

## JBT Marine Terms of Business

### 1. Conditions applicable

1.1 These conditions shall apply to all contracts for the sale of Goods by the Seller to the Buyer to the exclusion of all other terms and conditions including any terms and conditions which the Buyer may purport to apply under any purchase order, confirmation of order or any similar document.

1.2 These conditions shall apply to Goods left with the Seller for evaluation for quotation.

1.3 All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these Conditions. Confirmation of order by the Seller shall be deemed to be acceptance by the Seller.

1.4 Acceptance of Delivery of the Goods shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions as will the Buyer's signature on any order form.

1.5 Any variations to these Conditions (including special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Seller.

### 2. Payment

2.1 The Price shall be the Seller's quoted price which shall be binding on the Seller provided that the Buyer shall accept the Seller's quotation. The Seller may by giving notice to the Buyer at any time up to 7 days before delivery increase the Price to reflect any increase in cost to the Seller which is due to factors occurring after the making of the contract of sale which are beyond the reasonable control of the Seller (including, without limitation, foreign exchange fluctuations, tax and duties and the cost of labour, materials and other manufacturing costs), provided that the Buyer may cancel this contract within 7 days (the "Cancellation Period") of any such notice from the Seller.

2.2 In the event of cancellation by the Buyer after the Cancellation Period the Buyer will bear the cost of any loss suffered by the Seller whether in respect of any special work carried out or whether in the respect of the cost of nonstandard parts acquired by the Seller at the Buyer's request or any shortfall in the Price on the re-sale of the Goods.

### 3. The Goods

The description of the Goods shall be as set out by the Seller.

### 4. Warranties and Liability

The Seller warrants that:-

4.1 The Goods at the time of delivery correspond to the description given by the Seller.

4.2 The time quoted for completion of any order or contract shall become operative from the date of acceptance by the Seller or upon receipt by the Seller of all necessary information from the Buyer whichever is the later. The Seller will use its best endeavours to adhere to the delivery date.

### 5. Delivery of Goods

5.1 The Goods shall be delivered to the Buyer at Seller's address.

5.2 If the Buyer shall request it, the Seller shall arrange for the carriage of the Goods to the Buyer's address. The cost of the carriage and any insurance which the Buyer reasonably directs the Seller to place shall be reimbursed by the Buyer without any set off or other withholding whatever and shall be due on the date of payment of the Price. The carrier shall be deemed to be the Buyer's agent.

### 6. Acceptance of the Goods

6.1 The Buyer shall be deemed to have accepted Goods upon delivery to the Buyer.

6.2 If the Buyer wishes to make a claim against the Seller in respect of the Goods then written notice of such claim must be given to the Seller within 3 days of the Delivery Date.

6.3 If the Seller agrees to accept any Goods for return the Buyer shall be liable to pay a handling charge of 10% of the invoice. The Goods must be returned by the Buyer, carriage paid, to the Seller in their original packing.

6.4 Goods returned without the prior written approval of the Seller may at the Seller's absolute discretion be returned to the Buyer or stored at the Buyer's cost without prejudice to any rights or remedies the Seller may have.

6.5 All Goods must be examined before acceptance by the Buyer. If Goods are delivered by carriers and they are subsequently found to be damaged upon delivery a claim in respect thereof must be made by the Buyer to the carrier immediately.

### 7. Title and Risk

7.1 Where the Seller agrees to despatch the Goods the method of packing and despatch of the Goods shall be at the Seller's discretion.

7.2 Where the Seller agrees to despatch them the Goods shall be despatched at the Buyer's risk except where the Goods are repaired or replaced under any guarantee or warranty at the Buyer's expense.

7.3 Where the Buyer's engines and equipment are handled and/or operated by the Seller's employees or where the installation of the Buyer's engines and equipment is included in the work carried out by the Seller then the Seller does not accept responsibility for any loss or damage to such engines and equipment nor for any consequential damage arising therefrom unless such loss or damage is caused by the Seller's negligence or the negligence of those for whom it is responsible.

7.4 The Goods shall be at the Buyer's risk as from delivery.

7.5 Title in the Goods shall pass from the Seller to the Buyer upon payment of Price in full or on delivery whichever occurs last. If delivery takes place before the Buyer has paid the Price and all other sums due to the Seller, then the provisions of Clause 8.5 shall apply.

7.6 Until title in the Goods passes to the Buyer in accordance with clause 7.5 the Buyer shall hold the Goods and each of them on a fiduciary basis as bailee for the Seller.

