

## **Conditions of Sale and Delivery: More Marine B.V. (version 2016)**

### **1. Definitions**

**More Marine:** The user of these conditions of sale and delivery, being More Marine B.V, with its registered office in Ter Aar and its place of business at (2451 VW) Leimuiden aan de Waaier 44, and listed in the trade register of the Chamber of Commerce under 28096381.

**Buyer:** The customer of More Marine, being the business/natural person that requests a quotation from More Marine and/or buys and receives Products from More Marine.

**Products:** Goods sold and delivered to the customer by More Marine, including, but not limited to, certified products that are intended to provide personal safety primarily in water sports, yachting & shipbuilding, such as security rail systems when working at heights and beyond the normal guard-rails.

**Conditions:** These general conditions of sale and delivery, deposited on 20 October 2014 at the Chamber of Commerce in Rijnland.

### **2. Application and amendment of Conditions**

1. These Conditions apply to all quotations and acceptances by More Marine as well as to all agreements ('Agreements') between More Marine and the Buyer, unless otherwise and specifically agreed in writing. The application of any other general conditions is expressly excluded.
2. More Marine is authorised to amend these Conditions. These amendments take effect at the time stipulated for their operation to commence. If no commencement date is announced, the amendments enter into effect for the Buyer as soon as the Buyer has been informed of the amendment.
3. If any provision of these Conditions is rendered null and void or annulled, the remaining provisions of these general Conditions will remain entirely effective and More Marine and the Buyer will consult each other in order to agree new provisions to replace the null and void and/or annulled provisions, where, insofar as possible, the aim and the scope of the null and void or annulled provision(s) are observed.

### **3. Realisation of the Agreement**

An Agreement is deemed to have been concluded, also in the case of intermediaries (representatives) working on behalf of More Marine, with the Buyer as soon as the Buyer has submitted the desired payment security - in whatever form that takes - and all the documents required to conclude the Agreement.

### **4. Delivery, delivery period and suspension**

1. Unless otherwise agreed, deliveries of Products and components of Products are delivered ex warehouse, which is defined as the place from which deliveries are made by or on behalf of More Marine.
2. The expense and risk of the Products are transferred to the Buyer at the moment of delivery.
3. Delivery terms are determined on the basis of individual orders. Delivery terms commence at the moment the order has been confirmed by More Marine in accordance with Clause 3.

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4. More Marine will observe the delivery terms to the best of its ability. However, delays in delivery, for whatever reason, does not give the Buyer the right to cancel the order and/or dissolve the Agreement and/or claim for damages.

5. More Marine is authorised to suspend or cancel an order placed by the Buyer without any liability on its part if the Buyer fails to pay one or more (earlier) invoices issued by More Marine, as defined in Clause 12 of these Conditions.

## **5. Packing and shipping**

1. Products will be packed in a manner determined by More Marine or shipped unpacked.

2. In order to cover freight/postage and packing costs, the shipments listed below are subject to the following standard charges: €8.95 for shipments of less than €200 net, excluding VAT; €23 for all cash on delivery shipments; cost price for all express shipments; €11.50 for shipments to Belgium if the order is less than €200; the actual cost of the shipping agent for other domestic and international export shipments. For oversize shipments (longer than 2 metres), we are obliged to charge €11 per metre of the package length for shipping within the Netherlands. A quotation will be made for oversize shipments with international destinations.

3. Waybills (consignment notes) do not have to be signed by the recipient (consignee) for shortages of delivery or damaged shipments. The loss or damage of one or more packages must be clearly stated on the waybill, and a signature must be given only for the quantity of packages received. This enables More Marine to claim on the carrier's insurance. If the waybill is not signed as described above, the loss must be borne by the recipient, that is to say the Buyer.

## **6. Specifications**

1. Images and descriptions of Products are as close to reality as possible. However, deviations are expressly reserved.

2. All information provided by More Marine in quotations and/or orally, more specifically information concerning expected dimensions, strength and particularly the above-mentioned safety work and breaking loads, is non-binding and indicative only, and is subject to confirmation by the Buyer. More Marine does not accept any liability in respect of the supplied information. More Marine is excluded from any liability in the event of an emergency arising or damage suffered by the Buyer and/or (indirect) third parties.

