

GENERAL TERMS AND CONDITIONS OF KROPF

These General Terms and Conditions (these “**Terms and Conditions**”) will apply to all quotes and sales of products, goods, articles, equipment and services by Kropf Industrial Inc. (“**Kropf**”) and are hereby incorporated into any quote, proposal, invoice, contract and any other document to which they are attached or in which they are referenced (the “**Order**” and, together with these Terms and Conditions, the “**Agreement**”).

- Application.** All purchases by customer or its agents or representatives (“**Customer**”) from Kropf are expressly limited by and conditioned upon acceptance of these Terms and Conditions. In the event of any conflict between the Order and these Terms and Conditions, the provisions of these Terms and Conditions will prevail. These Terms and Conditions are not subject to change by reason of any written or verbal statement by Kropf made either before or after Kropf and Customer execute the Order, unless explicitly accepted by Kropf in writing and signed by Kropf. For the purposes of these Terms and Conditions, the term “**Deliverables**” shall refer to the products, goods, articles and equipment listed on the Order as well as all equipment or other materials provided in connection with any Services, and the term “**Services**” shall refer to the services listed on the Order as well as all ancillary services provided with any Deliverables.
- Quote.** Unless otherwise stated in the Order, any quote is valid for 30 calendar days from the date of the quote. The quote supersedes all previous quotes or correspondence concerning the same transaction or inquiry.
- Payment Terms.** The sales price for the Deliverables and/or Services is as stated in the Order (the “**Sales Price**”). Unless otherwise specified in the Order, Customer shall pay Kropf thirty percent of the Sales Price upon execution of the Order (the “**Deposit**”) and the remainder of the Sales Price shall be due and payable upon the earlier of the delivery of the Deliverables to Customer or performance of the Services. If the Order is not signed and returned to Kropf with the Deposit within seven calendar days, such contract shall be deemed to be null and void unless written approval of Kropf is provided. If the Deposit is not received within seven calendar days from the date of execution of the Order, Kropf may reschedule the delivery of the Deliverables and the performance of the Services to the next available manufacturing and installation dates. Any bank fees incurred for the Deposit or payment of an invoice shall be the sole responsibility of Customer.
- Late Payments.** Customer shall pay interest on late payments at the interest rate of 2% per month (24% per annum). Overdue accounts not paid within 60 calendar days will be placed on hold by Kropf, and receive no further Deliverable or Service from Kropf until such time as such accounts are paid in full.
- Delivery.** The Deliverables shall be delivered and the Services shall be performed on or before the date specified in the Order (the “**Delivery Date**”). All Delivery Dates are estimates and Kropf does not guarantee a specific Delivery Date for any Deliverable or Service. Time of delivery is not of the essence and Kropf shall not be liable for any delay whatsoever.
- Title; Risk of Loss.** Title in the Deliverables shall pass to Customer only upon payment of the Sales Price in full. Unless the Order explicitly provides otherwise, the risk of loss or damage to the Deliverables shall pass to Customer upon loading of the Deliverables on a carrier at Kropf’s facility for delivery to the Customer, regardless of who has engaged the carrier. Upon the passage of risk of loss or damage, the Customer assumes all risk and liability for loss, damage or injury to persons or to properties including, without limitation, claims arising out of the hoisting, loading, delivery, transportation, storage, handling, use or possession of the Deliverables.
- Delivery Site; Regulatory Requirements.** Customer is responsible for providing an accessible site that is safe and suitable for delivery of the Deliverables and/or performance of the Services, including the operation of any machinery required. If Kropf is performing installation services, the Customer is responsible for ensuring that Kropf can complete installation of the Deliverables, including performance of all necessary shorewall or civil work, dredging and shoreline stabilization and electrical and plumbing work (unless the Order explicitly provides that Kropf shall performance such work). Kropf is not responsible for damage to the delivery site resulting from any vehicle movements or equipment operations occurring during installation of the Deliverables. Customer shall be responsible for applying for and maintaining necessary permits and ensuring that all governmental and regulatory requirements are obtained prior to delivery of the Deliverables and commencement of the Services. Any delays resulting from not having the necessary permits in place will result in an extension of the Delivery Date.
- Taxes and Other Charges.** Unless otherwise specified in the Order, the Sales Price does not include any Canadian federal, provincial, territorial, municipal or local taxes, and, for international sales, the Sales Price does not include any taxes that might be imposed by foreign governments (including, without limitation, any value added tax or U.S. federal, state, or local sales or use taxes). Furthermore, unless otherwise specified in the Order, the Order does not include any fees, taxes, tariffs, duties or other charges associated with transportation, delivery, export or import of the Deliverables to their final destination. All fees, taxes, tariffs, duties or other charges mentioned in this Section 8 or similar thereto shall be paid or reimbursed by Customer and shall be in addition to the Sales Price. Customer shall pay for the replacement cost of any rotten, rusted, unsafe, non-compliant or defective materials required to be replaced to provide (or install, if specified in the Order) the Deliverables. Kropf shall provide notice to Customer of any extra work or materials required due to defective materials or non-compliance with applicable regulations and laws.
- Security Interest.** As general and continuing security for the due payment and performance of Customer’s indebtedness and obligations to Kropf from time to time, Customer hereby irrevocably grants to Kropf a first priority purchase money security interest in all of Customer’s right, title and interest in and to any Deliverables delivered from time to time, and all proceeds thereof. Customer will, at its own expense, execute and deliver all further financing statements and other instruments, agreements and documents, which Kropf may request, relating to the assurance of payment of all Customer’s obligations to Kropf from time to time, and as required to create, preserve, perfect, validate or otherwise protect the purchase money security interest created hereby, or otherwise carry out the provisions and purposes of the Agreement. All expenses, costs and charges incurred by or on behalf of Kropf in connection with the creation and perfection of this security interest in the Deliverables, and any enforcement thereof, shall be added to the outstanding amounts owed by Customer to Kropf. For a Customer domiciled in the Province of Quebec, the sale shall constitute an instalment sale and Kropf shall reserve ownership of the Deliverables until full payment of the Sales Price.
- Specifications.** Customer shall supply Kropf, at no cost to Kropf, with all specifications, design and other information (the “**Specifications**”) necessary for Kropf to manufacture the Deliverables.
- Intellectual Property.** Kropf shall retain all intellectual property rights, whether registered or unregistered, in and to the Deliverables and/or Services, including all rights in and to patent, copyright, trademark, service mark, trade secret, industrial design, and all other intellectual property rights or industrial property rights in and to the Deliverables and/or Services.
- Insurance.** Customer shall, at its own expense and for five years from the Delivery Date, maintain and carry insurance coverage in the amount of \$2,000,000. Customer waives right to subrogation against Kropf and its subcontractors under any insurance the Customer may carry. Kropf may request copies of certificates evidencing the required insurance coverage at any time. Kropf shall, at its own expense and at all times, maintain insurance coverage in a sum of no less than \$2,000,000 for commercial general liability.
- Limited Warranty.** Kropf warrants (the “**Warranty**”): (a) that the floating breakwater, to the extent included in the Deliverables, is free from defects in materials and workmanship for a period of five years from the date of substantial completion; (b) that the floating dock, to the extent included in the Deliverables, is free from defects in materials and workmanship for a period of five years from the date of substantial completion; and (c) with respect to Conolift equipment, to the extent included in the Deliverables, that the frame is free from defects in materials and workmanship for a period of three years from the Delivery Date and any hydraulic component is free from defects in materials and workmanship for a period of two years from the Delivery Date subject to a limited warranty of ninety days on running gear. Subsections (a) and (b) above are collectively referred to as the “**Breakwater and Dock Warranties**”. The Breakwater and Dock Warranties only apply to steel tube floats and welded superstructures, as well as all connecting points including Kropf’s recommended anchoring, provided that if a third-party manufactured mooring system is deployed the mooring manufacturer’s warranty, if any, shall apply. The Warranty is limited to the Customer and is non-transferable. The Customer shall give prompt written notice to Kropf of any warranty claim. In the event of a valid warranty claim by Customer, Kropf shall, at Kropf’s option, repair or replace the Deliverable. The Warranty does not cover: (a) defects, deficiencies or failures in materials provided by Customer to Kropf; (b) damage to the Deliverable occurring after the Delivery Date; (c) accident, abuse or misuse of the Deliverable; (d) standard maintenance, (e) normal wear and tear; (f) corrosion or typical weathering; (g) damage from winds exceeding Force 9; (h) damage caused by large masses of moving ice; (i) wave attenuation performance; or (j)

