



# WESTERLY

Westerly Yachts Limited

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## SEAHAWK 34 ORDER FORM

### THE STANDARD SPECIFICATION COMPRISES:

**SAILS & RIGGING:** Mainsail & No. 1 jib. Silver anodised mast & boom. Stainless steel standing rigging. Terylene running rigging. Main & jib halyards led aft. Topping lift. Burgee halyard. Slab reefing with lines led aft.

**DECK FITTINGS:** 30" Stanchions with twin stainless steel lifelines. Sliding jib sheet leads with turning blocks. Spinaker gear (excluding winches and poles). Stainless steel bow and stern rails. Twin bow rollers. Anchor well with stowage for supplied 35 lb plough anchor, together with 15 fathoms 5/16" chain. 2 Foredeck cleats and two stern cleats. 2 spring cleats. Stainless steel stay and shroud plates. Ensign staff socket. Teak coach roof handrails. Separate drained gas locker with provision for two 10 lb Calor gas bottles, (one supplied). Four fenders. Two 40' mooring lines. Tiller steering. Navigation and steaming lights. Blue non-slip painted deck. Blue Treadmaster in cockpit. Manual bilge pump. Compass. Two foresheet winches. Two halyard winches. Two winch halyards.

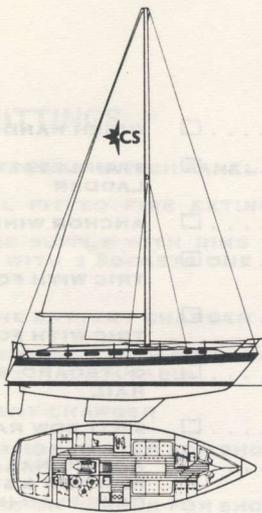
**CABIN FITTINGS:** *Fore cabin* - 2 berths with infill. Deck hatch. Hanging locker and vanitory unit. **HEADS:** Moulded washbasin. Shower with shower rail and hot & cold water supply from 60 gallon stainless steel tank. Marine W.C. Deck Hatch. Soap Holder, toilet roll holder and towel rail. **SALOON:** Ash bulkheads with teak trim. Single berth (port). Settee berth starboard. Centreline table with dropleaves. Holly and Teak decking. Ash deckhead panels. **CHART TABLE:** with seat & chart stowage, under deck top, instrument space & bookshelf. **GALLEY:** with ceramic tiled worktop and twin stainless steel sinks with hot and cold pressurised supply with foot pump back up. Cooker with 2 burners, oven and grill in gimbals. Stowage for pans, cutlery, crockery and provisions. Electric fridge. Rubbish bin. **AFT CABIN:** Double berth. Hanging space with vanity top. Window into cockpit. Window to bridge deck. Marine grade carpet. **CUSHIONS:** Berth cushions and seatbacks in a choice of materials.

**ENGINE:** Volvo 2003, 28 hp 3 cylinder diesel in sound deadened engine compartment. Flexible mountings, 50 amp alternator. 2 bladed propeller. Water cooled exhaust. Control panel. 2 x 102 amp hr. batteries. Electric start. Engine controls on steering pedestal. 35 gallon fuel tank.

**HULL:** White hull. Blue moulded trim line. Cove line. Alloy framed windows. Blue antifouling. Teak rubbing strake. Bronze seacocks and underwater skin fittings. Self draining cockpit. Cathodic protection. LLOYD'S HULL CONSTRUCTION CERTIFICATE

### TERMS OF BUSINESS

- 1 *A £500 deposit and the Purchaser's signature upon this specification form reserves a boat at the current price pending preparation of a contract by Westerly Yachts Limited. This specification is not the contract and the deposit is returnable to the Purchaser if a contract is not signed.*
- 2 *One third of the total price, less the initial £500 deposit payable upon signature of the contract. When the contract is signed by the Purchaser and returned a delivery date will be confirmed and the contract will be signed by Westerly Yachts Limited.*
- 3 *The balance outstanding is payable ten days before completion of the boat at the factory. The boat as described, to specification and standard inventory are liable to change according to availability of bought in and manufactured supplies. Some items shown in photographs are not included in the standard price.*
- 4 *For other conditions see our standard Terms and Conditions of Sale which are printed on the final page.*



