

# Docked – General Terms and Conditions

Drafted on 11 September 2023.

General Terms and Conditions of Docked, established at Burgemeester Vostersstraat 51, 2377 XH Oude Wetering, The Netherlands, registered with the Chamber of Commerce under number 62218476.

## Definitions

In these General Terms and Conditions, the following terms are used as defined below, unless explicitly stated otherwise.

<i>General Terms and Conditions:</i>	The General Terms and Conditions as stated below.
<i>Docked:</i>	Docked, registered with the Chamber of Commerce under number 62218476.
<i>Service:</i>	All work, of whatever form, that Docked carries out for, or for the benefit of, the Client.
<i>Honorarium:</i>	The financial reimbursement that is agreed with the Client for the performance of the assignment.
<i>Assignment:</i>	The contract of instruction to provide services.
<i>Client:</i>	The one who has accepted the validity of these General Terms and Conditions and given instructions for the provision of the Service.
<i>Contract:</i>	Any contract entered into between Docked and the Client.

## Article 1 Scope

These General Terms and Conditions apply to every quotation and Contract entered into between Docked and the Client, unless the parties have departed from the General Terms and Conditions explicitly and in writing.

These General Terms and Conditions are also applicable to contracts with Docked for the implementation of which third parties must be involved.

The applicability of any of the Client's purchasing conditions or other general terms and conditions is expressly excluded.

If one or more provisions of these General Terms and Conditions are void or voidable, the other provisions of these General Terms and Conditions remain in effect. In this event, Docked and the Client will consult with each other to agree new provisions to replace the void or voided ones.

If Docked not always requires the strict compliance with these General terms and Conditions, this will not mean that the provisions of the General terms and Conditions will not apply, or that Docked to any degree would lose the right in other cases to demand the strict compliance with these General terms and Conditions.

Departures from the Contract and the General Terms and Conditions are only valid if they are explicitly agreed with Docked in writing.

## Article 2 Translation

The following terms and conditions are a translation of the term and conditions of Docked registered under number 62218476.

The Dutch version of the General Terms and Conditions of Docked is the authentic version. The Dutch version of the General Terms and Conditions will take precedence in the event of the explanation or interpretation of the General Terms and Conditions. In the event of a difference in meaning or interpretation between the two versions, the Dutch version of the General Terms and Conditions will prevail.

### **Article 3      Quotations**

Quotations should preferably be made in writing and/or electronic form, unless pressing circumstances make this impossible.

Quotations are valid for one month, unless agreed otherwise.

Docked cannot be held to its quotations if the Client, in accordance with the requirements of reasonableness and fairness and generally accepted standards, should have understood that the quotation or an element thereof contains a manifest fault or clerical error.

If the acceptance deviates from the offer included in the quotation, whether or not on points of minor importance, then Docked is not bound by this acceptance. The Contract then does not come into being in accordance with this differing acceptance, unless Docked indicates otherwise.

A composite quotation does not oblige Docked to perform an element of the Assignment for a corresponding part of the stated price.

Quotations do not automatically apply to future orders or reorders.

### **Article 4      Formation of the contract**

The Contract comes into being through the timely acceptance by the Client of Docked's quotation.

### **Article 5      Duration of the contract**

The Client and Docked may enter into a Contract for the duration of the Assignment, unless the nature of the Contract states otherwise or if parties have agreed otherwise explicitly and in writing.

### **Article 6      Termination of the contract**

Docked and the Client can terminate the Contract at any time by mutual consent.

Both Docked and Client can terminate the Contract at any time with the observance of a period of notice of one month.

In the event that one of the parties becomes bankrupt, is placed under conservatorship or ceases the business, the other party has the right to end the Contract prematurely without the observance of a notice period.

### **Article 7      Amendments to the contract**

If, during the implementation of the Contract, it becomes apparent that it is necessary to amend or supplement the Contract to ensure its proper implementation, then Docked will inform the Client of this as soon as possible. The parties will then amend the Contract in a timely manner and in mutual consultation.

If the parties agree that the Contract will be amended or supplemented, this can influence the time of the completion of the implementation. Docked will inform the Client of this as soon as possible.

If the amendment or supplementation of the Contract will have financial, quantitative and/or qualitative consequences, then Docked will inform the Client of this in advance.

