



[Terms and Conditions](#)

[Seaward](#)

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## Seaward

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## **Article 1 General**

1.1 These terms and conditions apply to every offer, quotation, and agreement between Seaward, registered with the Chamber of Commerce under number 90832027, hereinafter referred to as "Seaward," and a Client to which Seaward has declared these terms and conditions applicable, to the extent that these conditions have not been explicitly and in writing deviated from by the parties. These conditions also apply to actions of third parties engaged by Seaward in the context of an assignment.

1.2 The applicability of any purchase or other conditions of the Client is expressly rejected.

1.3 If one or more provisions in these general conditions are wholly or partially void at any time or destroyed, then the remainder of the provisions in these general conditions will remain in full force. Seaward and the Client will then consult with each other to agree on new provisions to replace the void or destroyed provisions, taking into account the purpose and intent of the original provisions as much as possible.

1.4 If there is any ambiguity about the interpretation of one or more provisions of these general conditions, the interpretation must take place 'in the spirit' of these provisions.

1.5 If a situation arises between the parties that is not regulated in these general conditions, this situation must be assessed in the spirit of these general conditions.

1.6 If Seaward does not always require strict compliance with these conditions, this does not mean that the provisions are not applicable, or that Seaward in any way loses the right to demand strict compliance with the provisions of these conditions in other cases.

## **Article 2 Quotations, offers**

2.1 All quotations and offers from Seaward are without obligation unless an acceptance period is stated in the quotation. If no acceptance period is stated, the offer always expires after 30 days.

2.2 Seaward cannot be held to its quotations or offers if the Client can reasonably understand that the quotations or offers, or part thereof, contain an obvious mistake or typographical error.

2.3 The prices stated in a quotation or offer are exclusive of VAT and other government levies, any costs to be incurred in the context of the agreement, including travel and accommodation, shipping, procurement, and administration costs, unless otherwise indicated.

2.4 If the acceptance (on secondary points or not) deviates from the offer included in the quotation or offer, Seaward is not bound by it. The agreement is then not concluded in accordance with this deviating acceptance, unless Seaward indicates otherwise.

2.5 A composite quotation does not oblige Seaward to perform part of the assignment at a corresponding part of the stated price. Offers or quotations do not automatically apply to future orders.

2.6 If an offer or quotation is made where the service does not have a fixed rate but is based on an hourly rate, an estimate is made of how many hours Seaward needs to provide the service.



2.7 No rights can be derived from the estimated hours for a service and the resulting total rate. The estimated hours can in practice be both lower and higher.

2.8 Orders are confirmed in writing by the Client. When the Client agrees to Seaward starting work in a way other than in writing, the content of the quotation or offer is deemed to be agreed upon, and these General Terms and Conditions apply. Further oral agreements only bind Seaward after they have been confirmed in writing by Seaward.

### **Article 3 Execution of the work**

3.1 Seaward will perform the agreement to the best of its knowledge and ability and in accordance with the requirements of good craftsmanship. This is based on the state of science known at that time.

3.2 Seaward carries out an assignment at its discretion.

3.3 The Client must follow instructions given by Seaward so that Seaward can carry out the assignment in its judgment.

3.4 Seaward has an obligation of effort, not a result obligation unless otherwise appears from the agreement and is agreed in writing.

### **Article 4 Contract duration, execution periods, risk transfer, execution and amendment of the agreement, and price increase**

4.1 Contract Duration: The agreement between Seaward and the Client is initially for a specified period, unless the nature of the agreement dictates otherwise, or unless the parties explicitly agree otherwise in writing.

4.2 Non-Binding Timelines: If specific deadlines or timeframes are agreed upon for the execution of certain tasks or the delivery of goods, these are not considered strict or "fatal" deadlines. If these deadlines are exceeded, the Client must formally notify Seaward in writing of the breach. Seaward must then be provided with a reasonable opportunity to still carry out the agreement.

4.3 Third-Party Involvement: Seaward reserves the right to delegate certain tasks to third parties. Legal provisions such as 7:404, 7:407 paragraph 2, and 7:409 of the Dutch Civil Code are explicitly excluded in such cases.