Lloyds Hull Construction Certificate

# CORSAIR 36

# FULMAR 32

# GRIFFON<sub>Club</sub> 26

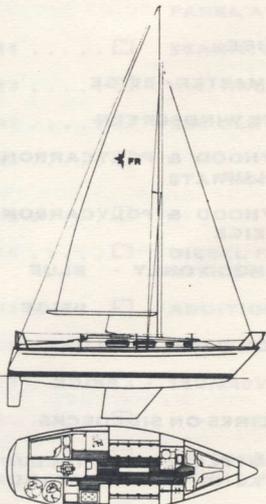
# KONSORT 29

# KONSORT DUO 29

# MERLIN 28

# SEAHAWK 34

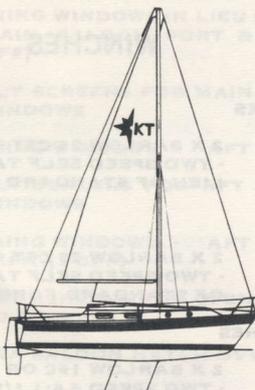
# SEALORD 39



Lloyds Hull Construction Certificate



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## CABIN FITTINGS

- CSK31 . . . . . ADDITIONAL 4 WAY SWITCH PANEL  
 CSK32 . . . . . ADDITIONAL FITTED FIRE EXTINGUISHER  
 CSK34 . . . . . 240V. SHORE SUPPLY WITH RING MAIN 20 AMP ONLY WITH 3 SOCKETS ONE IN EACH CABIN  
 CSK35 . . . . . 240V. MARINE BATTERY CHARGER  
 CSK36 . . . . . 110V. SHORE SUPPLY WITH RING MAIN 3 SOCKETS ONE IN EACH CABIN  
 CSK37 . . . . . 110V. BATTERY CHARGER  
 CSK38 . . . . . 240V. IMMERSION HEATER FOR SHORE POWER OPTION  
 CSK39 . . . . . 110V. IMMERSION HEATER FOR SHORE POWER OPTION  
 CSK310 . . . . . ADDITIONAL 8 WAY CIRCUIT BREAKER PANEL AT CHART TABLE  
 CSK311 . . . . . SEAWATER PUMP TO GALLEY  
 CSK313 . . . . . W.C. HOLDING TANK  
 CSK347 . . . . . LEE CLOTHS - FWD CABIN (2)  
 CSK348 . . . . . - MAIN SALOON PORT/STARBOARD (2)  
 CSK349 . . . . . - AFT CABIN (1)  
 CSK315 . . . . . DIESEL FIRED CENTRAL HEATING SYSTEM WITH 3 OUTLETS, ONE PER CABIN  
 CSK317 . . . . . ADDITIONAL WATER TANK  
 CSK318 . . . . . ADDITIONAL THIRD BATTERY  
 CSK319 . . . . . 12V/240V TRANS SHAVE IN HEADS  
 CSK320 . . . . . - AFT CABIN  
 CSK321 . . . . . OPTIMUS 3 BURNER COOKER & OVEN (NO GRILL) IN LIEU OF STANDARD  
 CSK351 . . . . . INSULATED ICE BOX DRAINED  
 CSK352 . . . . . MAST GROUNDING  
 CSK323 . . . . . ADDITIONAL BILGE PUMP - ELECTRICAL  
 CSK324 . . . . . - MANUAL  
 CSK325 . . . . . OPENING WINDOWS IN LIEU OF STANDARD - MAIN, SALOON, PORT & STARBOARD (4 OFF)  
 CSK326 . . . . . - FLY SCREENS FOR MAIN CABIN OPENING WINDOWS  
 CSK327 . . . . . OPENING WINDOWS - AFT CABIN  
 CSK328 . . . . . - FLY SCREENS FOR AFT CABIN OPENING WINDOWS  
 CSK330 . . . . . OPENING WINDOWS - AFT CABIN TO COCKPIT (1 OFF)  
 CSK331 . . . . . - FLY SCREENS FOR OPENING WINDOW IN-TO COCKPIT  
 CSK332 . . . . . EXTRA SALOON HATCH OVER TABLE (320 X 450)  
 CSK335 . . . . . FLY SCREENS FOR HATCH (320 X 450)  
 CSK333 . . . . . OPENING WINDOW - WALKWAY TO COCKPIT  
 CSK334 . . . . . FLY SCREEN FOR OPENING WINDOW WALKWAY TO COCKPIT  
 CSK329 . . . . . OPENING HATCH IN HEADS IN LIEU OF STANDARD VENT 200 X 200  
 CSK312 . . . . . FLY SCREEN FOR HATCH (200 X 200)  
 TOTAL . . . . .  
 B'FWD . . . . .  
 C'FWD . . . . .

