

Seakeeper, Inc.
Standard Terms and Conditions

Except as otherwise provided in a written agreement between Seller and Buyer, the following Standard Terms and Conditions shall apply.

1. ACCEPTANCE. The sale of the Goods to Buyer is expressly made conditional on Buyer's assent to these Standard Terms and Conditions and, if applicable, the quote and order acknowledgement, both of which form an integral part of this order and which supersede and reject all prior agreements, representations, discussions or negotiations, whether written or oral, with respect hereto and any conflicting terms and conditions of Buyer, or any statement therein, whether or not signed by Buyer. We assume no responsibility for terms and conditions of, or for furnishing other goods shown in, any plans or specifications for a project to which the Goods quoted or ordered herein pertain or refer.

2. PRICES. Prices are quoted EXW Seller's Factory (Ex Works INCOTERMS 2000) unless otherwise specified in Seller's quote or order acknowledgement. Partial shipments on quantity orders shall be deemed a separate and independent contract for billing.

3. TAXES. Prices do not include any sales, use, excise, property, import, export or such taxes that may be levied on the transaction by local, state, federal or foreign governments. Any such taxes shall be the responsibility of Buyer.

4. DELIVERY. Delivery to a common carrier or licensed trucker shall constitute tender of delivery to Buyer and all risk of loss or damage in transit shall be borne by Buyer. Method and route of shipment are at Seller's discretion, unless Buyer supplies explicit instructions that are accepted by Seller in writing in accordance with these Standard Terms and Conditions.

5. LIMITED WARRANTY. Seller warrants that the Goods sold hereunder are free from defects in material and workmanship for a period of 36 months from the date of initial commissioning or 24 months from the date the Goods are put into service - whichever occurs first. This express warranty is transferable during the warranty period and is in lieu of and excludes all other warranties, express or implied, by operation or law or otherwise including THE WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE (WHETHER KNOWN TO SELLER OR NOT), and all other such warranties are hereby expressly disclaimed by Seller and waived by Buyer/User. Written notice of claimed defects shall have been given to Seller within the Warranty Period, and within thirty (30) days from the date any such defect is first discovered. The Goods or parts claimed to be defective must be returned to Seller, accompanied by a Return Material Authorization (RMA) issued by Seller's facility responsible for supplying Goods, with transportation prepaid by Buyer/User, with written specifications of the claimed defect. If a warranty claim is valid, Seller shall pay reasonable one-way costs of transportation of the defective Goods from either the original destination or the location where defect occurred, whichever is closest to Seller's facility. Under no circumstances shall Seller be liable for removal of Seller's Goods from Buyer/User's equipment or re-installation into Buyer/User's equipment. No person including any agent, distributor, or representative of Seller is authorized to make any representation or warranty on behalf of Seller concerning any Goods manufactured by Seller. ANY MODIFICATION OF THE GOODS AS SHIPPED WILL RESULT IN VOIDING THE WARRANTY.

The warranties set forth above are inapplicable to and exclude (i) any products, components or parts not manufactured by Seller or covered by the warranty of another manufacturer, (ii) damage caused by accident or the negligence of Buyer or any third party, normal wear and tear, corrosion or by disasters such as fire, flood, wind and lightning, (iii) damage or malfunction caused by unauthorized or improper installation, repairs or modifications, (iv) damage caused by product or component part which Seller did not design or manufacture, or (v) any other abuse or misuse by Buyer or any third party. SELLER EXPRESSLY DISCLAIMS THE WARRANTIES SET FORTH ABOVE WITH RESPECT TO, AND SELLER WILL NOT BE LIABLE OR RESPONSIBLE FOR ANY DAMAGES TO ANY ADJACENT STRUCTURAL ELEMENTS OF ANY VESSEL AS RESULT OF, ANY ADVICE, DRAWINGS OR INSTRUCTIONS GIVEN TO BUYER WITH RESPECT TO THE LOCATION, INSTALLATION OR MAINTENANCE OF GOODS. BUYER IS SOLELY RESPONSIBLE FOR ENSURING THAT GOODS ARE PROPERLY LOCATED, INSTALLED AND

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MAINTAINED ON VESSEL'S HULL FOUNDATION WITH AN ADEQUATE MARGIN OF SAFETY, INCLUDING, BUT NOT LIMITED TO, COMPLIANCE WITH ANY SPECIFIED LOAD-BEARING REQUIREMENTS.

6. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY, SELLER SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO LOST PROFITS ARISING OUT OF THE PERFORMANCE, DELAYED PERFORMANCE OR BREACH OF PERFORMANCE OF THIS ORDER REGARDLESS OF WHETHER SUCH LIABILITY BE CLAIMED IN CONTRACT, EQUITY, TORT OR OTHERWISE. SELLER'S OBLIGATION IS LIMITED SOLELY TO REPAIRING OR REPLACING (AT ITS OPTION AND AS SET FORTH IN SECTION 5), AT ITS APPROVED REPAIR FACILITY, ANY GOODS OR PARTS WHICH PROVE TO SELLER'S SATISFACTION TO BE DEFECTIVE AS A RESULT OF DEFECTIVE MATERIALS OR WORKMANSHIP, IN ACCORDANCE WITH SELLER'S STATED WARRANTY. IN NO EVENT SHALL SELLER'S LIABILITY EXCEED THE TOTAL PURCHASE PRICE SET FORTH IN THIS ORDER.

7. RESTRICTIONS ON EXPORT. Except where otherwise expressly agreed, all patterns, tools, jigs and fixtures, drawings, designs, software and other materials and data developed, fabricated by Seller shall be and shall remain Seller's property. Except as specifically provided for in the order, Buyer shall have no right to any technical data, intellectual property rights, or computer software associated with the order. Buyer shall not use or permit the use of the Goods in any way that could result in the disclosure of Seller's proprietary information.

8. NON-WAIVER BY SELLER. Waiver by Seller of a breach of any of these Standard Terms and Conditions shall not be construed as a waiver of any other breach. Any failure at any time by Seller to enforce any provision of these Standard Terms and Conditions shall not constitute a waiver of such provision or prejudice Seller's right to enforce such provision at any time. Should any provision of these Standard Terms and Conditions be or become void or otherwise unenforceable by force or operation of law, all other provisions shall remain valid and enforceable.

9. ASSIGNMENT. Buyer shall not assign, subcontract, or otherwise transfer the order, in whole or in part, without the prior written consent of Seller, and any such assignment, subcontract, or transfer without Seller's prior written consent shall be void.

10. RESERVATION OF RIGHTS. Seller reserves the right to make subsequent changes and improvements in the design of Goods without imposing any obligation to make such changes or improvements to Goods sold to Buyer.

11. GOVERNING LAW; LIMITATION ON ACTIONS. This order shall be governed and construed in accordance with the laws of the State of Delaware. The United Nations Convention on License Contracts for the International Sale of Goods and all other laws and international treaties or conventions relating to the sale of goods are expressly disclaimed. No actions arising out of the sale of Goods covered by an order, other than an action by Seller to recover the purchase price of such Goods, may be brought by either party more than one (1) year after the cause of action accrues.

12. PROPERTY RIGHTS. Buyer acknowledges that the Goods and any technical data related to the Goods may be controlled for export by the U.S. Department of Commerce or Department of State and that such items may require authorization prior to export from the United States or re-export. Buyer agrees that it will not export, re-export, or otherwise distribute the Goods or any technical data related thereto, in violation of any export control laws or regulations of the United States.