

General Terms and Conditions MARPOL Trenchless Technology and Construction Equipment

All MARPOL Trenchless Technology and Construction Equipment, (MARPOL) products are sold in accordance with these General Terms and Conditions. These Terms and Conditions supersede all prior terms and conditions and shall be the sole terms and conditions which apply to any sale of products. Acceptance by buyer of the products provided by MARPOL pursuant to any order or request from buyer shall be deemed a full acceptance by buyer of all the Terms and Conditions set forth herein. In case of any discrepancy between the Terms and Conditions specified herein and those set forth in any other documents, the Terms and Conditions herein shall govern and control.

1. (a) Subject to the limitations hereafter set forth. MARPOL warrants the products sold by it to be free from defects in workmanship or material for a one year period starting from shipment from MARPOL factory. MARPOL's obligation under this warranty for any products found by MARPOL to be defective in workmanship or material is limited to, at MARPOL's option, repairing or replacing. F.O.B. MARPOL's factory where the products were manufactured or refunding the amount which MARPOL received from buyer for such products. In no event shall MARPOL be liable for incidental, consequential, special or other damages of any nature. It is expressly agreed that THIS WARRANTY SHALL BE IN LIEU OF ANY OTHER WARRANTY EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. NO WARRANTY IS MADE AGAINST CORROSION.

(b) In addition, this warranty shall not apply if the product has been subject to misuse, negligence or accident, or has not been operated or installed in accordance with MARPOL's instructions or has been operated under conditions more severe than, or otherwise exceeding, those set forth in the specifications for the product or service. This warranty shall not be effective if the buyer or user fails to adequately protect the products from adverse environmental conditions before and after start-up.

(c) MARPOL does not warrant that its products meet the requirements of any safety code of any country, municipality or other jurisdiction or that they will perform as anticipated or desired by buyer or user and buyer or user assumes all risk and liability whatsoever resulting from the use thereof, whether used singly or in combination with other machines, apparatus, or equipment.

(d) Products and parts furnished by MARPOL but not manufactured by MARPOL will carry only the warranty of the manufacturer of such products, if any. MARPOL does not warrant any products not manufactured by MARPOL.

(e) Products shall be subject to MARPOL's standard manufacture variations. All tables published by MARPOL are based upon information believed reliable; however, MARPOL does not guarantee accuracy of same. All measurements and weights set forth in such tables are subject to reasonable tolerance variations.

(f) Any claim on account of defective materials, or for any cause whatsoever, shall conclusively be deemed waived by buyer or user unless (I) MARPOL is promptly given notice in writing of any such defect; (II) buyer or user has kept such products or services in condition so that MARPOL can examine same; and (III) no machining, bending, welding, heating, or altering or any kind is done to said products after same are shipped from MARPOL's factory. NO WARRANTY IS MADE AGAINST CORROSION.

(g) The liability of MARPOL for any loss or damage in any way resulting to buyer or user or any other person from any failure of a product to conform to order or specification, or on account of breach of warranty, or negligence or failure to conform to any standard of care in anything done or omitted by MARPOL or any employee or agent or on account of patent infringement, shall not in any event exceed the amount which MARPOL received from buyer for the product or service found to be defective. Where other manufacturer's or suppliers' products used in MARPOL's products prove defective, MARPOL's liability shall exist only to the extent that MARPOL is able to recover from such manufacturer or supplier for said defects.

(h) MARPOL's liability for damage to or loss of property of buyer or others during performance of work thereon by MARPOL or while in MARPOL's possession shall not exceed the price received by MARPOL for its work on the article lost or damaged.

(i) MARPOL disclaims to the full extent permitted by law all warranties, expressed or implied, including any implied warranty of merchantability, fitness for any particular purpose or against infringement to any person other than buyer.

2. MARPOL retains the right to make substitution and modification to its product or services providing that said changes do not affect the performance of those items.

3. MARPOL retains for itself all proprietary rights in and to all designs, engineering details and data concerning the products sold by it.

4. Any taxes or charges which MARPOL may be required to pay or collect under any existing or future law upon or applicable to the sale, purchase, lease, furnishing, manufacture, processing, transportation, delivery, storage, use or consumption of the product shall be for the account of buyer.

5. Failure of MARPOL to enforce any of these conditions or to exercise any right arising from the default of buyer or user shall not affect or impair MARPOL's rights in case such default continues or in the event of any subsequent fault of buyer or user, nor shall failure constitute a waiver of any of these conditions.

6. (a) MARPOL shall make delivery of all products F.O.B. the designated shipping point if specified in the quotation. MARPOL's liability for any damage or loss incurred during shipment ceases upon delivery of the product to the carrier. Products stored at the request of the buyer shall be so stored at the risk of buyer. Buyer shall pay MARPOL reasonable storage charges. Method of shipment is MARPOL's choice unless specified otherwise by buyer. Buyer specified method of shipment shall result in buyer assuming all risk for damages incurred in shipping. Damage and risk of loss of any kind or nature after delivery shall be at buyer's own risk and expense.