- CSK337 . . . . . ROLLER BLINDS - FORWARD HATCH  
 CSK338 . . . . . - MAIN HATCH IN SALOON  
 CSK339 . . . . . - EXTRA HATCH IN SALOON  
 CSK340 . . . . . - AFT CABIN HATCH  
 CSK346 . . . . . ADDITIONAL 12" TEAK GRAB HANDLE. PLEASE SUPPLY A SCALE DIMENSION DRAWING

## CUSHION COLOUR OPTIONS

### VELVETS

- CSK350 . . . . . WESTERLY BLUE SKY  
 CSK351 . . . . . WESTERLY OYSTER  
 CSK352 . . . . . WESTERLY SAGE  
 CSK353 . . . . . WESTERLY SALMON

### TWEEDS

- CSK354 . . . . . WESTERLY RUSSETT  
 CSK355 . . . . . WESTERLY SEA GREEN  
 CSK356 . . . . . WESTERLY BLUE SEA  
 CSK357 . . . . . WESTERLY CHAMPAGNE

### TAPESTRY

- CSK358 . . . . . WATERMARK BLUE  
 CSK359 . . . . . WATERMARK BEIGE

## ENGINE

### OPTIONS FOR VOLVO

- CSK42 . . . . . VOLVO ENGINE HOUR METER  
 CSK43 . . . . . ENGINE SPARES KIT - VOLVO  
 CSK44 . . . . . FUEL/WATER FILTER IN FUEL LINE

## KEELS

- CSK615 . . . . . TWIN KEEL  
 CSK61 . . . . . CUSTOMER SUPPLIED SKIN FITTINGS - PLEASE SPECIFY ON SEPARATE SHEET  
 CSK62 . . . . . MOULDED TRIM LINE - MAROON  
 CSK63 . . . . . ANTIFOULING - ALTERNATIVE COLOUR\*

- CSK68 . . . . . WATERLINE STRIPE - BLUE  
 CSK64 . . . . . - ALTERNATIVE COLOUR \*

\* STATE INTERNATIONAL YACHT PAINT COLOUR CODE

NB THE USE OF ETCH PRIMER IN ANY PAINT PROGRAMME WILL INVALIDATE THE HULL WARRANTY.

- TOTAL . . . . .  
 B'FWD . . . . .  
 C'FWD . . . . .

## NAVIGATIONAL EQUIPMENT

- CSK51 .....  MECHANICAL SUMLOG SPEED & DISTANCE INDICATOR MOUNTED IN COCKPIT
- CSK58 .....  RACAL DECCA VHF RADIO
- CSK536 .....  WIRING ONLY FOR RADIO & AERIAL INCL. THROUGH DECK PLUGS. TAILS AT CHART TABLE WITH 12V. SUPPLY
- CSK537 .....  VHF AERIAL & CO-AX. CABLE & DECK PLUGS TO CHART TABLE INCL. 12V. SUPPLY LEADS
- CSK538 .....  V'TRONIX COMBINED VHF AERIAL & HAWK INDICATOR FITTED AT MASTHEAD INCL. CO-AX. TO CHART TABLE & DECK PLUGS
- CSK539 .....  AUTOHELM 5000 AUTO PILOT

