



GENERAL TERMS AND CONDITIONS FOR DELIVERY

1. Scope

1.1 These terms and conditions shall be valid for all deliveries from West Marine A/S unless otherwise being distinctly agreed between the parties.

1.2 The terms and conditions for sale and delivery, thus, will be in force for sale of products as well as for repair and shipyard construction work.

1.3 When these terms and conditions use the word "deliveries", they will, consequently, also cover repair and shipyard construction work.

2. Product information and drawings, etc.

2.1 Information of products and price lists etc. are only binding to the extent that the agreement clearly refers to them.

3. Delivery

3.1 If a clause of delivery has been agreed it shall be interpreted in compliance with the INCO terms valid at the time of the buyer entering in to the agreement.

3.2 If no clause of delivery has been agreed, delivery will be "Ex Works"

4. Delays caused by West-Marine A/S

4.1 If West-Marine cannot deliver on time, West-Marine will inform the buyer in writing and state the reason for the delay as well as the expected time of delivery.

4.2 If the delay has been caused by force majeure or by conditions caused at the buyer's, the time of delivery is to be extended by the period of delay caused by the change of the situation.

4.3 If West-Marine has not delivered on time, the buyer is entitled to receive a penalty as from the day when delivery should have taken place.

4.4 The penalty will amount to 0.5% for each full week of the delay calculated as the part of the agreed purchasing sum (contractor's payment) covering the share of the delivery which cannot be taken in to proper use because of the delay.

The penalty cannot exceed 7.5% of any sum calculated based on this.

The buyer shall forfeit his right for a penalty if he has not stated his claim in writing within 2 weeks after the delivery should have taken place.

4.4 If the delivery has still not been effectuated, the buyer may demand delivery and state a last, reasonable deadline which cannot be shorter than 2 weeks.

If West-Marine A/S has not delivered within the deadline stated, the buyer may cancel the agreement concerning the part of the delivery which cannot be taken in to proper use as presumed.

If the buyer cancels the agreement, he is entitled to compensation only for the loss he has suffered by the delay caused by West-Marine A/S if his loss exceeds the maximum penalty that he can demand in accordance with section 4.3. This compensation cannot exceed 7.5% of the share of the agreed purchase price (contractor's payment) for which the agreement has been cancelled.

4.5 Except from penalty and cancellation with limited compensation in accordance to section 4.3 and 4.4 any claim from the buyer caused by a delay in delivery by West-Marine A/S is ruled out.

5. Delay caused by buyer (Claimants delay)

5.1 If the buyer should omit to receive the delivery on the date agreed, he is still committed to pay any cost due by the delivery as if the delivery in question had taken place. West-Marine A/S is to see to that the delivery is stored at the buyers cost and risk.

6. Payment

6.1 Unless otherwise stated the agreed purchase sum shall be paid in cash on delivery. Repair and shipyard work are, however, to be paid in accordance with an agreed plan for payment.

6.2 If the buyer does not pay at the agreed time, West-Marine A/S is entitled to receive interest on overdue payments as from the day of payment amounting to the at anytime valid official bank rate plus 9% p.a.

7. Reservation of ownership

7.1 The delivery will remain the property of West-Marine A/S until full payment has been received on the condition that such reservation of ownership is legally permitted. In addition to that, West-Marine A/S is permitted to withhold the delivery in accordance with general Danish statutory laws.

8. Responsibility for deficiencies

8.1 West-Marine A/S is obliged to rectify any deficiency caused by defects in construction, materials or production. Rectifying will consist of repairing or replacing the delivery in compliance with the statements of this section.

As to repair and shipyard work West-Marine A/S is obliged to remedy deficiencies caused by West-Marine A/S as stated in this section.

8.2 The responsibility of West-Marine A/S only covers deficiencies and defects identified within 6 months after the date of delivery. If the delivery is used in another way than anticipated, the period is shortened accordingly.

8.3 The buyer is to submit his claim without undue delay after the deficiency has been observed and under no circumstances later than the notice stated in sec. 8.2, as the right to submit a claim is forfeited after that period.

8.4 Upon a claim from a buyer West-Marine A/S is to rectify the deficiency without undue delay. West-Marine A/S shall carry the costs in this connection as stated in this section 8.

The repair is to be carried out at West-Marine A/S unless West-Marine A/S considers it more appropriate to let the repair carry out at the buyer's or elsewhere.

The obligations of West-Marine A/S are fulfilled when West-Marine A/S has delivered a properly repaired or replaced part / product to the buyer.

8.5 If it should turn out that no deficiencies are found being the responsibility of West-Marine A/S, West-Marine A/S is entitled to compensation for any work and costs resulting from the claim.

8.6 If a dismantling or mounting results in interference in other components than the delivery, the buyer shall bear the derived costs.