If a fixed Honorarium and/or fee is agreed, then Docked will indicate the extent to which the amendment or supplementation of the Contract will influence the price. In this event Docked will attempt, as far as possible, to issue a quotation in advance.

Docked may not make any additional charges if the amendment or supplementation is a consequence of circumstances that can be attributed to Docked.

Amendments to the Contract originally entered into between the Client and Docked are only valid from the time at which these amendments are accepted in writing by both parties by means of a supplementary or amended Contract.

## **Article 8 Implementation of the contract**

Docked will implement the Contract to the best of its knowledge and ability, and in accordance with the requirements of good workmanship.

Docked is entitled to arrange for certain work to be carried out by third parties. The applicability of article 7:404, 7:407, paragraph 2 and article 7:409 of the Dutch Civil Code is explicitly excluded.

The work will be carried out at Docked, unless parties agreed otherwise.

Docked is entitled to implement the Contract in phases.

If the Contract is implemented in phases, Docked is entitled to invoice and require payment for each implemented element separately. If and for as long as this invoice is not paid by the Client, Docked is not obliged to implement the following phase, and is entitled to suspend the contract.

If the Contract is implemented in phases, Docked is entitled to suspend the implementation of those elements that belong to the following phase or phases until the Client has approved in writing the results of the preceding phase.

The Client will issue all information or instructions that are necessary for the implementation of the Contract, or which the Client can be reasonably expected to understand are necessary for implementation of the Contract, to Docked in a timely manner.

If the above-mentioned information and instructions are not issued, or not issued in a timely manner, then Docked is entitled to suspend the implementation of the Contract. The additional expenses that are incurred through the delay will be borne by the Client.

## **Article 9 Honorarium**

The Honorarium will be determined by the actual amount of hours and the usual hourly fee of Docked, unless indicated otherwise.

The hourly fee is expressed in euro's, exclusive of VAT and other government levies, unless indicated otherwise.

The hourly fee is exclusive of travel, accommodation, packaging, delivery, transportation costs and administration costs, unless indicated otherwise. Docked will receive € 0,35 per kilometer, unless indicated otherwise.

Docked will provide a statement of all associated costs, or provide information on the basis of which these costs can be calculated by the Client, in a timely manner before the Contract is entered into.

## **Article 10 Amendment of honorarium**

If Docked agrees a fixed Honorarium and/or fee when the Contract is entered into, then Docked is entitled to increase this Honorarium or fee, also when the Honorarium or fee is not originally specified as being provisional.

If Docked has the intention of amending the Honorarium and/or fee, it will inform the Client of this as soon as possible.

If the increase of the Honorarium or fee takes place within three months of the Contract being entered into, the Client can terminate the Contract by means of a written statement, unless:

- the increase arises from a right of Docked or an obligation resting upon Docked in accordance with the law;
- the increase is due to a rise in the price of raw materials, wages etc. or on other grounds that could not reasonably have been foreseen when the Contract was entered into;
- Docked is still prepared to implement the Contract on the basis of that which was originally agreed;

- stipulated is that the implementation will be carried out more than three months after the Contract was entered into.

The Client is entitled to terminate the Contract if the Honorarium or the fee are increased more than three months after the Contract was entered into, unless it is stipulated in the Contract that the implementation will be carried out more than three months after the Contract was entered into.

Docked will inform the Client in the event of the intention to increase the Honorarium or the fee, stating the extent of the increase and the date upon which it will take effect.

## **Article 11 Implementation periods**

The work will be carried out within a period stated by Docked.

If a period is agreed or stated for the performance of particular work, then this period is only indicative and is not to be regarded as a strict deadline.

If Docked needs information or instructions from the Client that are necessary for the implementation of the Contract, then the implementation period will commence after the Client has provided these to Docked.

If an implementation period is exceeded, the Client must issue Docked with a written notice of default, whereby Docked will be offered a reasonable period to nonetheless implement the Contract.

A notice of default is not necessary if the implementation has become permanently impossible, or it otherwise becomes apparent that Docked will not meet its obligations arising from the Contract. If Docked does not commence implementation within this period, then the Client is entitled to terminate the Contract without judicial intervention and/or seeking compensation.

## **Article 12 Payment**

Payment will take place by means of transfer to a bank account specified by Docked after delivery, in accordance with the period stated in the invoice, unless agreed otherwise.

Payment must be made retrospectively.

Payment afterwards must be made within 14 days of the invoice date, in a manner to be specified by Docked and in the currency in which the invoice is issued, unless agreed otherwise.