4.4 Facilities at Client's Location: If Seaward or its third-party representatives perform work at the Client's location or a location designated by the Client, the Client must provide, free of charge, the reasonable facilities requested by these personnel.

4.5 Execution in Phases: Seaward can carry out the agreement in different phases, with each completed phase invoiced separately.

4.6 Approval of Previous Phase: If the agreement involves phased execution, Seaward may suspend the execution of subsequent phases until the Client has formally approved the results of the preceding phase in writing.



4.7 Timely Provision of Data: The Client is responsible for providing all necessary data to Seaward as indicated by Seaward for the execution of the agreement. If these data are not provided in a timely manner, Seaward has the right to delay the execution and charge any extra costs incurred due to this delay.

4.8 Reliance on Client Data: Seaward is not liable for any damages resulting from relying on incorrect or incomplete data provided by the Client.

4.9 Modification of Agreement: If, during the execution of the agreement, it becomes necessary to modify or supplement it, both parties should engage in timely and mutual discussions to adapt the agreement accordingly. These changes may affect the price and the execution timeframe. Seaward should provide an advance estimate of these changes. The Client accepts the possibility of modifications to the agreement, including changes in price and execution timeframe.

4.10 Approval of Agreement Modification: Modifications to the agreement require the approval of a duly authorized person within Seaward and the Client's consent to the stipulated price and other terms.

4.11 Refusal of Modification Requests: Seaward may refuse modification requests if the requested changes could have consequences for the work performed or goods delivered in terms of quality or quantity.

4.12 Client Liability for Non-performance: If the Client fails to fulfill its obligations under the agreement, they are liable for all resulting damages to Seaward, whether direct or indirect.

4.13 Price Increase: Even if Seaward and the Client agree on a fixed fee or price, Seaward retains the right to increase this fee or price. The Client cannot use such an increase as a basis to terminate the agreement. These increases could result from legal or regulatory requirements, unforeseen cost escalations (e.g., rising raw material or labor costs), or other unanticipated factors.

4.14 Right to Terminate for Excessive Price Increase: If the price increase is greater than 10% and occurs within three months of the agreement's conclusion, only the Client is allowed to terminate the agreement by written declaration, unless Seaward agrees to continue the agreement based on the originally agreed-upon price. This applies if the price increase is due to a statutory requirement, an agreed-upon long delivery period, or other pre-specified conditions.

## **Article 5 Suspension, Termination, and Interim Termination of the Agreement**

5.1 Seaward is authorized to suspend the performance of obligations or terminate the agreement if the Client fails to fulfill the obligations under the agreement, either partially or in full, or if they do so untimely. Seaward may also suspend or terminate the agreement if circumstances become known to Seaward after the agreement's conclusion, which reasonably lead to concerns that the Client will not fulfill the obligations. Additionally, Seaward has the right to suspend or terminate the agreement if, at the time of entering into the agreement, the Client was requested to provide security for the satisfaction of their obligations under the agreement, and if this security is not provided or is insufficient, or if due to the delay on the part of the Client, Seaward can no longer be expected to fulfill the agreement under the originally agreed conditions.



5.2 Furthermore, Seaward is entitled to terminate the agreement if circumstances arise that make it impossible to fulfill the agreement, or if other circumstances arise that make it unreasonable to expect Seaward to maintain the agreement without changes.

5.3 If the agreement is terminated, Seaward's claims against the Client become immediately due. If Seaward suspends the performance of obligations, it retains its rights under the law and the agreement.

5.4 If Seaward proceeds with suspension or termination, it is in no way obligated to compensate for any damage and costs incurred thereby.

5.5 If the termination is attributable to the Client, Seaward is entitled to compensation for the damages, including direct and indirect costs.

5.6 If the Client fails to fulfill their obligations arising from the agreement, and this non-compliance justifies termination, Seaward is entitled to immediately and directly terminate the agreement without any obligation on its part to pay any compensation or indemnity. Meanwhile, the Client, due to its non-performance, will be obliged to pay compensation or indemnity for breach of contract.

5.7 If the agreement is terminated prematurely by Seaward, Seaward will, in consultation with the Client, arrange for the transfer of any remaining work to third parties, unless the termination is attributable to the Client. If the transfer of the work to third parties results in additional costs for Seaward, these costs will be charged to the Client. The Client is required to pay these costs within the specified timeframe, unless Seaward indicates otherwise.

