liable or responsible for any damages or loss for delay or default in delivery due to any cause beyond Seller's reasonable control, nor shall Purchaser cancel or have the right to cancel its purchase order because of delays or default in delivery due to such causes.

5) LIMITED WARRANTY. Seller warrants the equipment purchased hereunder in accordance with the terms of the limited warranty applicable hereto ("Limited Warranty") and provided separately to Purchaser.

6) CONDITIONS OF SALE. The quote, Limited Warranty, and Seller's acknowledgement of Purchaser's order shall supersede all other documents and shall constitute the entire agreement between the Parties. No modification of this Agreement whether by Purchaser in its purchase order or otherwise, shall have effect or be binding upon Seller.

In the furnishing of equipment, warranty or any other services of any type, Seller assumes no responsibility for any damage or injury to any persons or property except for such damages or injury that may be held to result solely and directly from or out of the negligent acts, errors, omissions or willful misconduct by Seller, its agents or employees in the performance of its obligations under this Agreement. The remedies of Purchaser set forth in this Agreement are exclusive and are its sole remedies for any failure of Seller to comply with its obligations hereunder. Notwithstanding anything in this Agreement or otherwise to the contrary, in no event shall the Parties, or their respective officers, directors, employees or agents be liable to the other for damage to property or equipment, other than to those products sold hereunder, or any incidental, indirect, special or consequential damages, such as, but not limited to, delay damages, lost profits or revenue, lost data, loss of use or lost opportunity damages, resulting from or in connection with any claim or cause of action, whether brought in contract or in tort, even if the Parties knew or should have known of the possibility of such damages. The total cumulative liability of Seller arising from or related to this Agreement whether the claims are based in contract, in tort (including negligence or strict liability) or otherwise, shall not exceed the price of the product or services on which such liability is based. *THIS AGREEMENT AND LIMITED WARRANTY MUST BE INCLUDED IN ANY PURCHASE ORDER ISSUED BY PURCHASER, BY REFERENCE TO QUOTE NUMBER, IN ORDER FOR THE ORDER TO BE ACCEPTED BY SELLER AND FOR THE WARRANTY TO APPLY.*