

# Morgan Marine Ltd

## Terms and Conditions of Sale

1. These terms and conditions, together with the particulars set out overleaf, supersede any terms and conditions proposed by the Buyer and may not be varied except with the written consent of the Seller.
2. The Seller shall not be liable for:
  - (a) failure to perform any obligation hereunder if such failure was caused by circumstances beyond the Seller's control; or
  - (b) delay howsoever caused in performing any obligation hereunder.
3. Each delivery shall be considered a separate transaction and the failure of anyone delivery shall not affect the due performance of the contract.
4. All claims for damage to, or partial loss of goods in transit, must be submitted in writing to both carrier and Seller within three days of delivery. In the case of non-delivery of the whole consignment, claims must be submitted in writing to both the carrier and the Seller within seven days of receipt by the Buyer (or the Buyer's agent) of notification of despatch of the goods. In the absence of claims within the terms mentioned above, the goods shall be deemed to have been delivered in accordance with the contract.
5. All warranties and conditions, express and implied, statutory and otherwise as to the quality of the goods of their fitness for any purpose, are hereby excluded, and the Seller shall not be liable for any loss, injury or damage arising directly or indirectly from the use, application or storage of such of goods. Without prejudice to the above, the Seller will be prepared to consider claims concerning the quality of the goods provided that such claims to the Seller within 30 days of receipt of the goods by the Buyer.
6. The Seller may, without prejudice to its other rights and remedies, terminate the contract if either there shall be any breach by the Buyer of any term or condition hereunder or the financial responsibility of the Buyer shall, in the opinion of the Seller, become impaired or unsatisfactory.
7. Where the Buyer has specified that the goods shall be of a certain colour or size, such specifications shall be subject to reasonable commercial variation.

### 8. Risk and Property

#### 8.1 Risk of damage to or loss of the goods shall pass to the Buyer: -

- 8.1.1. in the case of the goods to be delivered at the Seller's premises at the time when the Seller notifies the Buyer that the goods are available for collection; or
- 8.1.2. in the case of goods to be delivered otherwise than at the Seller's premises at the time of delivery or if the Buyer wrongfully fails to take delivery of the goods the time when the Seller has tendered delivery of the goods.

8.2 Notwithstanding delivery and the passing of risk in the goods or any other provision of these Conditions the property in the goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.

8.3 Until such time as the property in the goods passes to the Buyer the Buyer shall hold the goods as the Seller's fiduciary agent and bailee and shall keep the goods separate from those of the Buyer and third parties and properly stored protected and insured and identified as the Seller's property both shall be entitled to resell or use the goods in the ordinary course of its business.

8.4 Until such time as the property in the goods passes to the Buyer (and provided the goods are still in existence and have not been resold) the Seller shall be entitled at any time to require the Buyer to deliver up the goods to the Seller and if the Buyer fails to do so forthwith to enter upon any premises of the Buyer or any third party where the goods are stored and repossess the goods.

8.5 The Buyer shall not be entitled to pledge or in any way to charge by way of security for any indebtedness any of the goods which remain the property of the Seller but if the Buyer does so all monies owing by the Buyer to the Seller shall (without prejudice to any other right or remedy to the Seller) forthwith become due and payable.

9. When goods are made or adapted by the Seller in accordance with the Buyer's specifications, the Buyer shall indemnify the Seller against all costs, claims and expenses incurred by the Seller in respect of the infringement or alleged infringement by such goods of any patents, registered designs, trade marks or other rights belonging to third parties.

10. Tools made for the manufacture of goods to be supplied to the Buyer shall remain the property of the Seller even though the Buyer may have been charged with a sum in respect of the cost of such tools.

11. The construction, validity and performance of this contract shall be governed by the internal law of England.

12. We reserve the right to change specification without prior notice.

### Specification of Concrete Base Enclosure

1. Trowelled or smooth floated finish to an even surface with no ridges or steps and free from trowel marks and other blemishes and spot levels relative to site TBM should be accurate to  $\pm 5\text{mm}$  and the permissible deviation should be less than  $\pm 2\text{mm}$  up to 1.0m where the bottom flange of the enclosure is to be positioned.
2. Position in plan and the diagonal check measurement at any point should be accurate to  $\pm 5\text{mm}$ .
3. The perimeter of the concrete base upon which the enclosure will be attached must be effectively sealed.
4. A nominal 25mm flat "land" area must be provided outside the perimeter of the enclosure plus a 45°, 25mm chamfer.