



## POD Marine Limited – Conditions of Sale

- In the Conditions of Sale "the Company" means POD Marine Limited or any subsidiary thereof appropriate from time to time. The following shall apply to all orders accepted by the Company except insofar as they are varied by or inconsistent with special conditions imposed by the Company on any tender or order. No conditions imposed by the Buyer will be of any legal effect unless accepted in writing by the Company.
- We are a retail business and will only accept credit accounts from Pre authorised companies subject to credit approval. Invoices are payable in full immediately and prior to parts being ordered or service being carried out. Interest shall be charged on all overdue Accounts at the rate of 2% per annum above the base rate changeable from time to time by Bank of Ireland.
- So long as the Buyer has not effected full payment in respect of a contract with the Company for the purchase of the goods, the goods delivered shall rest at the purchaser's account and risk and shall remain the property of the Company, irrespective of whether they are processed or not. The Buyer shall not be entitled to pledge the said goods with third parties or to transfer the ownership thereof as in doing so he would be guilty of misappropriation and conversion. In the event the Buyer should not fulfill any obligation towards the Company, the said Company shall be entitled to take back the goods, without notice of default being required (irrespective of whether they are processed or not), in which event the contract of sale shall be annulled, without judicial intervention being required and without prejudice to the Company's right to demand payment of damages, loss of profit and interest.
- The Company reserves the right to refuse to accept any order if arrangements for payment or the Buyer's references are not satisfactory to the Company and any order accepted implies a warranty by the Purchaser that full payment for the goods will be made on the due date.
- No contractual obligation shall arise until the Company shall have accepted in writing an order from the Purchaser specifying the goods required. At any time up to such acceptance the Company shall be at liberty to amend or withdraw any quotation sent to the Purchaser. Acceptance of any order by the Company shall be conditional upon receipt of any official licence or permit or authorization of any kind which may be required by law or otherwise to authorize the purchase or sale of the goods or to obtain the supply of any controlled material. Accepted orders shall not otherwise be subject to cancellation without the written consent of the Company, which shall be indemnified by the Purchaser against any loss or damage thereby sustained.
  - If the Purchaser shall make any default in or commit any breach of any of his obligations to the Company or if any distress or execution shall be levied upon the Purchaser his property or assets or if the Purchaser shall make or offer to make any arrangement or composition with creditors or commit any act of bankruptcy or if any petition in bankruptcy shall be presented against him or if the Buyer shall be a Limited Company and any petition or resolution to wind up such company's business shall be presented or passed (otherwise than by way of reconstruction or amalgamation) or if a receiver of such company's undertaking, property or assets or any part thereof shall be appointed the Company shall have the right forthwith to terminate any order or contract then subsisting and upon written notice of such termination being posted by the Company to the Purchaser's last known address' email and the subsisting order shall be deemed to have been terminated without prejudice to any claim or right the Company might otherwise make or exercise.
  - If the customer shall fail to take delivery of the products within 14 days of being notified by the Company that it is ready for collection/delivery the Company shall be at liberty to treat the contract as rescinded by the Customer and thereupon any monies paid shall be forfeited and retained by the Company as and for liquidated damages without prejudice to any right of action the Company may have against the Customer.
- Quotations and Pro Forma invoices are based on charges for materials, transport and labour ruling on the date thereof. Any increases in these charges which becomes effective prior to or during the execution of the work up to the time of delivery shall be charged to the Buyer and such variation claims are payable as and when the goods referred to become due for payment whether such increase has been notified to the customer or not.
  - All quotations and Pro forma invoices shall be taken as stated in Euro unless otherwise stated.
  - All prices in respect of goods will be those ruling at date of quotation or delivery as appropriate.
  - All prices quoted are inclusive of VAT i.e statutory tax.
- Each part delivery or instalment of the goods shall entitle the Company to payment therefore as if the same were a full or complete delivery.
- All new products sold by the Company are sold subject to the manufacturer's standard form of warranty (if any) based on the following conditions:
  - The Buyer notifies the Company in writing of the services recommended by the manufacturer as advised by the Company in writing to the Customer on receipt of product. If the Buyer wishes to avail of the Company's services to claim or seek redress under the manufacturer's warranty then he must make a full report in writing to the Company within 7 days of his first becoming aware of any defect, damage or other loss the subject of the said warranty and give all relevant information including such as is required at (e) below.