5.8 In the event of liquidation, (application for) suspension of payment, bankruptcy, attachment – provided that the attachment has not been lifted within three months – at the expense of the Client, debt restructuring, or any other circumstance that prevents the Client from freely disposing of their assets, Seaward is free to terminate the agreement immediately and with immediate effect or cancel the order or agreement, without any obligation on its part to pay any compensation or indemnity. In this case, Seaward's claims against the Client are immediately due.

5.9 If the Client cancels a placed order, either in full or in part, the work performed, as well as the goods ordered or prepared for it, together with any additional costs related to their supply, and the labor time reserved for the execution of the agreement, will be billed in full to the Client.

## **Article 6 Force Majeure**

6.1 Seaward is not obliged to fulfill any obligation to the Client if it is hindered from doing so due to circumstances that are not attributable to its fault, and which cannot be considered its responsibility under the law, a legal act, or common practice.

6.2 Force majeure, as used in these general terms and conditions, includes, besides what is understood in the law and jurisprudence, all external causes, foreseen or unforeseen, on which Seaward cannot exert influence but which prevent Seaward from fulfilling its obligations. This includes strikes in Seaward's company or third parties' companies. Seaward also has the right to invoke force majeure when the circumstance that prevents (further) performance of the agreement occurs after Seaward should have fulfilled its obligation.



6.3 Seaward may suspend the obligations under the agreement during the period of force majeure. If this period lasts longer than six months, either party has the right to terminate the agreement without any obligation to pay damages to the other party.

6.4 If, at the time force majeure occurs, Seaward has already partially fulfilled its obligations under the agreement or will be able to do so, and the fulfilled or to-be-fulfilled part has an independent value, Seaward is entitled to invoice the already fulfilled or to-be-fulfilled part separately. The Client is required to pay this invoice as if it were a separate agreement.

## **Article 7 Payment and Collection Costs**

7.1 Payment must always be made within 30 days after the invoice date, in the currency in which it was invoiced by Seaward unless otherwise indicated in writing by Seaward.

7.2 Seaward is entitled to invoice periodically.

7.3 If the Client defaults in the timely payment of an invoice, the Client is legally in default, and interest is due. Interest on the outstanding amount will be calculated from the moment the Client is in default until the full amount is paid.

7.4 Seaward has the right to allocate payments made by the Client to costs first, then to the interest due, and finally to the principal amount and ongoing interest. Seaward may reject a payment offer, without being in default, if the Client allocates the payment to a different order. Seaward may refuse complete repayment of the principal amount if the due and ongoing interest and collection costs are not also paid.

7.5 The Client is not entitled to set off any amount owed to Seaward. Objections to the amount of an invoice do not suspend the payment obligation. A Client who is not entitled to section 6.5.3 (articles 231 to 247 book 6 BW) is also not entitled to suspend payment of an invoice for any other reason.

7.6 If the Client defaults or is in breach of its obligations (timely performance), then all reasonable costs for obtaining payment out of court will be at the Client's expense. The extrajudicial costs are calculated in accordance with the Dutch Incasso Kosten (Collection Costs) Report, currently following the calculation method according to Report Voorwerk II. However, if Seaward incurred higher costs for collection that were reasonably necessary, these actual costs will also be reimbursed. Any judicial and execution costs will also be charged to the Client. The Client will also owe interest on the collection costs due.

## **Article 8 Retention of Title**

8.1 All items delivered by Seaward as part of the agreement will remain the property of Seaward until the Client has properly fulfilled all its obligations arising from the agreement with Seaward.

8.2 Any items delivered by Seaward that fall under retention of title may not be resold and may not be used as a means of payment. The Client is not authorized to pledge or otherwise encumber items that fall under retention of title.

8.3 The Client is obliged to do everything that can be reasonably expected of them to safeguard Seaward's property rights.



8.4 If third parties seize items delivered under retention of title or wish to establish or assert rights over them, the Client is obliged to notify Seaward immediately. The Client also undertakes to insure and keep insured the items delivered under retention of title against fire, explosion, and water damage, as well as theft, and to provide the insurance policy for this on first request. In case of a payout by the insurer, Seaward is entitled to these amounts. To the extent necessary, the Client undertakes, in advance, to cooperate in everything that may prove to be necessary or desirable in that context.

