



WEESGAARD MECHANICAL SUPPORT - GENERAL TERMS AND CONDITIONS

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1. Application

1.1 These General Terms and Conditions apply to all deliveries from Weesgaard Mechanical Support (“WMS”) and are therefore binding on all deliveries between the Parties. Hence, they supersede all agreements and customs inconsistent with the General Terms and Conditions, including any terms and conditions drafted and submitted by the Customer, unless otherwise provided by the order confirmation submitted by WMS.

2. Formation

2.1 Not until the submission of an order confirmation, at the earliest, is WMS bound by the statements issued by WMS, howsoever designated. WMS is entitled to withdraw any such statements until the order confirmation has been communicated to the Customer.

2.2 If the Customer considers the order confirmation issued by WMS to be different from the Customer’s order, implying changes that the Customer is not willing to accept, the Customer shall notify WMS that the Customer will not accept such changes. If so, the Customer’s notice must be given to WMS within 3 days, as the Customer will otherwise be bound by WMS’ order confirmation, which will be taken into account in the evaluation of proper performance of the contract.

3. Authority

3.1 No independent person or company, such as an agent, a representative or a broker, is authorised to bind WMS without a written agreement to that effect.

4. Prices

4.1 Unless otherwise agreed, all prices are quoted exclusive of VAT, customs duties, carriage, costs of delivery and public duties.

4.2 WMS reserves the right to adjust the prices in so far as WMS can substantiate an increase in wages and salaries, prices of materials, public duties, or any other costs.

4.3 Further, WMS reserves the right to demand extra payment for extra work required as a consequence of the Customer’s request for corrections or changes in the repair work performed by

WMS after the work has been commenced by WMS, or required because the Customer's conduct in other respects prevents the agreement from being performed in a continuous process.

4.4 Likewise, the price is based on the current exchange rates in force at the placing of the order. Thus, WMS reserves the right to adjust the price accordingly in case of fluctuations in rates prior to the payment.

5. Terms of delivery

5.1 Delivery will be made at the place and time agreed with the Customer, however, subject to delays or hindrances due to the conditions of any sub suppliers, force majeure events beyond the parties' control, or deviances from any agreed plan of delivery. In the absence of an agreed time and/or place of delivery, delivery will be made at the time and place determined by WMS.

5.2 In case of delay in delivery, WMS undertakes to notify the Customer accordingly. A delay of more than two days entitles the Customer to an agreed penalty of 1% of the estimated price for each full week of delay, however, no more than 20% of the contract sum. In other respects, the Customer has no other remedies in case of delay, nor any possibility of advancing a claim for compensation due to any operating loss, loss of profits, or any other indirect loss or consequential damage.

5.3 Should the Customer fail to take delivery at the date of delivery, or should he be in breach of his duty of collection of spare parts to be serviced and repaired by WMS at its own engineering shop, WMS is entitled to terminate the agreement and claim compensation. Further, WMS is entitled upon 10 days' prior notice to sell off or store any uncollected spare parts on the Customer's account. Any storing will be for the Customer's own account and risk.

5.4 Any spare parts delivered may only be returned subject to previous written arrangement, and, if so, for the Customer's account. Pallets, boxes, cases, or other containers debited separately will not be credited.

- 5.5 Should the parties agree on any changes or additional work during the process of the repair work, the time of delivery will be extended, or date of delivery be postponed, respectively, by the time used for preparing and carrying out any such changes or additional work.
- 5.6 Any shipment to WMS of items for repair or handling or processing of any kind will be for the Customer's own account and risk, unless otherwise agreed.
- 5.7 If items referred to in clause 5.6 are not repairable (in WMS's opinion), the items concerned will be disposed of, free of charge to the Customer, as any costs of inspection incurred by WMS will be deemed to be covered by the salvage value of the items. Should the Customer instead request return of the items, such request must be notified in writing to WMS prior to the repair. In that case, the items will be returned for the Customer's account, and any costs of inspection or shipping expenses incurred by WMS will be invoiced.

6. Terms of payment

- 6.1 Unless otherwise agreed, payment is due within 8 days from the invoice date.
- 6.2 Any overdue payment carries interest of 2% for each month entered into as from the due date until payment has been made.
- 6.3 If payment reminders are required, a reminder fee of DKK 100,00 will be added for each reminder, and further, WMS is entitled to demand reimbursement in full of any legal fees and expenses incurred in connection with any collection process and thus not only the maximum fees fixed by the Danish Interest Act.
- 6.4 The Customer is not entitled to use the purchase price or any part thereof for set-off purposes, just like any complaint by the Customer under clause 9.1 will not entitle the Customer to withhold the purchase price.
- 6.5 Any spare parts delivered by WMS are subject to a retention of title, according to which WMS is entitled to take repossession of the spare part concerned if the Customer is in breach of his pay-

ment obligation – in full or in part. All costs incurred in connection with any such repossession are payable by the Customer.

7. Guarantee / Liability

7.1 If the manufacturer of a spare part resold by WMS to the Customer grants a guarantee to be relied on by the Customer, only the manufacturer will be liable for such guarantee obligation. Thus, the Customer may never advance any claim against WMS based on the manufacturer's guarantee.

