

WEST-MARINE A/S & Safe Transfer A/S - General terms and conditions of purchasing - 2023

Purchasing Conditions

These General Purchasing Conditions (the "Conditions") apply to all deliveries of products and services from a supplier ("Supplier") to WEST-MARINE A/S, Safe Transfer A/S or its affiliates (the "Buyer") (individually referred to as "Party" and collectively referred to as "Parties").

The frame agreement and/or the purchase order (individually and together referred to as "PO") together with these Conditions constitute the entire agreement (the "Agreement") between Buyer and Supplier and replaces and supersedes all other prior oral and written agreements between the Parties as well as any terms and conditions otherwise applicable to said transaction. By confirming a PO, or by not rejecting a PO within 3 working days after receipt, or by performing or supplying any goods and/or services, or invoicing the Buyer in accordance with the PO, then the PO and these Conditions will be deemed unconditionally accepted by Supplier. In event of conflict between these Conditions and the PO, the terms of the PO shall prevail.

1. Price & charges, Invoicing, Payment and Taxes

Payment shall be due and payable according to the mutual agreement between Buyer and Supplier. If payment terms have not been agreed up front, Buyer's standard payment term current month + 60 (sixty) days from delivery and Buyer's receipt of complete and correct invoice at the address stated in the PO if not disputed by Buyer prior hereto in writing will be used. In the event Buyer has not received invoice of the goods or services under a PO at the address stated in the PO 180 (one-hundred and eighty) days after the delivery of the goods or completion of the services such goods or services shall not qualify for invoicing and shall not be payable.

Invoices shall be written in Danish or English and shall include all necessary references to the specific goods and services provided and Buyer's references including Buyer's name, contact person and department, PO number, Buyer's material number, place of delivery, quantity and description of the goods. With regards to VAT each invoice shall show (i) the governing VAT rate and (ii) the VAT registration number of Supplier.

Payment terms

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Right to set off payment

Buyer reserves the right to set off payments against any amount (whether in disputed or not) owed by Supplier to Buyer.

Interests on late payments

In the event of late payment of undisputed amounts Buyer shall pay interest on overdue sums at the Danish National Bank Discount rate plus 2% (two per cent) p.a. proportionally for the days of delay.

2. Delivery, Title and Risk and Incoterms

Unless otherwise provided in a PO, delivery terms for (i) the goods shall be DDP (Incoterms 2020) at the delivery point and on the date stated in the PO with all necessary customs invoices and delivery notes, bills of lading and other documents ordinarily accompanying such goods and (ii) the services at the delivery point and on the date stated in the PO.

3. Packing and Marking

Each delivery shall be clearly marked with Buyer's name and address, Buyer's PO number, place of delivery on the exterior of the package(s). All goods shall be delivered in a secure and appropriate packing suitable for domestic or overseas transport with due consideration to the generic nature and composition of the goods supplied.

4. Remedies

Delay and defects
Each delivery shall be clearly marked with Buyer's name and address, Buyer's PO number, place of delivery on the exterior of the package(s). All goods shall be delivered in a secure and appropriate packing suitable for domestic or overseas transport with due consideration to the generic nature and composition of the goods supplied.

Material breach

Any failure or delay in delivery of correct and non-defective goods or services, including partial delivery or breach of Supplier's warranties as well as other breaches of the Agreement, shall be considered a material breach of the Agreement and entitles Buyer to terminate the Agreement with immediate effect.

5. Warranties

Supplier warrants and undertakes that (i) the goods shall be new, of good quality and workmanship, free from defects and fit for the intended purposes, including complying with all applicable laws, regulation, specifications and environmental and safety standards; and (ii) for services, the Supplier warrants that Supplier has the requisite experience, knowledge and skills necessary to perform the services with a high standard of quality and safety and in the terms and condition of the related PO, complying with laws and regulation and environmental and safety standards.

Warranty period

The goods and services delivered shall comply with the warranties and undertakings as agreed between Buyer and Supplier. If warranties and undertakings have not been agreed before the PO has been issued, Buyer's standard term regarding warranty and undertakings will apply. Buyer's standard terms regarding warranty and undertakings are 24 (twenty-four) months from the goods are delivered, or from the date of complete delivery of services whichever is later. The Supplier shall promptly, at no additional cost to the Buyer, repair or replace (at Buyer's discretion) any goods or services which do not comply with the warranties and undertakings.