any other failure of the Deliverable to meet the Specifications that was not the result of the work performed by Kropf under the Agreement. Warranty services shall be performed at no charge between the hours of 8:30 am and 4:30 pm local time, Monday through Friday exclusive of statutory holidays. Warranty service requested to be performed at other than Kropf's working hours shall be chargeable at Kropf's standard overtime rates. This warranty shall become VOID should (a) any person other than Kropf attempt to repair, alter or adjust the installation during the Warranty period (b) the Customer not carry out the requisite maintenance and services prescribed by Kropf and maintain adequate records reflecting same; and (c) the Customer exceed any of the design capabilities or capacities provided in the Agreement. THIS WARRANTY IS KROPF'S SOLE AND EXCLUSIVE WARRANTY FOR THE DELIVERABLES AND ANY RELATED SERVICES, AND IS IN LIEU OF ALL OTHER REPRESENTATIONS, WARRANTIES, CONDITIONS OR OTHER AGREEMENTS, EXPRESS OR IMPLIED, AND STATUTORY OR OTHERWISE, WHICH ARE HEREBY DISCLAIMED, INCLUDING, BUT NOT LIMITED TO ANY IMPLIED WARRANTY OR CONDITION AS TO MERCHANTABILITY, FITNESS FOR PURPOSE, CONDITION OR QUALITY. THE REMEDY PROVIDED HEREIN IS CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY. THE PROVISIONS HEREOF ARE ALSO SUBJECT TO THE LIMITATIONS OF LIABILITY SET FORTH BELOW.

