
GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

Ropeblock BV

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Preamble

1. These General Terms and Conditions of sale and delivery shall apply to all offers, quotations and contracts made by Ropeblock BV (hereinafter 'Ropeblock') in which Ropeblock undertakes to deliver products (hereinafter the 'Product') to the Purchaser.
2. The applicability of general conditions of the Purchaser or any other general conditions is expressly rejected.
3. Changes to these General Terms and Conditions are only valid if expressly agreed to in writing by Ropeblock.
4. Insofar as these General Terms and Conditions are also drawn up in a language other than English, in the event of any conflict the English text shall always prevail.
5. Wherever these General Terms and Conditions use the term in writing, this shall mean by document signed by parties, or by letter, fax, electronic mail and by such other means as are agreed by the parties.

Offers and conclusion of agreement

6. All offers made by Ropeblock shall be non-binding, unless otherwise agreed.
7. An agreement shall come into effect once Ropeblock has confirmed the order in writing.
8. In the event that agreement is reached to effect payment by means of a letter of credit, the agreement concerned shall only come into effect once Ropeblock accepts the relevant irrevocable (confirmed) letter of credit in writing according to UCP 600. This letter of credit will be opened by a bank subject to the acceptance in advance by Ropeblock and will be opened at the latest five (5) working days after Ropeblock has sent the order confirmation.
9. Any agreement will be concluded under the resolutive conditions that the Purchaser, solely according to the credit insurance company, will be sufficient creditworthy.
10. Any offer made or undertaking given by a representative of Ropeblock shall only be binding insofar as the latter confirms this in writing.

Product information

11. All information and data contained in general product documentation and price lists, whether in electronic or any other form, are binding only to the extent that they are by reference expressly included in the contract.

Drawings and descriptions

12. All drawings and technical documents relating to the product or its manufacture submitted by one party to the other, prior or subsequent to the formation of the contract, shall remain the property of the submitting party.
13. Drawings, technical documents or other technical information received by one party shall not, without the consent of the other party, be used for any other purpose than that for which they were provided. They may not, without the consent of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to a third party.
14. Ropeblock shall, not later than at the date of delivery, provide information, drawings and the relevant certificates which are necessary to permit the Purchaser to erect, commission, operate and maintain the Product. Such information and drawings shall be supplied in the number of copies agreed upon or at least one copy of each. Ropeblock shall not be obliged to provide manufacturing drawings for the Product or for spare parts.

Acceptance tests

15. Acceptance tests provided for in the contract shall, unless otherwise agreed, be carried out at the place of manufacture during normal working hours. If the contract does not specify the technical requirements, the tests shall be carried out in accordance with general practice in the appropriate branch of industry concerned in the country of manufacture.
16. Ropeblock shall notify the Purchaser in writing of the acceptance tests in sufficient time to permit the Purchaser to be represented at the tests. If the Purchaser is not represented, the test report shall be sent to the Purchaser and shall be accepted as accurate.
17. If the acceptance tests show the Product not to be in accordance with the contract, Ropeblock shall without delay remedy any deficiencies in order to ensure that the Product complies with the contract. New tests shall then be carried out at the Purchaser's request, unless deficiency was insignificant.
18. Ropeblock shall bear all costs for acceptance tests carried out at the place of manufacture. The Purchaser shall however bear all expenses (including all traveling and living expenses) for his representatives and any third party in connection with such tests or otherwise agreed upon.

Delivery

19. Unless otherwise agreed in writing, delivery will take place 'free carrier', Oldenzaal, the Netherlands (FCA, Incoterms 2020).
20. Partial shipments shall be permitted. Each partial shipment shall be deemed to represent a separate agreement. Ropeblock shall be entitled to demand payment for each partial delivery before proceeding with any other.
21. The Purchaser's failure to comply with his duty to effect payment (or to do so on time), shall have the effect of suspending Ropeblock's duty to effect a delivery.