### MARINER EQUIPMENT

- CSK550 .....  DEPTH SOUNDER
- CSK551 .....  WATER SPEED
- CSK552 .....  WATER SPEED TRIP LOG
- CSK553 .....  WIND SPEED
- CSK554 .....  WIND SPEED/DIRECTION METER
- CSK555 .....  WIND SET: WIND SPEED/DIRECTION/CLOSE HAULED
- CSK556 .....  REPEATERS FOR DEPTH/WIND (PRICE EACH)

### SEAFARER EQUIPMENT

- CSK52 .....  SEAFARER 5 ECHO SOUNDER AT CHART TABLE
- CSK532 .....  SEAFARER 5 ECHO SOUNDER REPEATER IN COCKPIT

### DECCA YACHT NAVIGATOR

- CSK540 .....  ANTENNA FOR DECCA 3
- CSK541 .....  DECCA 3
- CSK542 .....  POWER SUPPLY ONLY FOR DECCA 3

### BROOKES & GATEHOUSE EQUIPMENT

- CSK511 .....  HUNTER
- CSK512 .....  HUNTER WITH REPEATER FOR SPEED & DEPTH - ANALOGUE
- CSK513 .....  - DIGITAL
- CSK514 .....  HORNET 4 WITH ANALOGUE REPEATER
- CSK515 .....  HORNET 4 WITH DIGITAL REPEATER
- CSK516 .....  HECTA DEPTH MONITOR WITH ALARM - ANALOGUE REPEATER
- CSK517 .....  HECTA DEPTH MONITOR WITH ALARM - DIGITAL REPEATER

TOTAL .....

B'FWD .....

C'FWD .....

## PLASTIMO EQUIPMENT

- CSK543 .....  SELF POWERED WIND SPEED INDICATOR
- CSK544 .....  LOG SPEEDOMETER
- CSK545 .....  DEPTH SOUNDER
- CSK546 .....  WIND SPEED/DIRECTION & CLOSE HAULED INDICATOR
- CSK547 .....  COCKPIT "COMBINE"
- CSK548 .....  COCKPIT "COMBINE" WITH ANEMOMETER (PLEASE NOTE COCKPIT "COMBINE" MUST BE FITTED AS A SEPARATE SYSTEM)

## GENERAL

- CSK74 .....  CRADLE
- CSK75 .....  DTI REGISTRATION
- CSK76 .....  DELIVERY TO HAMBLE POINT INCLUDING WET OR DRY LAUNCH
- CSK77 .....  EXPORT DOCUMENTATION
- CSK78 .....  WINTERISE ENGINE INCLUDING A FULL TANK OF DIESEL
- CSK79 .....  DE-WINTERISE ENGINE
- CSK710 .....  SHRINK WRAP (NOT SUITABLE FOR TRANSPORTATION)
- CSK716 .....  NETTING FOR TRANSPORT (IN ADDITION TO SHRINK WRAP)
- CSK711 .....  FRENCH HOMOLOGATION
- CSK712 .....  NAME PAINTING ON STERN .....

(MANDATORY FOR REGISTERED BOATS)

CSK713 .....  DELIVERY OTHER THAN HAMBLE POINT OR AT DEALER.

ADDRESS .....

CONTACT NAME .....

TEL NO. ....  
CUSTOMER RESPONSIBLE FOR CRANE HIRE.

CSK714 .....  BOAT LIFT TO OWN TRANSPORT

CSK715 .....  BUILDERS CERTIFICATE

FULL NAME .....

OCCUPATION .....

TOTAL .....

B'FWD .....

C'FWD .....

Purchaser's name in full . . . . .  
 Address . . . . .  
 . . . . .  
 Post code . . . . .  
 Day Telephone No. . . . .  
 Home Telephone No . . . . .

Dealer's name (if applicable) . . . . .  
 Address . . . . .  
 . . . . .  
 Post code . . . . .

**FINANCE — Company (if applicable)**

Name & Address . . . . .  
 . . . . .  
 . . . . .  
 Contact . . . . .  
 Telephone no . . . . .