14. **Indemnity.** The Customer assumes responsibility and shall indemnify, defend and hold harmless Kropf and its affiliates, and their respective officers, directors, employees, agents, contractors, successors, assigns and other representatives, from any and all damages, losses, costs, liabilities, claims, third party claims, actions, fines and expenses (including legal fees) incurred or otherwise arising out of or in connection with (i) the use or maintenance of the Deliverables or Services by the Customer or its affiliates, or their respective customers, employees, agents, contractors or any third party, whether authorized or unauthorized, including any misuse, alteration or modification of the Deliverables or Services, (ii) any breach by the Customer of the Agreement, or (iii) any acts, omissions, negligence or willful misconduct of the Customer or its affiliates, or their respective customers, officers, directors, employees, agents, contractors, successors, assigns and other representatives. If Customer is not the sole owner of the premises where the work is to be performed, Customer shall obtain an undertaking from the other owners thereof sufficient to provide Kropf the same protection from liability for loss or damage to such property as would be afforded to Kropf if Customer were the sole owner. The Customer is not required to indemnify Kropf to the extent any indemnified claim result from Kropf's gross negligence or willful misconduct. The Customer will not enter into any settlement for an indemnified claim without Kropf's prior written consent.

15. **Limitation of Liability.** It is understood by the Customer that Kropf is not an insurer and that insurance coverage, if any, shall be obtained by the Customer and that amounts payable to Kropf under this contract is based on the value of the Goods and Services and the scope of liability set forth in this Agreement and are unrelated to the value of the Customer's property. Customer agrees to look exclusively to the Customer's insurer to recover for injuries or damages in the event of any loss or damage and that customer releases and waives all rights of recovery as against Kropf by way of subrogation. IN NO EVENT WILL KROPF'S CUMULATIVE LIABILITY BE IN EXCESS OF THE TOTAL PAYMENTS RECEIVED FROM THE CUSTOMER UNDER THE AGREEMENT, WHETHER ARISING UNDER WARRANTY, CONTRACT, NEGLIGENCE, STRICT LIABILITY, INDEMNIFICATION, OR ANY OTHER CAUSE OR COMBINATION OF CAUSES WHATSOEVER.

If the Customer desires Kropf to assume greater liability, the parties shall amend this Agreement by attaching a rider setting forth the amount of additional liability and the additional amount payable by the Customer for the assumption by Kropf of greater liability, provided however that such rider shall in no way be interpreted to hold Kropf as an insurer.

IN NO EVENT SHALL KROPF BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES OF ANY TYPE, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, REVENUE OR OTHER ECONOMIC LOSSES, LOST OR DIMINISHED PRODUCTION OR CLAIMS OF CUSTOMERS, DUE TO ANY CLAIM OR DEMAND REGARDLESS OF THE THEORY OF LIABILITY ASSERTED (INCLUDING, WITHOUT LIMITATION, BREACH OF CONTRACT, BREACH OF WARRANTY, FRAUD IN THE INDUCEMENT, NEGLIGENCE, STRICT LIABILITY, INTENTIONAL TORT, OR BREACH OF ANY STATUTORY DUTY OR CONDITION) ARISING OUT OF OR RELATING TO THE DELIVERABLES OR SERVICES, WHETHER ARISING UNDER WARRANTY, CONTRACT, NEGLIGENCE, STRICT LIABILITY, INDEMNIFICATION, OR ANY OTHER CAUSE OR COMBINATION OF CAUSES WHATSOEVER.