The Client is not authorised to deduct any amount from the payable amount by reason of a counterclaim made by the Client.

Docked is entitled to invoice the Client for work carried out in the period in question. Invoicing will take place after the assignment is accomplished, unless agreed otherwise.

Docked and the Client may agree that payment be made in instalments in proportion with the progress of the work. If payment in instalments is agreed, the Client must make payment in accordance with the periods and percentages as established in the Contract.

Objections to the level of the invoice do not have the effect of suspending the payment obligations.

After the expiry of the payment period stated in the invoice date, the Client will be in default by operation of law, without a notice of default. From the moment of default, the Client has to bear an interest on the immediately claimable amount at the rate of 2% per month, unless the statutory interest rate is higher.

In the event of bankruptcy, suspension of payment or placement under conservatorship, the amounts owed to Docked and the obligations of the Client towards Docked are immediately claimable.

## **Article 13 Additional work**

Docked will charge the hourly fee for additional work, unless agreed otherwise. Before Docked will start the additional work, Docked will inform the Client.

#### **Article 14 Collection costs**

If the Client is in default or in breach of the Contract in fulfilling its obligations (in a timely manner) then all reasonable costs incurred to obtain an out-of-court settlement are payable by the Client. The Client is in any event liable to pay the collection costs.

With regard to the extrajudicial (collection) charges, Docked is entitled – in departure from article 6:96 paragraph 5 of the Dutch Civil Code and the Payment of Extrajudicial Collection Charges Decree – to a payment of 15% of the total outstanding principal sum, with a minimum of € 100,- for every invoice that is wholly or partly unpaid.

Any reasonable legal costs and execution costs incurred are also payable by the Client.

#### **Article 15 Suspension**

If the Client does not fulfil an obligation arising from the Contract, or does not meet it fully or in a timely manner, then Docked is entitled to suspend the corresponding obligation. In the event of partial or inadequate fulfilment, suspension is only permitted in so far as this is justified by the shortcoming.

Moreover, Docked is entitled to suspend the fulfilment of the obligations if:

- after the Contract is entered into, Docked becomes aware of circumstances that give good grounds to fear that the Client will not fulfil its obligations;
- the Client is requested, on entering into the Contract, to provide security for the fulfilment of its obligations arising from the Contract, and this security is not provided or is insufficient;
- circumstances arise of such a nature that fulfilment of the Contract is impossible, or that the unamended maintenance of the Contract cannot be reasonably required of Docked.

Docked reserves the right to claim compensation.

#### **Article 16 Termination**

If the Client does not fulfil an obligation arising from the Contract, or does not meet it fully, in a timely manner or properly, then Docked is entitled to terminate the Contract with immediate effect, unless the shortcoming, in view of its limited significance, does not justify the termination.

Moreover, Docked is entitled to terminate the Contract with immediate effect if:

- after the Contract is entered into, Docked becomes aware of circumstances that give good grounds to fear that the Client will not fulfil its obligations;
- the Client is requested, on entering into the Contract, to provide security for the fulfilment of its obligations arising from the Contract, and this security is not provided or is insufficient;
- due to a delay on the part of the Client, Docked can no longer be required to fulfil the Contract under the originally agreed conditions;
- circumstances arise of such a nature that fulfilment of the Contract is impossible, or that the unamended maintenance of the Contract cannot be reasonably required of Docked;
- the Client is declared bankrupt, submits an application for a suspension of payment, requests the application of debt rescheduling for natural persons or is served with a writ of sequestration on all or part of its property;
- the Client is placed under conservatorship;
- the Client deceases.

Termination will take place by means of a written declaration, without judicial intervention.

If the Contract is terminated, the Client's debts to Docked become immediately due and payable.

If Docked terminates the Contract on the above-mentioned grounds, Docked is not liable for any costs or compensation.

If the termination is attributable to the Client, the Client is liable for the damage suffered by Docked.

## **Article 17 Force majeure**

Breaches may not be attributed to Docked or the Client if they are not their fault, or if they are not accountable by law, juristic act, or according to the generally accepted standards. In this case the parties are also not bound to fulfil the obligations arising from the Contract.

In these General Terms and Conditions, the term "force majeure" is defined as – in addition to what is understood in law and jurisprudence in this regard – all external causes, foreseen or unforeseen, upon which Docked can exercise no influence and through which Docked is not able to fulfil its obligations.