**Loan details**

**PART EXCHANGE DETAILS:**

. . . . .  
 . . . . .  
 . . . . .  
 . . . . .

VALUATION      Part exchange offer

**WESTERLY OWNERS ASS. INFORMATION      YES**

**PAYMENT DETAILS**

Total Contract (ex VAT) . . . . .  
 VAT @ 15% . . . . .  
 TOTAL . . . . .  
 Deposit Due/Received      Date . . . . . Value . . . . .  
 First payment due      Date . . . . . Value . . . . .  
 Finance Payment due      Date . . . . . Value . . . . .  
 Part Exchange allowance (if applicable) . . . . .  
 Balance due 10 days before completion . . . . .

**FOR INTERNAL USE ONLY**

Contract Freeze Date . . . . .  
 Order Confirmation sent . . . . . Dated . . . . .  
 Freeze Date confirmation sent . . . . . Dated . . . . .

## STANDARD CONDITIONS OF SALE

- 1 PRELIMINARY**
- (a) In these Conditions of Sale the "Company" shall mean WESTERLY YACHTS LIMITED
- (b) These Conditions shall apply to any contract between the Company and any person, firm or company ("the Purchaser") placing an order with the Company in respect of any goods, components, products or other items or services ("the Products")
- (c) "International Sales" means those sales of products where the Purchaser's place of business (if any) or normal residence is outside the United Kingdom of Great Britain and Northern Ireland or the UK\* and "UK Sales" means all other sales
- 2 ORDERS**
- (a) The Company will be under no liability for any order received until the order is accepted by the Company in writing by signing its Contract form ("the Contract")
- (b) Any offer which is contained in any Contract may be withdrawn at any time prior to its signature by the Company and will automatically be withdrawn under the terms of this condition if it is not returned duly signed by the Purchaser within 30 days of despatch to the Purchaser
- (c) An accepted order may only be cancelled or varied with the Company's consent and the giving of this consent shall not in any way prejudice the Company's right to recover by 50% Purchaser full compensation for any loss or expense arising from such cancellation or variation
- (d) Any offer, order, sale and/or delivery or any conduct in confirmation of any transaction will be subject to these terms and conditions which are the only basis upon which the Company does business and shall prevail notwithstanding any printed or other conditions contained or referred to in any purchase order or other document prepared by or on behalf of the Purchaser
- (e) No other agreement, representation, promise, undertaking or understanding of any kind unless expressly confirmed in writing by the Company shall add to, vary or waive any of these terms and conditions
- 3 VARIATIONS**
- (a) If the Purchaser wishes to vary, increase or modify the standard equipment or options contained in the Company's boat specification then the Company may at its discretion agree to such change but if it does so agree then it will do so on terms that the price of the equipment or option in question shall be increased by 50% providing such change is agreed during the work in hull stage of manufacture of the boat and by 100% if such change is after the completion of the work in hull stage
- (b) No variation, increase or modification to non-standard equipment or options shall be allowed
- 4 PRICES**
- Prices for the Products are Net ex works and do not include:
- (i) VAT or any other sales taxes;
- (ii) Insurance;
- (iii) The cost of unloading, effecting delivery and commissioning in accordance with the terms hereof; and
- (iv) Any special packing or alteration to the order required by the Purchaser
- all of which charges shall (if applicable) be shown in addition to the price for the Product in the Contract
- 5 PAYMENT**
- (a) Unless otherwise agreed in writing payment of one third of the total contract price shall be made at the time of signature of the Contract (less any deposit already paid) and the balance (together with any extra costs payable in accordance with these Conditions) shall be paid not later than 10 days before the date notified by the Company to the Purchaser as the estimated date of completion of manufacture
- (b) Failure by the Purchaser to pay in accordance with the provisions of this condition shall entitle the Company, without prejudice to its rights to damages, to suspend any outstanding work or deliveries or to cancel the Contract
- (c) In addition to the Company's rights under sub-condition (b) the Company shall be entitled to charge interest on any amounts outstanding (both before and after judgment) at the rate of 3 per cent above the Barclays Bank base rate for the time being in force
- (d) Payments by letter of credit shall only be made if so designated on the face of the Contract and if this does apply all costs including bank charges shall be for the account of the Purchaser and all letters of credit shall be:-
- (i) In favour of the Company;
- (ii) Consistent with the provisions of these terms and conditions;