(b) MARPOL is not liable for delays in delivery or failure to make delivery caused by the elements, acts of God, labor disruptions or shortages, lack of or inability to obtain materials, fuel, or supplies, acts of buyers, acts of civil or military authorities, or other causes beyond the reasonable control of MARPOL. In no event shall MARPOL be liable for any consequential damages or claims resulting from failure or delay in delivery.

(c) MARPOL shall maintain a purchase money security interest in the products for any portion of the purchase price not paid at the time of delivery and shall retain this interest until buyer has paid the full purchase price.

7. Standard Terms of payment for the qualified buyer located in Poland are net thirty (30) days after shipment of each product or products subject to prior credit approval. Progress payments are required for all orders exceeding €15,000.00 EUR (in EU) and \$15,000.00 USD (outside EU). In the event the buyer requests or causes a delay in shipment, payment shall be due net thirty (30) days after the buyer is first notified that the products are ready for shipment. No product or products will be shipped outside of Poland without MARPOL having received 100% payment in advance, unless other arrangements have been made and agreed by MARPOL in writing. For the buyer located in Poland thirty (30) days after payment is due, a late charge of 1.5% of the outstanding balance will be added each thirty (30) day delay in payment. If the invoice is paid full within 15 days of the shipping date then the amount due will be reduced by 1%.

8. Subject to the limitations set forth in Paragraph 1(g) and 1(i) above and in this Paragraph 8. MARPOL shall indemnify and hold harmless buyer of from and against all claims, suits, actions, damages, and costs for patent infringements (excluding any consequential damages, liabilities, costs and loss of revenue or profit resulting from loss of use of the products, but including costs of replacing the infringing products or otherwise curing the infringement, provided that:

(a) Buyer shall give MARPOL prompt written notice of any suit for or claim of infringement; and

(b) MARPOL's liability under this indemnity shall not exceed the amount received by MARPOL from buyer or for such product. This indemnity shall not apply to any product not manufactured by MARPOL or to any product made, in whole or in part, to buyer's specifications, and also shall not apply to the use of a product in combination with other material in such a manner that the combination (and not the product manufactured by MARPOL) is the basis for the claim of infringement. MARPOL shall be entitled, at its option, to settle or compromise any claim or suit for infringement and to intervene in and/or to control the defense of any warranty or indemnity, expressed or implied, with respect to infringement.

9. The partial invalidity of any of these Terms and Conditions arising by operation of law shall not affect the validity and applicability of the remainder thereof.

10. No statement or recommendation made or assistance given by MARPOL or its representatives to buyer or user or its representatives, in connection with the use of any products by buyer or user, shall constitute a warranty by MARPOL or a waiver or modification of any of the provisions hereof or create any liability for MARPOL.

11. There are no understandings or agreements between buyer or user and MARPOL relative hereto which are not fully expressed herein. No acknowledgement, purchase order or other document which contains any terms or conditions other than any and all of these is binding on MARPOL.

12. All orders placed by the buyer are subject to approval and written confirmation by MARPOL at its home office in Warsaw Poland and there shall be no contract between buyer and MARPOL prior to them of such confirmation by MARPOL.

13. Cancellation by the buyer of any order resulting from this proposal is subject to payment of costs incurred by MARPOL including costs/commitments incurred with MARPOL's vendors. As a net minimum this cost will be 30% of the purchase price of the cancelled items. Return of items delivered under any resulting purchase order or contract is subject to a restocking charge computed at 30% of the face value of the purchase order amount F.O.B. MARPOL's plant. No products or other material will be accepted for credit after sixty (60) days from the day of purchase.

14. (a) All products delivered by MARPOL both from its factory and from its suppliers will remain the sole property of MARPOL until full payment is received from buyer. MARPOL will repossess all products delivered to buyer and not paid for by the buyer when it is apparent that there is or will be a failure to make payment by the buyer regardless of reason, to include but not limited to insolvency, contract cancellation, bankruptcy, the elements, lack of or inability to obtain materials, fuel, or supplies, acts of customers, or acts of civil or military authorities. Failure to make payment by the buyer will be determined by MARPOL.

(b) In the case of repossession of delivered products by MARPOL the buyer will be subject to additional charges such as, but not limited to, transport costs, re-crating/re-packaging, or re-stocking/handling. Payment of such fees will be made by the buyer in either USDs/EURs or products previously delivered by MARPOL and paid for by the buyer. The condition and value of the previously delivered products will be determined by a MARPOL designated inspector.

15. Unless specifically identified as a separate item in MARPOL's quotation (proposal), MARPOL's price(s) include no provision for installation advisory services. Buyer assumes full responsibility for installation and operation of the equipment (materials), including, but not limited to, the actual physical installation and initial operation.

16. Standard commercial packaging shall be used unless specified otherwise by buyer. Buyer specified packaging shall be subject to being delivered and returned by buyer's own expense and will be held by seller at buyer's risk.

17. Prices quoted are valid for thirty (30) calendar days, unless specified otherwise.

18. These General Terms and Conditions and any Special Conditions, which may apply, shall be construed under and governed by the laws of the Republic of Poland. To the extent the laws of any other jurisdiction are held to apply, buyer or user hereby waives to the full extent permitted under such laws all rights given buyer or user under such laws.



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