8.7 Any transportation in connection with a repair or replacement outside the borders of Denmark or at sea is at the discretion of the buyer, whereas expenses covering domestic transport are borne by West-Marine A/S.

The buyer is to comply with West-Marine A/S's instructions regarding ways of transportation.

8.8 Defective components replaced in accordance with sec. 8.1 are made available to West-Marine A/S as the properties of that company.

8.9 If West-Marine A/S does not within a reasonable time meet its obligations in accordance with section 8.4 the buyer may send West-Marine A/S a deadline in writing for meeting them. If the obligations have not been met within the expiry of the stated deadline, the buyer at his own choice may:

- a) have the necessary repairs carried out and/or have new components fabricated at the expense and risk of West-Marine A/S, provided their cost does not exceed 15% of the agreed purchase sum for the defective part of the delivery, or
- b) demand a proportionate reduction of max. 15% of the agreed purchase price of the defective part of the delivery.

Should the deficiency be significant, the buyer may cancel the agreement by writing so to West-Marine A/S. A cancellation entitles the buyer to compensation for his loss, however no more than 15% of the agreed purchase sum of the part of the delivery affected by the cancellation.

8.10 The responsibility of West-Marine A/S does not cover defects caused by the materials used for the delivery if they have been provided by the buyer, or caused by constructions prescribed or specified by the buyer.

8.11 The responsibility of West-Marine A/S covers only deficiencies occurred under the working conditions stated in the agreement and during correct use of the delivery.

The responsibility does not cover deficiencies caused by issues occurred after the risk has been transferred to the buyer. Responsibility, thus, does not cover deficiencies caused by lack of proper maintenance, incorrect mounting made by the buyer, changes made without the written consent of West-Marine A/S or repairs made in an incorrect way by the buyer. Finally, responsibility does not cover normal wear and depreciation.

8.12 West-Marine A/S takes no responsibility for deficiencies other than what is stated in sections 8.1 - 8.11. That goes, too, for any loss caused by the deficiency, including loss due to down-time, lost profit and other consequential economical losses.

8.13 As to repair and shipyard work compensation can never exceed the insurance coverage of West-Marine A/S's shipyard responsibility insurance regardless of the cause of the damage and of the amount of the claim for compensation.

8.14 As pr. 1/10 2009 insurance coverage amounts to the following:

Shipyard responsibility:

Injury to persons: DKK 10,000,000.-

Damage to objects: DKK 5,000,000.-

Professional and product responsibility: DKK 15,000,000.- per insurance year.

9. Product responsibility

9.1 Buyer shall indemnify West-Marine A/S to the extent that responsibility is placed on West-Marine A/S for such damage and loss for which West-Marine A/S holds no responsibility towards the buyer in accordance to sec. 9.2, 9.3 and 9.4.

9.2 West-Marine A/S's total responsibility for damage caused by the delivery:

- a) to premises or movables occurred while the delivery was in the possession of the buyer.
- b) to products, fabricated by the buyer or products in which such items are a part, or damage to premises or movables caused by such products because of the delivery.

is limited to the insurance coverage at any time held by West-Marine A/S.

9.3 In no case is West-Marine A/S responsible for damage caused in connection with the delivery being used in any other way or purpose as provided by West-Marine A/S.

9.4 Under no circumstances can West-Marine A/S be held responsible for loss due to down-time, lost profit or other consequential losses.

9.5 The limitations of West-Marine A/S's responsibility stated in sections 9.1 to 9.3 shall not apply if West-Marine A/S has been found guilty of gross neglect.

9.6 West-Marine A/S and the buyer are mutually obliged to accept being sued at a court processing claims submitted based on damage or loss presumed caused by the delivery. This mutual

disagreement between West-Marine A/S and buyer shall, however, always be settled by the venue stated in section 11.

10. Force majeure

10.1 The following conditions will result in freedom of responsibility if they prevent fulfilling the agreement or make a fulfilment unreasonable onerous:

Work conflict or any other circumstance of which the parties have no control like fire, war, mobilisation, confiscation, currency restrictions, rebellion, riot, lack of means of transportation, general shortage of goods, restrictions of energy, deficiencies of or delays of supplies from sub-contractors, hindrances of transportation, break-down of energy supply, statutory requirements, lack of workforce, accidents during fabrication, operational disturbances or any other cause which West-Marine A/S has not been able to counter by reasonable means.

10.2 The party wanting to claim freedom of responsibility for reasons stated in section 10.1 is obliged without hesitation to inform the other party.

10.3 Regardless of what is stated in these general terms and conditions any of the parties may cancel the agreement if its fulfilment is being hampered for more than 6 months due to one of the reasons stated in section 10.1.

11. Statute and venue

11.1 The parties agree that the agreement, the delivery and anything related hereto may be submitted to Danish law to have disagreements settled by the venue of West-Marine A/S being the Court of Esbjerg / Western Regional High Court.