Time for delivery. Delay

22. If the parties, instead of specifying the date for delivery, have specified a period of time on the expiry of which delivery shall take place, such period shall start to run as soon as the contract is entered into, all official formalities, including approval of technical drawings and specifications, have been completed, payments due at the formation of the contract have been made, any agreed securities have been given and any other preconditions have been fulfilled.
23. If Ropeblock anticipates that he will not be able to deliver the Product at the time for delivery, he shall forthwith notify the purchaser thereof in writing, stating the reason, and, if possible, the time the delivery can be expected.
24. If the Product is not delivered at the time for delivery (as defined in Clause 22), the Purchaser is entitled to liquidated damages from the date on which delivery should have taken place unless the delay in delivery is caused by force majeure or by an act or omission on the part of the Purchaser.
25. The liquidated damages shall be payable at a rate of 0.3 per cent of the purchase price for each completed week of delay.
26. The liquidated damages shall not exceed 3.0 per cent of the purchase price. If only part of the Product is delayed, the liquidated damages shall be calculated on the part of the purchase price which is attributable to such part of the Product as cannot in consequence of the delay be used as intended by the parties.
27. The liquidated damages become due at the Purchaser's demand in writing but not before delivery has been completed or the contract is terminated under Clause 29.
28. The Purchaser shall forfeit his right to the liquidated damages if he has not lodged a claim in writing for such damages within six months after the time when delivery should have taken place.
29. If the delay in delivery is such that the Purchaser is entitled to maximum liquidated damages under Clause 26 and if the Product is still not delivered, the Purchaser may in writing demand delivery within a final reasonable period which shall not be less than one week. If Ropeblock does not deliver within such final period and this is not due to any circumstance for which the Purchaser is responsible, then the Purchaser may by notice in writing to Ropeblock terminate the contract in respect of such part of the Product as cannot in consequence of Ropeblock's failure to deliver be used as intended by the parties. If the Purchaser terminates the contract he shall be entitled to compensation for the loss he has suffered as a result of Ropeblock's delay. The total compensation, including the liquidated damages which are payable under Clause 26, shall not exceed 7.5 per cent of that part of the purchase price which is attributable to the part of the Product in respect of which the contract is terminated.
30. Liquidated damages under Clause 26 and termination of the contract with limited compensation under Clause 29 are the only remedies available to the Purchaser in case of delay on the part of Ropeblock. All other claims against Ropeblock based on such delay shall be excluded, except where Ropeblock has been guilty of gross negligence. In these General Conditions gross negligence shall mean an act or omission implying either failure to pay due regard to serious consequences, which conscientious suppliers would normally foresee as likely to ensue, or deliberate disregard of the consequences of such act or omission.
31. If the Purchaser anticipates that he will be unable to accept delivery of the Product at the delivery time, he shall forthwith notify Ropeblock in writing thereof stating the reason, and, if possible, the time when he will be able to accept delivery. If the Purchaser fails to accept delivery at the delivery time he shall nevertheless pay any part of the purchase price which becomes due on delivery, as if delivery had taken place. Ropeblock shall arrange for storage of the Product at the risk and expense of the Purchaser. Ropeblock shall also, if the Purchaser so requires, insure the Product at the Purchaser's expense.
32. Unless the Purchaser's failure to accept delivery is due to any such circumstance as mentioned in Clause 68, Ropeblock may by notice in writing require the Purchaser to accept delivery within a final reasonable period. If, for any reason for which Ropeblock is not responsible, the Purchaser fails to accept delivery within such period, Ropeblock may by notice in writing terminate the contract in whole or in part. Ropeblock shall then be entitled to compensation for all losses he has suffered by reason of the Purchaser's default.

Prices

33. Unless otherwise agreed in writing, prices shall be stated in Euro or US dollar, exclusive of VAT and are based on 'free carrier', Oldenzaal, the Netherlands (FCA, Incoterms 2020).

