

# Bergan Marine Systems

## Standard Terms & Conditions of Sale

Bergan Marine Systems ("Seller") agrees to sell, and the purchaser ("Buyer") agrees to purchase the equipment ("Equipment") as described in the sales agreement or invoice between the parties (the "Agreement"). The following terms and conditions apply to the sale of the Equipment:

### 1. Definition of Terms:

- A. "Seller" refers to Bergan Marine Systems, the provider of the Equipment.
- B. "Buyer" refers to the entity purchasing the Equipment from the Seller.
- C. "Equipment" refers to the marine equipment being sold by the Seller to the Buyer.

### 2. Sale of Equipment:

- A. The equipment being sold is brand new and sold in its original condition.
- B. The seller guarantees that the equipment is free from defects and suitable for the purpose for which it is intended.

### 3. Payment Terms:

- A. The Buyer shall make payment in full to the Seller, in accordance with the terms set forth in the sales agreement or invoice.
- B. In the event of late payment, the Buyer shall be responsible for paying any applicable interest or late fees.

### 4. Delivery and Installation:

- A. Delivery of the Equipment shall be made to the Buyer's location as specified in the sales agreement or invoice.
- B. The Buyer shall be responsible for all costs associated with the installation of the Equipment, including but not limited to labor, materials, and equipment.

### 5. Title and Risk of Loss:

- A. Title to the Equipment shall pass to the Buyer upon receipt of full payment by the Seller.
- B. The risk of loss or damage to the Equipment shall be borne by the Buyer from the time of delivery to the Buyer's location.

### 6. Warranty:

- A. Seller warrants to the Buyer that its Equipment shall be free from defects in materials and workmanship for a period of twelve (12) months from the date of delivery to the Buyer. If, during the warranty period, the Buyer discovers a defect in the Equipment that is covered by this warranty, the Seller will repair or replace the Equipment, at its sole discretion.
- B. This warranty shall not apply to:
  - I. Equipment that has been altered, abused, or misused
  - II. Equipment that has not been installed, operated, or maintained in accordance with Seller's instructions
  - III. Equipment that has been subjected to abnormal use or conditions
  - IV. Normal wear and tear of the Equipment
- C. THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- D. This warranty gives the Buyer specific legal rights, and the Buyer may also have other rights which vary from jurisdiction to jurisdiction.

### 7. Intellectual Property:

- A. The Equipment is sold without any license or right to use any patents, trademarks, or copyrights owned or controlled by the Seller.

### 8. Limitation of Liability:

- A. In no event shall the Seller be liable for any indirect, incidental, or consequential damages arising from the sale or use of the Equipment, even if the Seller has been advised of the possibility of such damages.
- B. The total liability of the Seller to the Buyer for any claim arising out of or related to the sale of the Equipment, whether based in contract, tort, or otherwise, shall not exceed the purchase price of the Equipment.

### 9. Indemnification:

- A. The Buyer shall indemnify and hold harmless the Seller from and against any and all claims, damages, losses, and expenses arising from or related to the Buyer's use of the Equipment.

### 10. Governing Law:

- A. These terms and conditions shall be governed by and construed in accordance with the laws of the state of Delaware.

### 11. Dispute Resolution:

- A. Any dispute arising from or related to these terms and conditions, or the sale of the Equipment shall be resolved through binding arbitration in accordance with the rules of the American Arbitration Association.

### 12. Entire Agreement:

- A. These terms and conditions, together with the sales agreement or invoice, constitute the entire agreement between the parties and supersedes all prior or contemporaneous negotiations, representations, or agreements, whether written or oral. No amendment or modification of this Agreement shall be valid unless in writing and signed by both parties.

### 13. Amendment:

- A. These terms and conditions may only be amended in writing signed by both the Buyer and the Seller.