

# TERMS AND CONDITIONS OF SALE

**DEFINITIONS:** In these Terms and Conditions 'Company' means Teignbridge Propellers International Ltd. 'Buyer' means the person, firm or company purchasing the Products and/or Consultancy Services. 'Goods' means the Products and Consultancy Services which are the subject of the contract between the Company and Buyer. 'Contract' means any contract between the Company and the Buyer of which these Terms and Conditions form a part.

**1. CONDITIONS OF SALE:** Unless otherwise agreed in writing by the Company, all sales of Products and/or Consultancy Services shall be subject to these Terms and Conditions and these Terms and Conditions shall be the sole terms and conditions of any transaction between the Company and the Buyer. Any Terms and Conditions printed on Buyer's purchase order or related documents shall not be applicable if in conflict with these Terms and Conditions. By purchasing Goods from the Company, the Buyer will be considered as having accepted these Terms and Conditions of Sale.

**2. DESIGN:** As standard, the Company provides a free-of-charge 'Product Design Service'. Consultancy Services including additional design work will be provided in instances where this is requested by the Buyer, a fee will normally apply to this service.

Because predictions and recommendations are often based on incomplete information, and/or assumptions and factors outside the control of the Company, the Company cannot guarantee the performance of proposed designs whether provided under a free-of-charge or a Consultancy Services arrangement.

Occasionally a particular vessel hull and stern-gear configuration can cause a propeller to resonate, a phenomenon known as "Singing". This "Singing" condition is outside of the control of the Company. If "Singing" occurs, the Company does not accept any liability, but can add or remove an "anti-singing" edge to the propeller blades to reduce or eliminate "Singing".

Occasionally a particular vessel hull and stern-gear configuration can cause flow around a part of sterngear assembly (including, but not limited to the propeller) to "Cavitate" ("Cavitation") leading to noise emission and/or erosion of the propeller material.

The Company shall not be liable to pay any costs or damages relating to propeller Singing or Cavitation of any part of the stern gear whatsoever, including vessel lifting charges or consequential losses resulting from incorrectly designed components whether provided under a free-of-charge Product Design Service or a Consultancy Services arrangement.

If the Goods are to be manufactured or any process is to be applied to the Goods by the Company in accordance with a design or specification submitted by the Buyer, the Buyer shall indemnify the Company against all loss, damages, costs and expenses awarded against or incurred by the Company in connection with or paid or agreed to be paid by the Company in settlement of any claim or infringement of any patent, copyright, design, trademarks or other industrial or intellectual property rights of any other person which results from the Company's use of the Buyer's specification. Any drawings, tooling or patterns produced for a Buyer's contract shall remain the property of the Company even if such items are part paid by the Buyer.

The Company will send the buyer a 'Sales Order Acknowledgement' and the Company may send the Buyer drawings or technical information relating to the Goods. The Buyer is responsible for inspecting the supplied description and details of the Goods to ensure compliance with the specifications required.

**3. PASSAGE OF PROPERTY:** Title in the Goods shall not pass to the Buyer until the Buyer has effected full payment for the Goods and there are no other outstanding amounts in respect of other goods supplied by the Company. In the event of the Purchaser's insolvency or threatened insolvency the Company may without prejudice to any of its other rights repossess Goods at Buyer's expense and Buyer hereby grants the Company right of entry upon Buyer's premises for such purpose. Proceeds from the sale of Goods or any insurance monies received for Goods shall belong to the Company to the extent of all sums due to the Company in respect thereof and must be held for the Company's account in separate account. The Company reserves the right by giving written notice to the Buyer to pass title in Goods to Buyer at any time after delivery of Goods.

**4. RISK:** Risk of damage to or loss of the goods shall pass to the Buyer at the time of delivery or at the time of collection of the Goods. The Buyer shall keep the goods insured to the value of the goods until title of the Goods passes to the Buyer.

Shipment must be inspected by the Buyer and written notification of any damage or shortage made to the carrier and Company within 14 days after receipt. Delivery Notes must record any visible damage to the Goods or packaging.

**5. DELIVERY:** Delivery dates mentioned in any quotation, order or document are approximate only and the Company shall not be liable for any delays in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless specifically previously agreed by the Company in writing. Where any delay in delivery or failure to manufacture or deliver amounts to a breach of contract, the Company shall be liable to pay damages only in respect of loss which was expressly contemplated by both parties when the contract was made as a probable result of such a breach and the Company shall not be liable to pay any damages whatsoever in respect of consequential loss (which terms shall include but not be limited to loss of profits).

**6. PAYMENT OF CREDIT:** Terms of payment are as agreed with the Company and the Company's obligation to deliver Goods shall be subject to such terms. Time of payment is of the essence. If at any time the financial condition of the Buyer so warrants in the opinion of the Company or if the Buyer fails to meet the Company's credit requirements, the Company may alter or suspend credit and/or delay delivery until when due the Company may charge interest at the rate of two per cent (2%) per month on the balance outstanding on a daily basis until payment is made in full and/or delay or suspend deliveries to stop production, reject orders or cancel any Contract without liability. If the Buyer becomes insolvent the Company may cancel any Contract. All of the Company's rights and remedies set forth in these Terms and Conditions are cumulative and the exercise of one shall not prejudice the exercise of another, nor prejudice the Company's rights to recover damages arising out of any breach by the Buyer.

**7. DEFECTS:** The Buyer shall inspect the products after they come into the Buyer's possession and any defect shall be notified to the Company without delay and the Company shall be given a reasonable opportunity to remedy the defect or replace the goods and the Company shall not be liable for any consequential loss arising from the use of the defective product.

**8. EXCLUSION and Limitation of Liability: IMPORTANT:** Because the potential losses which the Buyer might suffer as a result of any breach of Contract by the Company are more readily ascertainable by the Buyer and because such losses could be wholly disproportionate to the Contract and so that the Company can keep the Contract price as low as reasonably possible the parties agree that the Company limits its liability in accordance with the following provisions. Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Company in accordance with these Terms, the Company shall be entitled to replace the Goods (or the part in question) free of charge or, at the Company's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Company shall have no further liability to the Buyer for consequential costs..

**9. INDEMNITY:** Consumer Protection Act 1987 Where the Company incurs any liability, whether by court proceedings or by a bona fide out-of-court settlement or by arbitration, as a result of a claim against the Company under Part 1 of the Consumer Protection Act 1987 in respect of an alleged defect in the Goods, then the Buyer shall indemnify the Company against the liability.

**10. WARRANTY** Subject to the conditions set out below the Company warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of 12 months from the date of delivery. The above warranty is given by the Company subject to the following conditions:-

- a) The Company shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;
- b) The Company shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company's instructions (whether oral or in writing) misuse or alteration or repair of the Goods without the Company's approval;
- c) The Company shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment;
- d) The above warranty does not extend to parts, materials or equipment not manufactured by the Company, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Company.

**The Courts of England shall have exclusive jurisdiction to hear all disputes arising out of these.**