- (iii) In sufficient amounts and for the period necessary to meet with all payment obligations hereunder;
- (iv) Irrevocable, transferable and divisible;
- (v) Issued or confirmed by a Bank in London acceptable to the Company within fifteen days after the date of the Contract
- 6 DELIVERY AND PASSING OF RISK**
- (a) The risk in the Products passes to the Purchaser on delivery
- (b) Where delivery is to take place at the Company's works delivery shall actually occur (and risk shall therefore pass) at the time when the Products are placed onto the Purchaser's transport. The Purchaser shall be responsible for securing
- (c) the Products to such transport
- (d) Where delivery is to take place other than at the Company's works then:-
- (i) If the Company is not commissioning the Product then delivery shall actually occur (and risk shall therefore pass) when the Products arrive at the place of delivery. The Purchaser shall be responsible for unsecuring and unloading the Products
- (ii) If the Company is commissioning the Product then delivery shall actually occur (and risk shall therefore pass) when the commissioning is complete
- (d) The Company will use all reasonable efforts to deliver the Products in accordance with dates specified but failure to comply with such dates shall not constitute a breach of this Agreement and dates of delivery are approximate only and are not of the essence of the Contract
- (e) Where the Purchaser notifies the Company that it is unable to take delivery of the Products in accordance with the date stated in the Contract or within seven days of the Company giving notice that the Products are ready for despatch, the Company shall endeavour to store the Products and the Purchaser shall reimburse the Company without delay all costs and storage charges incurred by the Company until delivery takes place
- (f) Where the products are to be delivered by instalments and the Purchaser either fails to accept any delivery when due or defaults in making any payment when due, then the Company may cancel any or all subsequent deliveries and the Purchaser shall compensate the Company in full for any loss or expense arising from such cancellation.
- (g) The Company will package the Products to protect them during transit by normal means for a normal period. The Purchaser shall pay for any additional packaging which it may specify
- 7 PASSING OF PROPERTY**
- Until the Company has received full payment in respect of the Products:-
- (a) The Company shall retain property in the Products;
- (b) The Purchaser shall be entitled to sell the Products and pass the property in the same to third parties in the normal course of business until the events set out in (e) below but the proceeds of resale and/or the claim to such proceeds will be held in trust for the Company until such time as all sums owing to the Company in respect of the sale of such Products have been paid
- Until such sums have been paid the Purchaser shall, subject to the terms of this Condition, retain the Products in a fiduciary capacity
- (c) The Company shall be entitled at any time while any monies in respect of the Products are outstanding to notify the Purchaser of its intention to retake possession of them
- (d) On receipt of notice from the Purchaser or on the happening of any of the events set out under (e) below the Purchaser's authority to sell the Products shall be withdrawn and all proceeds of sale received by the Purchaser from sale made prior to the withdrawal of authority shall be paid by the Purchaser into a Bank account separate from all other of its monies and held in such account for the Company. Further all Products shall be immediately redelivered to the Company and it by its servants or agents shall have the right to enter upon any land or buildings to take possession of the Products
- (e) The events hereinbefore referred to are:-
- (i) any notice that a Receiver or manager is to be or has been appointed;
- (ii) (where the Purchaser is a corporate body) any notice that a petition to wind up the company is to be or has been presented or any notice of a resolution to wind up the company (save for the purpose of a reconstruction or amalgamation);
- (iii) a decision by the Purchaser that it intends to make an arrangement with its creditors;
- (iv) any act of bankruptcy as defined by Section 11 of the Bankruptcy Act 1914
- 8 SPECIFICATIONS**
- All specifications are approximate only and are subject to normal margins of tolerance for the materials and construction in question. Whilst the Company will endeavour to manufacture the Products in accordance with the specifications prevailing at the time of the Contract it reserves the right notwithstanding the above to vary the specifications without notice in the light of changes in technical knowledge, production techniques, Government or other regulations, consideration for safety or other reasonable cause. The delivery of Products conforming to the Company's prevailing design and specifications at the time of delivery shall be good and sufficient performance of the Contract by the Company