3. More Marine is not obliged to supply operating manuals and/or add assembly regulations with the supplied goods. It is presumed that the Buyer is already aware of, or will become acquainted with, the appropriate use and applications of the supplied goods as well as the proper way to install the supplied goods.

## **7. Buyer's purchasing obligations**

1. The Buyer is obliged to take possession of the Products at the agreed time or within the agreed period.

2. If the Buyer does not take possession of the Products, More Marine is entitled to sell and/or retain the Products in question at the Buyer's expense and risk. Additionally, More Marine is entitled to dissolve the Agreement without legal intervention. The Buyer is also obliged to reimburse any expenses incurred by More Marine.

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## **8. Return shipments**

1. The return of Products is not permitted, except in the case of a defect, as defined in Clause 15.1 of these Conditions.
2. Notwithstanding the provisions in the previous paragraph, Products that have been incorrectly delivered for reasons outside the control of More Marine can, after consultation, be taken back by More Marine. In such an event, a 10% credit note will be deducted for costs incurred.

## **9. Prices**

All prices listed in the More Marine price list are recommended sale prices in euros, excluding and including VAT. Prices given verbally are not binding. More Marine retains the right to change the prices.

## **10. Payment**

1. Unless otherwise agreed, payments are made in euros, in the manner indicated by More Marine and within 14 days of the invoice date, or in cash. The Buyer is not entitled to deductions or set-off/allocations.
2. Part-deliveries may be invoiced separately.
3. Payment obligations are not suspended in the case of promotions, guarantees or approved returns.
4. If More Marine has reason to doubt the Buyer's ability to pay, More Marine is authorised to suspend delivery of Products until the Buyer can guarantee payment. The Buyer is responsible for any loss suffered by More Marine as a result of postponed deliveries.

## **11. Security**

If More Marine considers it necessary, for example in the event it receives unfavourable reports concerning the Buyer's financial position, More Marine is entitled at all times to request payment in advance, cash payment or payment security (e.g. by means of a bank guarantee). This can be requested even after the order has already been confirmed. If the Buyer does not satisfy that requirement within the prescribed time, More Marine is entitled to dissolve the Agreement without legal intervention and without obligation to compensation for damages.

## **12. Non-fulfilment of payment obligations**

1. If payment is not made on time, the Buyer is considered to be in default, as defined in Article 6:83, under a), of the Dutch Civil Code. Therefore, no further notice of default is required. The Buyer will be subject to commercial interest from the due date of the invoice up to and including the day of full payment.
2. All costs, therefore judicial and extrajudicial costs, incurred by More Marine as a result of late payment by the Buyer, including the fees of third parties engaged by More Marine for recovering the debt, are at the Buyer's expense.

## **13. Retention of title and risk**

1. Products supplied by More Marine remain the property of More Marine until all claims, for whatever reason, against the Buyer have been met by the Buyer, including collection costs and interest.

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2. The Buyer is not entitled to issue or transfer the title of Products, even after preparation and processing, to a third party before ownership has been transferred to the Buyer, except where the issue or transfer takes place in the normal course of carrying out the Buyer's business activities.
3. The Buyer is obliged at the first request of More Marine to (i) insure and keep insured Products delivered under retention of title against fire, explosions, water damage and theft and to provide the insurance policy immediately for inspection and (ii) identify the Products delivered under retention of title as the property of More Marine and to provide photographs, or other evidence, of the exact location of the Products.
4. The Buyer should also inform More Marine as soon as it known that a third party intends to establish some right to the Products supplied under retention of title.
5. If the Buyer is in default with regard to the performances as defined in paragraph 1, More Marine is entitled to retrieve the Products that belong to it from the place they are located. More Marine will be entitled to unhindered access to Products delivered or yet to be delivered. The Buyer will give all cooperation to More Marine in order to provide More Marine the opportunity to execute the retention of title, pursuant to paragraph 1, by taking back Products delivered or yet to be delivered, including disassembly where necessary at the Buyer's expenses.