16. **Termination.** Kropf may terminate the Agreement without cost or penalty at any time in the event of Customer's material breach of their obligations under the Agreement or in the event of a Force Majeure. Customer may not terminate the Agreement unless the prior written consent of Kropf is obtained. If Customer terminates the Agreement, Kropf may keep the Deposit.

17. **Force Majeure.** Except for Customer's obligation to make required payment(s) for the Deliverables and/or Services, neither party will have any liability for their failure to perform any of their contractual obligations arising out of or in connection with events of Force Majeure. For the purposes of these Terms and Conditions, "Force Majeure" means any event not within the reasonable control of either party, whether foreseeable or not, including, but not limited to, destruction or damage to the Deliverables; destruction or damage to Kropf's manufacturing facility, equipment or machinery; disruptions in the availability of supplies or raw materials; strikes, lockouts or labor disputes; fires; explosions; natural disasters; adverse weather conditions; acts of war or terrorism; acts of God; transportation or supplier delays or disruptions; the implementation of rules, regulations, statutes, ordinances, or orders of any governmental authority; inability to obtain material necessary to deliver the Deliverables or perform the Services; a global pandemic; and any other matter generally recognized to constitute an event of force majeure. The affected party shall give notice to the other party within ten business days after it learns of the occurrence of any event of Force Majeure.

18. **Relationship.** The Agreement shall not create, and shall not be construed to create, an agency, partnership, or joint venture relationship between the parties. Neither party shall have any authority to bind the other party in any transaction, or to make any contract, promise, representation, warranty, undertaking, or obligation of any type on behalf of the other party.

19. **Assignment; Subcontracting.** Customer may not assign its rights or delegate its duties under the Agreement. Kropf may engage a subcontractor to perform any of the Services.

20. **Entire Agreement; Amendment; Waiver.** The Agreement constitutes the entire agreement between the parties with respect to the subject matter and supersedes all prior negotiations, discussions, dealings and understandings, whether written or oral, between the parties. The Customer agrees that it has not relied on any information, discussions, understandings, inducements, commitments, conditions, representations or warranties of any kind, whether direct, indirect, collateral, express or implied, oral or written, other than as contained in the Agreement. Neither party shall claim any amendment, modification, waiver or release of any provisions hereof unless the same is in writing and signed by both parties. No waiver by Kropf of any breach of any terms, conditions or obligations under the Agreement shall be deemed a waiver of any continuing or subsequent breach of the same or any other terms, conditions or obligations hereunder. No failure to exercise, and no delay in exercising, any right or remedy, under the Agreement will be deemed to be a waiver of that right or remedy.

21. **Severability.** If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, the illegality, invalidity or unenforceability of the provision will not affect (i) the legality, validity or enforceability of the remaining provisions of the Agreement or (ii) the legality, validity or enforceability of that provision in any other jurisdiction.

22. **Notices.** Any notices given with respect to this Agreement shall be in writing and delivered by a nationally known (or, in the case of international transactions, an internationally known) overnight courier service with delivery to be made on the next business day (or as soon thereafter as possible), or by email, addressed as follows: if to Kropf: Kropf Industrial Inc., 1 Quebec Dr., Seguin, Ontario, Canada P2A 0B2 and info@kropfindustrial.com; and if to Customer: to the Customer's address or email as stated in the Order. Notice shall be effective on the date delivered.

23. **Interpretation.** Wherever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation" and the words following "include", "includes" or "including" shall not be considered to set out an exhaustive list.

24. **Governing Law; Dispute Resolution.** This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in the Province of Ontario. The parties agree to submit to and be bound by those laws and the courts of that jurisdiction and waives any objection that the court is an inconvenient forum. Any dispute, controversy or claim arising out of or in relation to the Agreement or in relation to the Goods or Services provided under the Agreement, including the validity, invalidity, interpretation or implementation of the Agreement and its provisions, or breach or termination thereof, shall be resolved by arbitration in accordance with the rules of the International Centre for Dispute

Resolution. The number of arbitrators shall be one. The seat of the arbitration shall be in Toronto, Ontario and the arbitration shall take place in Toronto, Ontario. The parties specifically disclaim application of the United Nations Convention on Contracts for the International Sale of Goods. The parties agree to keep the arbitration strictly confidential, except as may be necessary to implement or enforce the arbitrator's award. The arbitral proceedings shall be conducted in English. The award shall be final and binding on the parties and there are no appeal rights whatsoever.

25. **Survival.** The rights or obligations of the parties that, by their nature, should survive termination or expiration of this Agreement, will survive any termination of this Agreement, including but not limited to Section 9 (Security Interest), Section 12 (Insurance), Section 14 (Indemnity) and Section 15 (Limitation of Liability).