Circumstances regarded as resulting in force majeure include strikes, lockouts, fire, water damage, natural disasters or other external contingencies, mobilisation, war, traffic congestion, blockades, import or export restrictions or other government measures, stagnation or delay in the supply of raw materials or machinery components and lack of labour forces, as well as any circumstances through which normal business operations are impeded, as a result of which the fulfilment of the Contract by Docked cannot be reasonably sought by the Client.

Docked is also entitled to invoke force majeure if the circumstance that hinders (further) fulfilment of the Contract occurs after Docked should have fulfilled its obligations.

In case of force majeure the parties are not obliged to proceed with the Contract, and are not bound to pay any compensation.

During the period that the force majeure continues, both Docked and the Client can fully or partly suspend the obligations arising from the Contract. If this period lasts for longer than 2 months, both parties are entitled to terminate the Contract with immediate effect, by means of a written notification, without judicial intervention and without the parties being able to claim any damages.

If the situation of force majeure is of a temporary nature, Docked reserves the right to suspend the agreed service for the duration of the situation of force majeure. In the event of permanent force majeure both parties are entitled to terminate the Contract without judicial intervention.

If at the time of the occurrence of force majeure Docked has already partly fulfilled, or will fulfil, its obligations arising from the Contract, and independent value accrues to the part fulfilled or to be fulfilled, then Docked is entitled to separately invoice the part already fulfilled or to be fulfilled. The Client is bound to pay this invoice as if there were a separate Contract.

## **Article 18 Guarantee**

Docked accordingly guarantees that the work carried out by it will conform with the Contract and will be properly carried out with good workmanship and using proper materials.

The guarantee stated in these General Terms and Conditions applies to usage within and outside Europe.

If the Service provided does not conform with the Contract, Docked will, after notification of this, provide a replacement or carry out a repair at no charge.

When the guarantee period has expired, all costs of repair or replacement, including administrative and call-out charges, will be borne by the Client.

No form of guarantee covers damage caused by incompetent use or lack of care, or as a result of alterations made by the Client or by third parties, nor does Docked provide any guarantee for damage arising as a result of these defects.

The guarantee also becomes inoperative if the defect has arisen through or is a result of circumstances beyond the control of Docked. These circumstances include issues with the network connection or the computer.

The content to be delivered by Docked complies with the usual agreements between Docked and the Client. Content is intended for use within the Netherlands. When using content outside the Netherlands, the Client must verify that its use is suitable for and meets the conditions set in the other country.

A limited warranty period applies to content. After delivery and approval the Client has five days to appeal to any imperfections. This warranty covers language and spelling errors, duplicate content and a misinterpretation of the briefing, insofar as the briefing has been prepared correctly by the Client.

Any form of guarantee will lapse if a defect arises as a result of or ensues from improper use thereof or incorrect storage by the Client and / or by third parties when - without the written permission of Docked - the Client or third parties have made or attempted to make changes to the content or if these have been processed. The Client is also not entitled to warranty if the defect arises due to or is the result of circumstances where the Contractor can not influence, including computer failure or the loss of the internet connection.

## **Article 19 Examination and claims**

The Client is obliged to examine the Service at the moment of performance, but in any case within five days after the performance of the Service. The Client must examine whether the quality and quantity of the Service comply with what the parties agreed, at least meet the requirements that are common in trade.

Visible defects and shortcomings have to be reported within five working days after the performance of the Service in writing to Docked.

Non-visible defects and shortcomings have to be reported within five working days after its discovery to Docked.

The right to (partial) restitution of the price, repair or replacement or compensation lapses, if the defects will not be reported within the prescribed period, unless the nature of the Service states otherwise or from circumstances of the case a broader period arises.

The payment obligation will not be suspended if the Client reports the defect to Docked within the prescribed period.

## **Article 20 Liability**

The implementation of the Contract is entirely at the risk and responsibility of the Client. Docked is only liable for direct damage that has arisen through wilful recklessness or an intentional act or omission of Docked.

The liability of Docked is excluded for indirect damage, including in any event consequential damage, loss of profit, lost savings and loss due to business interruption, or immaterial damage to the Client.

Docked is not liable for damage, of whatever nature, resulting from Docked basing its actions upon inaccurate and/or incomplete information provided by the Client, unless this inaccuracy or incompleteness ought to have been known to Docked.