8. Force majeure

8.1 WMS is not liable for any non-performance of WMS's contractual obligations provided WMS can substantiate that such non-performance is due to a hindrance beyond WMS's control, such as but not limited to war, warlike events, fire, strike, lockout, bans on exports or imports, embargo, delayed or defective delivery of materials from sub suppliers, production standstills, shortages of energy or transport facilities.

8.2 In that case, WMS is entitled to extend the time of delivery correspondingly or to terminate the agreement. As soon as any such hindrance has been removed, either party is bound by the agreement if not previously terminated by WMS. A hindrance lasting more than three months entitles each of the parties to terminate the agreement.

9. Defects etc.

9.1 If the Customer wishes to invoke a defect in a spare part delivered or in the repair work supplied, which he has or should have established, the Customer shall make a complaint to WMS immediately and within five days upon supply of the repair work or receipt of the spare part, describing the character and extent of the defect concerned. It is for the Customer to prove that the defect invoked by the Customer in the spare part delivered or the repair work supplied did exist at the time of delivery or supply. If there is no such defect for which WMS is responsible, WMS is entitled to compensation for the work and the costs inflicted on WMS due to the complaint.

9.2 Remedial work of defects established under clause 9.1 will, at WMS's option, be carried out either by repair of the defect or by a replacement delivery. The Customer is not entitled to assert any

other remedy for defective performance, and the Customer is therefore not entitled to compensation or damages for any costs or loss inflicted on the Customer in connection with the repair or replacement delivery.

- 9.3 However, the Customer is entitled to request a third party to carry out the remedial work for WMS's account if the remedial work in accordance with the above has not been carried within a reasonable time, provided, however, that this is done in a reasonable and sensible manner and subject to at least 10 days' prior notice to WMS. WMS's liability for any such repair carried out by a third party is limited to the direct costs incurred in connection with the repair, and the liability for the repair may never be in excess of the price quoted in WMS' order confirmation. Alternatively, the Customer is entitled to insist on the repair work, demanding a proportionate reduction in the purchase price, however, no more than 10%. Thus, the Customer is not entitled to repudiate the contract or claim compensation, including for any operating loss, loss of profits, or any other indirect loss or consequential damage due to defects in the spare parts delivered or the repair work supplied.
- 9.4 If the Customer fails to invoke any defect in the spare part or in the supply of the repair work within 6 months upon receipt thereof, the Customer is not entitled to assert the defect at a later stage. If the spare part repaired or delivered and assembled or installed as a component of another ship's part belonging to the Customer, is used more intensively than agreed upon or deemed presupposed on formation of contract, the 6 months' period will be reduced proportionately.
- 9.5 Remedial work does not comprise ordinary wear and tear, nor malfunctions, damage or errors, etc. due to incorrect handling or overloading of the vessel. The obligation to remedy will likewise cease to apply if the ordering entity ignores any instructions from the yard or from sub suppliers in respect of operation or maintenance, etc.
- 9.6 In case of WMS's replacement of defective parts, the original parts will become WMS's property, free of separate charge to the Customer.

10. General commercial liability and product liability

- 10.1 The general rules of Danish law in force at any time apply to the general commercial liability and product liability, subject to the limitations of liability implied in these General Terms and Conditions.
- 10.2 WMS may only be held liable for personal injury caused by a supply delivered or received by WMS if such injury is proved to be a consequence of failure or negligence on the part of WMS or others for which WMS is liable.
- 10.3 WMS is not liable for any damage to real or personal property not belonging to WMS caused by spare parts or repair work neither delivered nor carried out by WMS. Nor is WMS liable for any damage to products manufactured by or stored with the Customer or to the Customer's products including WMS' supply as a component.
- 10.4 Damage means any form of physical deterioration. Several instances of physical deterioration for the same reason will be regarded as one case of damage.
- 10.5 WMS is not liable for operating loss, loss of profits, or any other indirect loss or consequential damage, including any payment of agreed penalties or other penalties due to WMS's delivery of defective supplies of spare parts, repair work, and/or other services to the Customer, unless the Customer can prove that WMS has acted with gross negligence or intentionally.
- 10.6 The Customer shall indemnify WMS from any claim for damages regarding product liability advanced by a third party against WMS, in so far as WMS is not liable to the Customer under these General Terms and Conditions.
- 10.7 WMS's liability is limited to DKK 10,000,000 for all claims advanced during a calendar year.

11. Intellectual property rights

- 11.1 WMS cannot guarantee that any spare parts transferred or assembled do not infringe any third party rights, including patent rights or copyrights.

12. Sub suppliers

12.1 WMS may use sub suppliers in connection with the performance of its obligations hereunder, provided, however, that WMS is liable for such sub suppliers' services in exactly the way that it is liable for its own services.

13. Changes

13.1 WMS reserves the right to change these General Terms and Conditions. The version in force at any time is available on www.weesgaardms.dk

14. Product information

14.1 The technical specifications and other dimensions in any catalogues are merely indicative, and WMS assumes no responsibility for defects in any such material. All information and data found in such material, including price lists, are merely binding in so far as this is explicitly agreed between the parties.

15. Choice of law and venue

15.1 Any dispute arising out of or in connection with deliveries from WMS must be settled in accordance with Danish law without regard to any principles of private international law (CISG) or of the United Nations Convention specifying any other choice of law.

15.2 Any dispute arising out of or in connection with deliveries from WMS, which cannot be settled amicably, must be brought before and finally settled by the District Court in Hjørring, Denmark.

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