34. Any price cited by Ropeblock shall be based on the existing monetary conditions, labour costs, procurement prices, duties, taxes and other levies, subsidies and the like prevailing at the time the contract concerned is concluded. In the event that one or more of these cost price components increase after conclusion of the contract but before the relevant Product have been delivered, Ropeblock shall be entitled to pass on any reasonable price increase to the Purchaser.

35. Where Ropeblock and the Purchaser agree to a price in US dollar and the US dollar exchange rate at the date of order confirmation deviate with 10% or more from the US dollar exchange rate current at the date of delivery, supplementary payment to resp. restitution by Ropeblock shall have to be effected.

Payment

36. Ropeblock shall at all times have the right to demand full or partial payment in advance. As to all other sales, payment must be made by the Purchaser within 30 days after the relevant invoice date, unless otherwise agreed in writing, without any discount, suspension or claim of compensation.

37. Whatever the means of payment used, payment shall not be deemed to have been effected before Ropeblock's account has been fully and irrevocably credited.

38. Payments shall be made in the currency of Ropeblock's order confirmation.

39. If the Purchaser fails to pay by the stipulated date the Purchaser shall be deemed in default without the need for any notice of default or judicial intervention. From the day on which the payment was due the Purchaser shall be charged an interest of 8 percentage points above the rate of the main refinancing facility of the European Central Bank in force on the due date of payment as well as all of the expenses involved in collecting his debt, both judicial and extrajudicial. The extrajudicial costs owed shall never be less than 15% of the sum to be collected with a minimum of € 40,-.

40. In case of late payment Ropeblock may, after having notified the Purchaser, suspend his performance of the contract until he receives payment. If the Purchaser has not paid the amount due within two months Ropeblock shall be entitled to terminate the contract by notice in writing to the Purchaser and claim compensation for all losses he has incurred.

41. The entire purchase price shall fall due with immediate effect in the event that the Purchaser fails to effect timely payment or if he goes bankrupt, is granted a suspension of payments, is placed in the care of a guardian, his possessions are attached or in the event that the Purchaser's business is liquidated or dissolved.

42. Upon or after entering into the agreement and before its implementation, Ropeblock will be entitled to demand a guarantee from the Purchaser that both the payment obligations and any other obligations arising from this contract will be fulfilled. Refusal by the Purchaser to provide the required security gives Ropeblock the right to suspend its obligations and ultimately, without any notice of default or legal intervention, the right to dissolve the contract wholly or partially, without prejudice to his right to compensation for any damages suffered by him.

Retention of Title (to German customers a different regulation applies, see Clauses 78-84)

43. Where delivery occurs before payment of the entire amount owed pursuant to the contract, the Product supplied shall remain the property of Ropeblock until all that is owed for the supply of those Product, including any collection costs and interest, as well as any amount payable due to the Purchaser's failure to comply with his obligations pursuant to this contract, is paid in full.

44. Until title to the Product passes to the Purchaser, he shall not be entitled to transfer title to them to a third party, to tender them by way of security, to encumber or to pledge them, or to place them at the disposal of a third party in any other way. Nevertheless, the Purchaser shall be entitled to sell the Product in the normal conduct of his business. The Purchaser shall at all times help Ropeblock exercise its right of ownership. As long as retention of title applies, the Purchaser shall have a duty to grant Ropeblock access to his buildings and premises.

45. When first so requested by Ropeblock, the Purchaser shall be obliged to pledge to Ropeblock any accounts receivable he acquires in respect of Product supplied by Ropeblock which are subject to retention of title and have been sold to his buyers.

Warranty and complaints

46. Pursuant to the provisions of Clauses 47-58 inclusive, Ropeblock shall remedy any defect or nonconformity (hereinafter termed defect(s)) resulting from faulty design, materials or workmanship.

47. Ropeblock's liability is limited to defects which appear within a period of one year after the commissioning of the Product; this period will never exceed a term of 18 months after the Product has left Ropeblock's warehouse. If the daily use of the Product exceeds that which is agreed, this period shall be reduced proportionately.