7.7 Notwithstanding that the Goods (or any of them) remain in the property of the Seller the Buyer may sell or use the Goods in the ordinary course of the Buyer's business at full market value for the account of the Seller. Any such sale or dealing shall be a sale or use of the Seller's property by the Buyer on the Buyer's own behalf and the Buyer shall deal as principal when making such sales or dealings. Until title in the Goods passes from the Seller the entire proceeds of the sale or otherwise of the Goods shall be held in a separate account and to the order of the Seller and shall not be mixed with other money or paid into any overdrawn bank account and shall be at all material times identified as the Seller's money.

7.8 Until such time as title in the Goods passes from the Seller the Buyer shall upon demand deliver up the Goods in the Buyer's possession or control to the Seller. If the Buyer fails to do so the Seller may enter upon any premises owned, occupied, or controlled by the Buyer where the Goods are situated and repossess the Goods.

7.9 The Buyer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods which are the property of the Seller. Without prejudice to the other rights of the Seller, if the Buyer breaches this obligation all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.

7.10 The Buyer shall insure and keep insured the Goods to the full Price against "all risks" to the reasonable satisfaction of the Seller until the date that title in the Goods passes from the Seller, and shall whenever requested by the Seller produce a policy of the copy of insurance. Without prejudice to the other rights of the Seller, if the Buyer fails to do this all sums owing by the Buyer to the Seller shall forthwith become due and payable.

### 8. Remedies/Limitations of Liability

8.1 All representations, warranties, conditions or terms relating to fitness for purpose, condition or quality of Goods offered by the Seller whether express or implied by statute or common law are excluded to the fullest extent permitted by law and the Seller will have no liability to the Buyer for the consequences of any negligence or breach of statutory or other duty or failure to perform the contract.

8.2 Nothing in this agreement will restrict or exclude liability for death or personal injury caused by the negligence of the Seller.

8.3 The Seller's liability to the Buyer whether for any breach of contract, negligence or otherwise will not in any event exceed the total payment to be made by the Buyer to the Seller under this agreement.

8.4 In no event will the Seller be under any liability whatever to the Buyer for any loss of profit, business, contracts, revenues or anticipated savings or for any indirect or consequential loss and/or expense (whatever the cause including negligence) suffered by the Buyer.

8.5 If the Buyer fails to pay the Price in accordance with this Contract or commits any other breach of this Contract all sums outstanding in respect of the Goods shall become payable immediately and the Seller may forthwith sell the Goods at such a Price as it in its discretion thinks fit and it may retain from the proceeds of sale an amount sufficient to defray the cost of supply, repair and/or replacement and storage expenses incurred in attempting to trace the Buyer and in arranging the sale of Goods. Any deficiency shall forthwith be made up by the Buyer.

8.6 The Buyer may not withhold payment of any invoice or any other amount due to the Seller by any set off or counterclaim which the Buyer may have or alleges he has for any reason whatever.

8.7 The Seller shall be entitled to a general lien upon all Goods of the Buyer until such time as any monies due from the Buyer to the Seller under this or any other contract shall be paid.

### 9. Warranty

Unless otherwise specifically agreed in writing, the Seller accepts no responsibility and gives no warranty whatsoever in respect of the Goods supplied.

### 10. Force Majeure

The Seller shall not be liable for any default due to any Act of God, war, strike, lock out, industrial action, fire, flood, drought, tempest or any other event beyond the reasonable control of the Seller.

### 11. Severance

Any provision of this Contract which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provision of this Contract.

### 12. Waiver

No waiver or forbearance by the Seller (whether express or implied) in enforcing any of its rights under this Contract shall prejudice its right to do so in the future.

### 13. Sub-contracting

The Seller may licence or sub-contract all or any part of its rights and obligations under this Contract without the Buyer's consent.

### 14. Law and Jurisdiction

This contract is subject to the law of England and Wales.

### 15. Headings

All headings are for ease of reference only and shall not affect the construction of this Contract. Words denoting one singular include the plural and vice versa, words denoting any one gender include all gender words denoting persons including corporations and vice versa.

### 16. Warrant of Authority

The person entering into this agreement on behalf of the Buyer, where the Buyer is a Company, warrants that he or she has authority to enter into this agreement on behalf of the Buyer and indemnifies the Seller accordingly.

### 17. Insolvency / Breach of Contract

If any of the following events occur, are threatened or in the opinion of the Seller are reasonably likely to occur:

- The Buyer shall commit any breach of the Conditions and shall fail to remedy (if capable of remedy) within 30 days of the Supplier requesting such breach to be remedied.
- Any distress or execution is levied upon any of the Goods or property of the Buyer;
- The Buyer (or where the Buyer is a partnership any partner thereof) offers to make any arrangements with or for the benefit of its or his creditors or a petition is presented or an order is made for the Buyer to become bankrupt;
- The Buyer (being a limited company) has an administrative receiver appointed or a petition or order is made for the winding up of the Buyer; the Seller shall be entitled to suspend performance of the Contract until the default has been rectified or determine the Contract