- 9 DEFECTS APPARENT ON INSPECTION**
- (a) The Purchaser shall have no claim for defects apparent on visual inspection unless
- (i) the Purchaser inspects the Products within three working days of delivery; and
- (ii) a written complaint is made to the Company within fourteen days of delivery (specifying the shortage or defect) and the Company is given an opportunity to inspect the Products and investigate any complaint before any use is made of the Products;
- (i) in International Sales where delivery is to be made in the UK inspection claims must be made whilst the Product is in the UK to allow the Company to inspect the Product which is the subject of complaint in the UK and the Purchaser must, if necessary, appoint an agent to carry out such inspection on his behalf
- (b) If a complaint is not made to the Company as herein provided then the Products shall be deemed to be in all respects in accordance with the Contract and the Purchaser shall be bound to pay for the same accordingly.
- 10 DEFECTS NOT APPARENT ON INSPECTION**
- (a) The Purchaser shall have no claim in respect of defects not apparent on visual inspection at the time of delivery unless
- (i) a written complaint is sent to the Company as soon as reasonably practicable after the defect is discovered and no alteration made thereto before the Company is given an opportunity in accordance with sub-condition (d) of this Condition to inspect the Products; and the complaint is sent within twelve months of the date of delivery of the Products in UK Sales and within 90 days of the date of delivery in International Sales or in the case of items not manufactured by the Company within the guarantee period specified by the manufacturer of such item
- (b) The Purchaser shall not be entitled to any claim in respect of any repairs or alterations undertaken by the Purchaser without the prior specific written consent of the Company nor in respect of any defect arising by reason of fair wear and tear or damage due to misuse
- (c) The Company shall not be liable for loss or damage suffered by reason of continued use of the Products after the Purchaser becomes aware of a defect or after circumstances which should reasonably have indicated to the Purchaser the existence of a defect
- (d) The Company may within fifteen days of receiving such a written complaint (or twenty eight days where the Products are situated outside the UK) inspect the Products and the Purchaser if so required by the Company shall take all steps necessary to enable the Company to do so
- 11 WARRANTY**
- (a) The Company will make good by replacement or at its option by repair all defects in Products which have been manufactured by the Company and which arise solely from faulty design (other than a design made, furnished or specified by the Purchaser for which the Company has disclaimed responsibility in writing) materials and workmanship PROVIDED THAT all such defects are reported to the Company in writing in accordance with the terms of clauses 9 and 10 above. The warranty does not cover damage to Products caused by accident, misuse, acts of third parties, environmental conditions or other causes beyond its control.
- (b) Products incorporating the defective parts (or the parts themselves if they can be detached from the Product without damage) must at the Company's option be returned to its works. The Company shall refund the cost of carriage on such returned Products or parts and the repaired or new parts will be delivered by the Company. Where the Products are repaired or replaced under this Condition they will be considered as having been delivered at the same time as the original Products
- (c) Where claims are made by the Purchaser under this condition the Company shall use all reasonable endeavours to rectify the problem as soon as practicable. The parties hereto accept that such rectification may take a longer time during those months of the year (in the Spring and Summer) which are popular for sailing and that it is the Company's intended objective in responding to complaints to keep its Purchasers sailing in safety
- (d) Where the Company responds to a complaint which is not covered by the warranty it reserves the right to charge the Purchaser at its normal rates for travel subsistence labour and materials in carrying out any inspection and rectification in the case of Products not manufactured by the Company. The Purchaser is entitled only to such benefits as the Company may receive under any contract with the manufacturer and which it is entitled to assign to the Purchaser
- (e) The Company's liability under this clause shall be in lieu of any warranty or condition express or implied whether by statute or otherwise (except Section 12 of the Sale of Goods Act 1979) including, but without limitation, the implied warranties as to merchantable quality or fitness for purpose except where the Purchaser contracts in UK Sales as a "consumer" within the meaning of Section 12 of the Unfair Contract Terms Act 1977 in which event Sections 13, 14 and 15 of the Sale of Goods Act 1979 shall apply to the Contract