48. Ropeblock's warranty is not applicable for products that were subjected to proof loads higher than 40% of the MBL. At Ropeblock's discretion, unacceptable levels of warping and possible product discard as a result of proof loads higher than 40% will be charged in full.

49. When a defect in a part of the Product has been remedied, Ropeblock shall be liable for defects in the repaired or replaced part only, under the same terms and conditions as those applicable to the original Product as described in Clause 47. Term of liability will therefore not be extended for any other item or component than the repaired or replaced item.

50. The Purchaser shall within eight working days after the date of receipt of the Product report to Ropeblock any visible and/or immediately observable defects. The Purchaser shall immediately after detection notify Ropeblock in writing of any defects which appear in a later stage. Such notice shall under no circumstances be given later than within the time-limits set forth in Clause 47.

The notice shall contain a description of the defect and Ropeblock must upon first request be given the opportunity to investigate the complaint. If the Purchaser fails to notify Ropeblock in writing of a defect within the above mentioned time-limits, he loses his right to have the defect remedied.

51. In case the complaint is justified according to Ropeblock, Ropeblock shall, acting at its own discretion, either repair or replace the concerned Product or shall take back the defective Product according to the extent of the faulty delivery and credit the Purchaser for the purchase price.

Repair shall be carried out at the premises of Ropeblock unless Ropeblock deems it appropriate that the defective part is repaired at the place where the Product is located.

52. If the Purchaser has given such notice as mentioned in Clause 49, and no defect is found for which Ropeblock is liable, Ropeblock shall be entitled to compensation for the costs he has incurred as a result of the notice.

53. The Purchaser shall at his own expense arrange for any dismantling and reassembly of equipment other than the Product, to extent that this is necessary to remedy the defect.

54. Unless otherwise agreed, necessary transport of the Product and/or parts thereof to and from Ropeblock in connection with the remedying of defects for which Ropeblock is liable shall be at risk and expense of Ropeblock. The Purchaser shall follow Ropeblock's instructions regarding such transport. The Product can only be returned to Ropeblock after prior written permission has been obtained from Ropeblock.

55. Unless otherwise agreed, the Purchaser shall bear any additional costs which Ropeblock incurs for repair, dismantling, installation and transport as a result of the Product being located in a place other than the destination stated in the contract or - if no destination is stated - the place of delivery.

56. Defective parts which have been replaced shall be made available to Ropeblock and shall be his property.

57. Ropeblock is not liable for defects arising out of materials provided by, or a design stipulated by the Purchaser.

58. Ropeblock is liable only for defects which appear under conditions of operation provided for in the contract and under proper use of the Product. Ropeblock's liability does not cover defects which are caused by faulty maintenance or incorrect erection or by alterations, modifications and repairs carried out without Ropeblock's prior consent in writing. Finally Ropeblock's liability does not cover normal wear and tear or deterioration.

59. Total expenses with regard to remedying any complaint by Ropeblock shall in no event exceed 10% of the contract price per complaint, whereby a series of related complaints will be considered as a single complaint.

Liability

60. Ropeblock's liability is restricted to the fulfilment of the obligations under Clause 50. The party installing Ropeblock products shall be competent in the design, construction or maintenance of the relevant application and have sufficient knowledge of the relevant regulations and standards concerning the application / equipment, necessary for proper installation, or be declared competent by their employer. The party using Ropeblock products shall be competent in the operation of the relevant application and have sufficient knowledge of the relevant regulations and standards concerning the application / equipment, necessary for proper operation, or be declared competent by their employer.

The aggregate liability of Ropeblock to the Purchaser under any theory or ground shall at all times be confined to the net invoice value of the Product concerned or to that part of the net invoice value to which a claim for compensation is directly or indirectly related. Total compensation for damage payable by Ropeblock shall in no event exceed EUR 1,250,000.-- per event, whereby a series of related events will be considered as a single event.