  - The defective parts must immediately be made available to the Company for examination/report by manufacturers but the Company shall not be liable for any loss or damage to goods left by the customer on the Company's or third party premises for repairs or service or for any consequential loss or damage arising out of said loss or damage aforesaid or for any other losses. All such parts replaced shall become the property of the Company.
  - The warranty period is not extended owing to a standstill in the use of the product due to replacement examination or repair of the parts in question nor does the Company accept any claim for downtime within the warranty period or at any other time regardless of the circumstances and the Company is not responsible for any personal injury, material damage, direct or indirect expenses or loss of profit in connection with a warranty case or otherwise.
  - The product is correctly operated and maintained, no seals have been broken by an unauthorized person, the hour recorder has functioned continuously, only genuine manufacturers parts have been used and payment has been made according to agreement.
  - All new parts are sold subject to manufacturers warranty, if any, and in the event of any dispute as to the validity of any claim the decision of the manufacturers shall be final and binding. All claims must be sent to the Company and should show the following details: - date of purchase, invoice number, number of hours, chassis or engine number, date of installation and date when defect appeared.
  - The Company hereby excludes all conditions, warranties and representations from a contract with the Buyer other than such as are expressly give in accordance with these conditions and save and except such as may be implied by law and cannot legally be excluded.
- All used parts and equipment sold by the Company are completely at the Buyer's risk (caveat emptor) and they must satisfy themselves as to the state and condition of the said goods as seen and inspected as the Company gives no warranty in respect thereof. If the Company shall give any warranty the same shall be in writing and no warranty shall be in any way binding on the Company unless given in writing and signed by a duly authorized employee of the Company.
- The Company shall accept no liability for shortage of, or loss of, or damage to goods supplied unless notice of such is given in writing to the Company within seven working days from the date when the goods are collected or delivered, failing which all such claims shall be deemed to be waived and absolutely barred.
- The Company will use its best endeavours to deliver all goods at the date and within the time specified in the contract, if not. Delivery dates referred to by the Company are approximate only and not of contractual effect. Time and delivery is not of the essence of the contract unless expressly stated to be so in writing and accepted by the Company nor shall the Company be under any liability in respect of any delay in delivery for whatever reason.
- The Company reserves the right without thereby invalidating an order or contract to allow the introduction during the execution thereof of modifications and improvements to any of the goods in accordance with the latest engineering practice, without incurring any obligation to modify goods previously supplied. Modifications requested by the Purchaser will be subject to agreement in writing and to appropriate adjustments in price and delivery dates.
- The Company does not accept any liability for goods returned without its prior approval. All goods returned must be unused and in a saleable condition and be accompanied by the original invoice and be returned within five days of receipt. All such goods returned to our stock will be subject to a deduction of 10% re-handling charge. All service exchange goods must be returned within 7 days from issue of goods otherwise invoice price will remain in full and, in any event, if the goods so returned are beyond repair, invoice price will also remain in full.
- Unless otherwise agreed in writing any illustrations or descriptive material, including drawings, specifications of weight, capacity, performance, dimensions and consumption data are of a generally informative nature and approximate only and none of these shall form part of the contract or give rise to any liability whatsoever on the part of the Company.
  - All, if any statements, recommendations and advice given (whether before or after the contract) by the Company or the Company's servants or agents to the Buyer or its servants or agents as to any matter relating to the goods whether as to design, characteristics, suitability for a particular purpose, performance, application, use or otherwise however, are given without responsibility and give rise to no liability whatsoever except where given in writing by an authorized officer of the Company in response to a specific written request from the Buyer for advice before or at the time the contract is made.
  - Subject to the exception in condition 14(b) the Buyer is relying on its own skill and judgment in relation to the goods supplied under the contract and the Company, its servants or agents accepts no liability whatsoever for any knowledge they may possess as to the purpose for which the goods are supplied.
- The Buyer shall not be entitled to withhold payment of any amount payable under the contract to the Company because of any disputed claim of the Buyer nor shall the Buyer be entitled to set off against any amount payable under the contract to the Company any monies which are not presently payable by the Company for which the Company disputes liability.