- 12 LIMITATION OF LIABILITY**
- The Company shall be liable for:-
- (a) Death or personal injury arising from its negligence; and
- (b) The repair or replacement of the Products in accordance with the obligations contained in Condition 11 above
- (c) Any breach of the obligations (title to Products) contained in Section 12 of the Sale of Goods Act 1979
- The Company hereby expressly excludes and shall not be responsible for any other loss damage or liability arising out of the Contract whether direct or indirect or consequential and whether or not caused by its negligence including but without prejudice to the generality of the foregoing loss of profits or other economic loss
- 13 SECOND HAND SALES**
- The terms of clauses 9, 10 and 11 do not apply to sale of second hand Products which are sold as seen. Unless otherwise stated demonstration Products are sold as new
- 14 CHARTERING**
- The warranty contained in Condition 11 above shall apply to Products which are to be used for chartering or for other business purposes with the modification that complaints in respect of defects not apparent on visual inspection must be sent within 90 days of the date of delivery
- 15 DATA AND TECHNICAL INFORMATION**
- The information contained in the advertising sales and technical literature issued by the Company may be relied upon to be accurate in the exact circumstances in which it is expressed unless any illustrations performance details examples of installations and methods of assembly and all other technical data in such literature are based on experience and from trials under test conditions. Accordingly the information contained in the Company's publications is provided for general guidance only and forms no part of the Contract unless expressly agreed in writing. Purchasers should obtain specific recommendations and advice from the Company regarding the uses and attributes of the Company's products
- 16 FORCE MAJEURE**
- The Company shall be under no liability for any delay or failure to perform in the event that the manufacture, supply or delivery of the Products is prevented or delayed by any act or circumstances beyond the Company's reasonable control including but not limited to Act of God, legislation, war, fire, drought, failure of power supply, lock-out, strike or other action taken by employees in contemplation of furtherance of a trade dispute or owing to any inability to procure materials required for the performance of the Contract
- 17 WAIVER AND SEVERANCE**
- (a) Any indulgence granted by the Company to the Purchaser and any failure by the Company to insist upon strict performance of these terms and conditions shall not be deemed a waiver of any of the Company's rights or remedies nor be deemed a waiver of any subsequent default by the Purchaser
- (b) The invalidity in whole or in part of any clause in these terms and conditions shall not affect the validity of the remainder of such clause or these terms and conditions
- 18 ASSIGNMENT**
- The Contract is not assignable by the Purchaser without the written consent of the Company and is between the Company and the Purchaser as principals but the Company may without consent assign or sub-contract all or any of its rights and obligations hereunder
- 19 TERMINATION**
- If the Purchaser becomes insolvent or in the opinion of the Company is likely to go into bankruptcy, receivership or liquidation, or makes default in or commits a breach of the Contract, the Company may forthwith on written notice to the Purchaser terminate the Contract without incurring liability to the Purchaser and without prejudice to the Company's rights which may have accrued up to the date of termination
- 20 CONSTRUCTION**
- No variation or addition to these Conditions shall be effective unless contained on the face of the Contract or in a written instrument signed by a Director or the Secretary of the Company
- 21 GOVERNING LAW**
- The interpretation and application of the Contract shall be in accordance with English Law and both parties hereby agree to submit to the non-exclusive jurisdiction of the English Courts
- 22 HEADINGS**
- The section headings contained herein are for convenience of reference only and shall not affect the interpretation of any term or condition hereof
- 23 CUMULATION OF REMEDIES**
- All remedies available to either party for breach of this Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 24 NOTICES**
- Any notice or other communication hereunder shall be in writing, (which includes telex) and shall be duly given when actually delivered to the Company or the Purchaser at its address on the face of this Contract or such other address as may from time to time (by written notice to the other party) have been designated for such purpose