61. Ropeblock products are by default delivered without CE-mark and EC declaration. Where applicable, the products can be used as parts in a CE-marked assembly. The products must then not be put in service until the full assembly has been declared in conformity with the provisions in 006/42/EC. In case of II-A or II-B declaration requirements for Ropeblock products, this shall be part of the contract. For general information about proper installation and use we refer to our warning and application instructions.

62. Except in the case of legal liability pursuant to provisions of mandatory law and a deliberate act or omission, or gross negligence on the part of Ropeblock, any liability of Ropeblock for any damage, including any direct or indirect damage, consequential damage or lost profits, is excluded.

63. Ropeblock shall not be liable for any damage to property caused by the Product after it has been delivered and whilst it is in the possession of the Purchaser. Nor shall Ropeblock be liable for any damage to products manufactured by the Purchaser, or to products of which the Purchaser's products form a part. This limitation of Ropeblock's liability shall not apply where Ropeblock has been guilty of gross negligence as defined in Clause 30.

64. the Purchaser shall indemnify Ropeblock against any claim made by a third party in respect of which Ropeblock is not liable under these terms and conditions.

Prohibition on Resale to Sanctioned Persons and Entities

65. The buyer hereby agrees not to resell, supply, or otherwise transfer the delivered goods, either directly or indirectly, to any persons, companies, or entities listed on the sanctions lists of the European Union, the United States, or other relevant jurisdictions. A list of sanctioned parties can be consulted through the OFAC Sanctions List Search and the EU Sanctions Map. Prior to any resale or transfer, the buyer must verify and comply with the applicable sanctions regulations. In case of violation of this prohibition, the buyer will be liable for any resulting damages and/or penalties.

Intellectual property

66. Ropeblock retains all rights related to the intellectual property of his Product, irrespective of whether costs for their design have been charged to the Purchaser.

67. The Purchaser is not permitted to modify all or part of any Product supplied. Unless it concerns a private label delivery, the Purchaser shall not affix any other trademark to the Product, to use the relevant mark in any other way, or to register it in his own name.

68. The Purchaser shall indemnify Ropeblock on infringement of intellectual property rights of third parties in case the Purchaser furnished itself any information, drawings or specifications to Ropeblock in connection with the manufacture and delivery of the Product.

Force Majeure

69. Either party shall be entitled to suspend performance of his obligations under the contract to the extent that such performance is impeded or made unreasonable onerous by any of the following circumstances: industrial disputes and any other circumstance beyond the control of the parties such as fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power and defects or delays in delivery by sub-contractors caused by any such circumstances referred to in this Clause.

70. The party claiming to be effected by Force Majeure shall notify the other party in writing without delay on the intervention and on the cessation of such circumstance. If Force Majeure prevents the Purchaser from fulfilling his obligations, he shall compensate Ropeblock for his expenses incurred in securing and protecting the Product.

71. Regardless of what might otherwise follow from these General Conditions, either party shall be entitled to terminate the contract by notice in writing to the other party if performance of the contract is suspended under Clause 69 for more than six months.

Suspension and termination

72. In the event that the Purchaser fails to comply with his obligations pursuant to a contract into which he has entered, or fails to do so properly or on time, if there are grounds to fear that this will occur, or in the event that the Purchaser applies for a suspension of payments, files for bankruptcy or liquidates his business, Ropeblock shall be entitled to suspend or terminate the contract concerned with immediate effect without the need to give notice of default or for judicial intervention, and it shall not have a duty to provide any form of compensation.

73. Any claim on the part of Ropeblock pertaining to a part of the contract which has already been executed, or harm suffered as a result of its suspension or termination, which shall be deemed to include loss of profit, shall fall due with immediate effect.