- While every effort will be made by the Company to carry out any contract or order, the due performance thereof is subject to variation or cancellation owing to circumstances beyond our control (such as "Act of God", War, Strike, Lock-outs, Legislation, Fire, Flood, Drought, Severe Weather, Variation in the price of materials or inability to procure materials or any other cause beyond the control of the Company); this extends to loss or damage to vessels, gear, equipment or other property left with us for work or storage, and harm to persons entering our premises or using any of our facilities or equipment.
  - All items stored on our premises are done so completely at owners risk and adequate insurance should be in place to cover s appropriate risks.
  - Customers may themselves be liable for any loss or damage caused by them, their crew or their vessels and while their vessel or other property is on our premises or is being worked on by us they shall be obliged to maintain adequate insurance, including third party liability cover for not less than €2,500,000, and, where appropriate, Employers' Liability cover in respect of any employee. Customers shall be obliged to produce evidence of such insurance to us within 7 days of a request to do so.
- The Company accepts no responsibility for any consequential loss or damage arising out of any use by a customer of goods supplied by the Company. The customer is responsible for the adequate insurance of product(s) or goods which he has received on hire loan or on demonstration from the Company and for the payment of hire charges that may arise and shall be paid in accordance with Clause 2 above.
- The Buyer shall be totally responsible for up-keep and maintenance of product(s) complete as offered in part exchange until new product(s) has/have been delivered and the condition of same shall not be worse than that of date of inspection or as referred to in quotation. Compensation for such repairs as necessary under this clause shall be paid in accordance with Clause 2 above.
  - The Buyer confirms that he is passing on a clear title free of any financial obligations in respect of such product(s) complete or any goods offered in part exchange or in discharge of any monies due to the Company and indemnifies the Company for any claim made by a third party in respect of same.
  - Such product(s) complete as offered in part exchange is/are accepted by the Company on the basis that it/they have no latent or hidden defects not evident on reasonable inspection. If subsequently any such hidden or latent defects are discovered the Customer shall pay the cost of repairing same. If the Company is of the opinion that such defects cannot be remedied without deterioration in the value of the used product(s) complete it shall return to the Customer the used product(s) complete and the Customer shall pay to the Company an amount equal to the full allowance given to the Customer in respect of such used product(s) complete. Such hidden or latent defects apply mainly to cracked, broken or damaged chassis frames, cracked cylinder blocks or cylinder heads or other vital parts of the product(s) complete not easily seen on inspection and to all subterfuge or deliberate concealments effected on the used product(s) complete.
- No order, contract, requisition, undertaking, offer, quotation, Pro forma invoice or any variation thereof shall be binding on the Company unless made in writing and signed by an authorized employee of the Company.
- If the Buyer does not accept all of the terms of these Conditions as being reasonable, it should raise the matter with the Company before finalizing the Contract/ paying the pro forma invoice.
- These conditions shall be construed in conformity with the laws of the Republic of Ireland and/or Northern Ireland and any contract formed on the basis of or with reference to these conditions shall be subject to the jurisdiction of the Courts of the Republic of Ireland and/or Northern Ireland but the law of the contract will be of the place where the contract was made.
- The Buyer shall be responsible for ensuring that everything is avoided which could jeopardize the independence of employees of the Company. This applies, in particular, to offers of employment and to offers to undertake orders on own account.
- No relaxation forbearance delay or indulgence by the Company in enforcing any of these conditions or the granting of time by the Company to the Purchaser shall prejudice affect or restrict the rights and powers of the Company hereunder nor shall any waiver of any breach of these conditions operate as a waiver of any subsequent or any continuing breach thereof.
- The word Purchaser and Buyer as used in these conditions includes all persons who buy goods directly from the Company as well as those who buy, hire, lease or otherwise acquire goods from the Company whether directly or through a Hire Purchase Company, Leasing Company, Bank or other such financial institution even if the legal ownership of the said goods passes for the meantime to the said Hire Purchase Company, Leasing Company, Bank or other financial institution.
- We reserve the right to move any vessel, gear, equipment or other property at any time for reasons of safety, security or good management of our business and premises
- We reserve the right to subcontract all or part of the work. All rights and conditions remain in place. When this right is exercised, we remain responsible to the customer for the performance of our subcontracting.