#### **14. Guarantee**

1. More Marine is a retailer of certified and uncertified (European) Products. More Marine guarantees the quality of Products sold and delivered to the Buyer in accordance with the guarantee provisions applied by the supplier ('Manufacturer'). Product information and guarantee provisions related to the Product are provided by More Marine, insofar as they exist, upon the Buyer's request.
2. All claims and guarantees, as defined in paragraph 1, lapse if the Products are not stored and/or used by the Buyer in the appropriate manner or in accordance with the instructions accompanying the Products, insofar as they exist.
3. If the Buyer fails to comply, or does not comply fully or in a timely manner, with any obligation arising from the Agreement with More Marine or with a related Agreement, More Marine is not bound to any guarantee - however named - in these Agreements.
4. If the Buyer resorts to carrying out repairs or other work on the Products without advance written approval of More Marine, all claims will lapse in respect of the guarantee. No guarantee is given with respect to inspections carried out by or on the instructions of More Marine, including advice and similar activities.

#### **15. Liability**

1. The liability of More Marine is restricted to replacing the delivered Product and/or recalling the Product, but only after More Marine has established that the Product is non-compliant/defective. The costs of transport, travel and lodging, installation and removal and any consequential damage is excluded. More Marine is free to decide whether to replace or recall the Product. In the case of recalling the Product, the selling price is repaid.
2. Repairs during the Product's guarantee period do not extend the guarantee period.
3. More Marine is not responsible for any damage, in whatever form and whether direct or indirect, that is or could be the consequence of improperly using the Product, that is to say the Product was used for a purpose other than that for which it is intended.

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4. If the Buyer wishes to use a certain Product for a purpose different to the one intended, as defined in paragraph 3, it will be entirely at the Buyer's expense and risk. The Buyer is, therefore, entirely responsible for (among others things) evaluating (by means of obtaining professional technical advice) whether the Product is suitable for the intended improper use. In such cases, More Marine will not supply any advice, technical or otherwise, as to whether the Product is suitable for such improper use, and the Buyer cannot and may not attach any value to the comments of employees of More Marine in answering questions relating to the above-mentioned context.

5. If the Buyer, having judged that a Product is suitable for the improper use intended by the Buyer, pursuant to paragraph 4, engages More Marine to adapt the Product in accordance with the Buyer's wishes, the Buyer must first issue clear, specific, technical and/or assembly instructions to More Marine. More Marine is not liable for any direct or indirect damage as a result of the Buyer's improper constructions.

## **16. Claims**

1. Upon receipt, the Buyer is obliged to inspect the Product immediately for any defects.
2. Claims must be submitted in writing to More Marine no later than 8 days after delivery. Failure to do so indicates that the Buyer has accepted the delivered Product.

## **17. Force majeure**

In the event of circumstances beyond More Marine's control, pursuant to Article 6:75 of the Dutch Civil Code, the implementation of the Agreement is suspended for as long as the force majeure situation makes performance by More Marine impossible, this without prejudice to the right of More Marine to dissolve the Agreement without legal intervention, in which case the Buyer is obliged only to pay reasonable compensation for work already performed.

## **18. Dissolution**

1. Notwithstanding the provisions in Clause 11 of these Conditions, the Agreement is dissolved legally and without legal intervention by means of a written declaration by More Marine if the Buyer is declared bankrupt, applies for provisional suspension of payments, whether by attachment (garnishment) or under guardianship order or otherwise loses the authority to dispose of its assets or part thereof.
2. In the event of dissolution, pursuant to the previous paragraph, any outstanding claims on both sides are immediately due and payable. The Buyer is responsible for any loss suffered by More Marine, including incurred costs and loss of profits.

## **19. Applicable rights and choice of forum**

1. All concluded Agreements based on these Conditions and all further Agreements that arise therefrom are governed by Dutch law.
2. All disputes that may arise as a result of these Conditions and any related Agreements will be settled by a competent civil judge of the court in The Hague.

## **20. Prevailing language**

Whenever these Conditions are supplied in a language other than the Dutch language, the Dutch version of these Conditions will be decisive in the event of doubt or difference of interpretation. [Click here to view the Dutch version.](#)