Docked cannot be held liable for damage caused by faults and typos, inaccuracies, errors and/or imperfections in the content.

The limitations of the liabilities in this article will not apply if the damage is due to an intentional act or recklessness of Docked or due to his supervisory subordinates.

If Docked is liable for any damage, then the liability of Docked is limited to an amount equal to the amount stated in the invoice, or to the amount to which the insurance taken out by Docked gives entitlement, with the deduction of the policy excess borne by Docked under the terms of the insurance.

The Client must report the damage for which Docked can be held liable to Docked as soon as possible, but in any event within 10 days of the damage having arisen, on penalty of the forfeiture of any right to compensation for this damage.

Any liability claim against Docked lapses within one year of the Client having become aware, or possibly reasonably having become aware, of the harmful event.

## **Article 21 Indemnity**

The Client indemnifies Docked against any claims by third parties who suffer damage in connection with the implementation of the Contract which is attributable to the Client.

If Docked may be sued for this reason, then the Client is bound to provide Docked with both judicial and extrajudicial support. Furthermore, all costs and damage on the part of Docked and third parties will be at the expense and risk of the Client.

## **Article 22 Limitation period**

In departure from the legal limitation period, a limitation period of one year applies to all claims against Docked and any third parties brought in by Docked.

## **Article 23 Intellectual property**

Docked reserves the rights and powers accruing to it under the provisions of the Copyright Act and other intellectual property legislation and regulations.

Docked reserves the right to utilise the knowledge acquired for the performance of the work and general information for other purposes and other work, in so far as no confidential information is hereby communicated to third parties.

## **Article 24 Confidentiality**

Both Docked and the Client are obliged, for the duration of and after the termination of the Contract, to maintain confidentiality regarding all facts and particulars concerning the business which they know or can reasonably suspect are confidential. This duty of confidentiality also includes all details of employees, clients, commissioning bodies and other business contacts which are learned of by reason of the Assignment.

## **Article 25 Privacy and cookies**

Docked will store the details and information that the Client provides to Docked carefully and confidentially.

Docked acts in accordance with GDPR, which is effective from May 25, 2018. Docked will keep a register of processing activities based on GDPR.

Docked may only use the personal details of the Client within the framework of the implementation of its obligation to supply, or of dealing with a complaint.

When visiting her website Docked can collect the information on the use of the website of the Client through cookies.

The information that Docked collects through cookies can be used for functional analytical purposes.

Docked is not permitted to lend out, hire out or sell the personal details of the Client, or to publicise them in any other manner.

It is not permitted for Docked to lend out, rent, sell or in any other way make public the personal data of the Client.

The information that Docked collects through cookies may only use this personal data for necessary specific purposes.



Docked will not keep the personal data longer than necessary.

The Client is entitled to file a complaint with the Dutch Data Protection Authority regarding his / her personal data. The Dutch Data Protection Authority is obliged to handle this complaint.

If Docked is obliged to provide confidential information to third parties by virtue of a legal provision or court decision, and Docked cannot claim a legal right of immunity, or such a right recognised or permitted by the competent court in this respect, then Docked is not liable to pay compensation or grant indemnification. The Client is also not entitled to terminate the Contract by reason of any damage arising in this way.

The Client agrees that Docked may approach the Client for statistical or customer satisfaction research. If the Client does not wish to be approached for research, the Client may make this known.

## **Article 26      Amendment of the general terms and conditions**

Docked is entitled to amend the general terms and conditions unilaterally.

Amendments will also apply to Contracts that are already concluded.

Docked will inform the Client by e-mail about the amendments.

The amendments to the general terms and conditions will be in force thirty days after the Client is informed of the amendments.

If the Client does not agree with the announced amendments, the Client is entitled to terminate the Contract.

## **Article 27      Applicable law, disputes**

Dutch law is exclusively applicable to all legal relationships to which Docked is a party. This also applies if an obligation is wholly or partly fulfilled outside of the Netherlands or if the Client has its place of business outside of the Netherlands.

The applicability of the Vienna Sales Convention (CISG) is excluded.

Disputes between Docked and the Client will only be submitted to the competent court in the Netherlands, unless the law mandatorily prescribes otherwise.

## **Article 28      Location**

These General Terms and Conditions are stored on [www.dock-ed.nl](http://www.dock-ed.nl).