6. Product liability and Indemnity

Supplier shall defend, indemnify, and hold harmless Buyer from and against all claims and losses resulting from personal injury or damage to property caused by defects in the product or delivered services. Supplier shall furthermore defend, indemnify, and hold Buyer harmless for any proceeding brought against Buyer, its group entities or client(s) based on a claim that any goods or services, or their use in the manner intended by Supplier, infringe any patent or other intellectual property right.

7. Insurance

Supplier shall, at its own expense, maintain and keep insurance coverage in accordance with good international industry practices and applicable law, including Product Liability insurance as well as any other insurance which Supplier deem appropriate in connection with fulfilling the duties under this Agreement (including but not limited to Professional Liability, Transport/Cargo Insurance (if applicable)), throughout the term of the Agreement with a reputable insurance company, properly safeguarding Supplier against its liability hereunder.

8. Compliance

Supplier shall comply with and shall ensure that all sub-contractors comply with all national or international laws, rules and regulations in force from time to time which are applicable to the delivery or performance of the goods or services.

Export Control Regulation

Supplier shall comply with all laws, regulations, and rules applicable to delivery of the goods and services including without limitation United States and European Union ("U.S. or EU") regulations and controls involving export and re-export of goods, software and technology. To the extent any goods or parts of goods (including software and technology) supplied by Supplier to Buyer are subject to any such economic sanctions or export control laws and regulations of the U.S. or the EU, Supplier shall, upon Buyer's placement of a request for quotation or a PO, whichever is the earliest, or in case of defective goods at the time of re-delivery, without delay provide, in a form satisfactory to Buyer, any export control data requested by Buyer. Supplier shall indemnify and hold Buyer harmless from all fines, penalties and all associated expenses arising out of or resulting from the violation by Supplier of any of its obligations in this clause 8.

Anti-Corruption

Each Party shall comply with all applicable anti-corruption laws and regulations.

Code of conduct

Supplier shall comply with Buyer's Code of Conduct as amended from time to time and provided to Supplier (the "Code"). The Supplier shall require their own suppliers to comply with similar rules and as appropriate pass on such requirements to their sub-contractors

9. Intellectual Property Rights

All intellectual property rights in and to goods, documentation or other deliverables and materials specifically developed by Supplier to fulfil the Agreement shall vest in Buyer upon creation. Supplier hereby irrevocably assigns to Buyer all such intellectual property rights.

10. Confidentiality and Reference

General obligations

The following information shall be considered "Confidential Information": (i) all information of Buyer and its group entities concerning employees, products, services, customers, suppliers, contractors, other third parties conducting business with the Buyer or other technical and commercial matters, (ii) the terms of the Agreement, (iii) any information developed by reference to or use of Buyer's or its group entities' information referenced above and (iv) any information which according to applicable law is confidential whether in written, oral or visual form disclosed by Buyer to Supplier. Such Confidential Information shall remain the property of Buyer and shall not be given or disclosed to any third party without Buyer's prior written consent. Supplier shall only use the Confidential Information for the purposes of this Agreement and shall limit internal dissemination hereof.

Required Disclosure

Nothing in this clause 10 may be deemed or construed to prevent Supplier from disclosing any Confidential Information (i) if such disclosure is for the purpose of complying with any law or court order; or (ii) if such disclosure is required to deliver the goods or perform the services for Buyer.

Reference and advertising

Supplier shall not, without prior written consent of the Buyer, use Buyer's name or any commercial relation with the Buyer or its group entities for the purpose of advertising or as a reference.

11. Assignment

Buyer's right to assign

Buyer is entitled to assign, subcontract or otherwise transfer its rights and obligations under the Agreement in whole or in part to any other entity.

Supplier's right to assign

Supplier shall not be entitled to assign or otherwise transfer any rights or obligations under the Agreement without the prior written consent of Buyer.

12. Sub-contractors

Supplier shall be entitled to use sub-contractors in the delivery or performance of the goods and services however Supplier shall be liable for all acts and omissions of its sub-contractors (including any sub-sub-contractors) to the same extent as Supplier is itself liable to Buyer.

13. Law, Jurisdiction and Disputes

The Agreement and any non-contractual obligations arising out of or in connection herewith shall be governed construed and enforced in accordance with the laws of Denmark to the exclusion of any other law and without regard to any conflict of law principles.

Arbitration

Any dispute shall be subject to arbitration arranged by The Danish Institute of Arbitration in accordance with the rules of arbitration procedure adopted by The Danish Institute of Arbitration in force at the time when such proceedings are commenced. The venue for arbitration shall be Esbjerg and the proceedings shall be conducted in the Danish language. The arbitral award shall be final and conclusive and binding on the parties.