74. In case the Purchaser annuls delivery of Stock To Order Product after eight days following Purchaser's order, Ropeblock is entitled to charge 10% of the contract price. In case delivery of Assemble To Order Product is cancelled and Ropeblock has already purchased materials, Ropeblock is entitled to charge 80% of the contract price. If no specific materials have been purchased but the Product has been assembled already, 20% of the contract price will be charged. In case the Purchaser annuls delivery of Engineer To Order Product after eight days following Purchaser's order and no specific materials has been purchased, Ropeblock is entitled to charge 10% of the contract price. If any specific materials have already been purchased but the Product has not yet been assembled, 80% of the contract price shall be charged. In case all specific materials have already been purchased and the Product has been assembled, Ropeblock is entitled to charge 100% of the contract price.

Applicable law and Disputes

75. These General Terms and Conditions and any contracts entered into by Ropeblock shall be solely governed by and construed in accordance with the law of the Netherlands.

76. In case of any dispute the competent court in Amsterdam, the Netherlands, will be entitled to deal with the dispute unless Ropeblock would elect to submit the dispute to competent courts elsewhere.

77. The provisions of Clause 75 leave intact the right of Ropeblock to obtain a settlement by means of arbitration of the International Chamber of Commerce under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one arbitrator. The place of arbitration will be Amsterdam, the Netherlands. The arbitral procedure shall be conducted in the Dutch or English language.

As a deviation from Clauses 43, 44 and 45 the following applies to German customers:

Eigentumsvorbehalt

78. Das Eigentum an den gelieferten Waren bleibt zur Sicherung aller Ansprüche vorbehalten, die uns aus der gegenwärtigen und künftigen Geschäftsverbindung bis zum Ausgleich aller Salden gegen den Abnehmer und seine Konzerngesellschaften zustehen. Unser Eigentum erstreckt sich auf die durch Verarbeitung der Vorbehaltsware entstehende neue Sache. Der Abnehmer stellt die neue Sache unter Ausschluss des eigenen Eigentumserwerbs für uns her und verwahrt sie für uns. Hieraus erwachsen ihm keine Ansprüche gegen uns.

79. Vorbehaltsware mit Ware anderer Lieferanten, deren Eigentumsrechte sich ebenfalls an der neuen Sache fortsetzen, erwerben wir zusammen mit diesen Lieferanten – unter Ausschluss eines Miteigentumserwerbs des Abnehmers – Miteigentum an der neuen Sache, wobei unser Miteigentumsanteil dem Verhältnis des Rechnungswertes unserer Vorbehaltsware zu dem Gesamtwert aller mitverarbeiteten Vorbehaltswaren.

80. Der Abnehmer tritt bereits jetzt seine Forderungen aus der Veräußerung von Vorbehaltsware aus unseren gegenwärtigen und künftigen Warenlieferungen mit sämtlichen Nebenrechten im Umfang unseres Eigentumsanteils zur Sicherung an uns ab.

81. Bei Verarbeitung im Rahmen eines Werksvertrages wird die Werklohnforderung in Höhe des anteiligen Betrages unserer Rechnung für die mitverarbeitete Vorbehaltsware schon jetzt an uns abgetreten. Solange der Abnehmer seinen Verpflichtungen aus der Geschäftsverbindung an uns ordnungsgemäß nachkommt, darf er über die in unserem Eigentum stehende Ware im ordentlichen Geschäftsgang verfügen und die an uns abgetretenen Forderungen selbst einziehen.

82. Bei Zahlungsverzug oder begründeten Zweifeln an der Zahlungsfähigkeit oder Kreditwürdigkeit des Abnehmers sind wir berechtigt, die abgetretenen Forderungen einzuziehen und die Vorbehaltsware zurückzunehmen.

83. Scheck-/ Wechselzahlungen gelten erst nach Einlösung der Wechsel durch den Abnehmer als Erfüllung.

84. Hinsichtlich der Vereinbarung von Eigentumsvorbehaltsrechten gilt ausschließlich deutsches Recht.