8.5 In the event that Seaward wishes to exercise its property rights as described in this article, the Client already gives unconditional and irrevocable permission to Seaward and any third parties appointed by Seaward to enter all those places where Seaward's properties are located and to take those items back.

### **Article 9 Warranties, Inspection, Claims, Statute of Limitations**

9.1 The items to be delivered by Seaward comply with the usual requirements and standards that can be set for them at the time of delivery and for which they are intended for normal use in the Netherlands. The warranty mentioned in this article is applicable to items intended for use within the Netherlands. When used outside the Netherlands, the Client should verify whether its use is suitable and complies with the conditions set for it. In that case, Seaward may impose different warranty and other conditions for the items to be delivered or services to be performed.

9.2 The warranty period mentioned in section 9.1 of this article is one (1) year from delivery, unless the nature of the delivered goods implies otherwise or unless otherwise agreed by the parties. If the warranty provided by Seaward concerns an item produced by a third party, the warranty is limited to the warranty provided by the manufacturer of the item, unless otherwise stated.

9.3 Any form of warranty will lapse if a defect is the result of improper or inappropriate use, use after the expiration date, incorrect storage, or maintenance by the Client and/or third parties when the Client or third parties have made changes to the item or have tried to do so without written permission from Seaward. It will also lapse if the defect results from circumstances beyond Seaward's control, including weather conditions (such as extreme rainfall or temperatures), etc.

9.4 The Client is obliged to examine the delivered items (or have them examined) immediately at the moment they are made available to them or the relevant activities are carried out. The Client should check whether the quality and quantity of the delivered items correspond to what was agreed and meet the requirements the parties agreed upon. Any visible defects should be reported to Seaward within seven days of delivery in writing. Any non-visible defects should be reported to Seaward in writing immediately, but in any case, no later than within fourteen days of their discovery. The notice should contain the most detailed possible description of the defect so that Seaward can respond adequately. The Client should allow Seaward to investigate a complaint.

9.5 The Client is obligated to examine the delivered goods immediately at the moment they are made available to him or when the relevant work is executed. The Client should check whether the quality and/or quantity of the delivered goods corresponds to what has been agreed upon and meets the requirements that the parties have agreed upon in this regard. Any visible defects must be reported to Seaward in writing within seven days of delivery. Any non-visible defects must be reported to Seaward in writing immediately, but in any case no later than fourteen days after their discovery. The report should contain as detailed a description of the defect as possible so that



Seaward can respond adequately. The Client should provide Seaward with the opportunity to examine a complaint.

9.6 If the Client files a complaint on time, this does not suspend their payment obligation. In this case, the Client is still obliged to purchase and pay for the remaining ordered items and the items Seaward has been instructed to deliver.

9.7 If a complaint is submitted later, the Client is no longer entitled to repair, replacement, or compensation.

9.8 If it is established that a complaint is unfounded, the costs incurred by Seaward as a result of this, including research costs, will be fully charged to the Client.

9.9 After the expiration of the warranty period, all costs for repair or replacement, including administration, shipping, and travel costs, will be charged to the Client.

#### **Article 10 Liability**

10.1 If Seaward is liable, this liability is limited to what is arranged in this article.

10.2 Seaward is not liable for damage of any kind resulting from the fact that Seaward assumed incorrect and/or incomplete data provided by or on behalf of the Client.

10.3 If Seaward is liable for any damage, the liability of Seaward is limited to a maximum of one time the invoice value of the order, or that part of the order to which the liability relates, at most.

10.4 In any case, the liability of Seaward is always limited to the amount paid out by its insurer, if applicable.

10.5 Seaward is only liable for direct damage. Direct damage is solely understood as reasonable costs to determine the cause and extent of the damage, as far as the determination is related to damage within the meaning of these terms and conditions, any reasonable costs made to have the defective performance of Seaward conform to the agreement, insofar as these can be attributed to Seaward and reasonable costs to prevent or limit damage, insofar as the Client demonstrates that these costs have led to limitation of direct damage within the meaning of these terms and conditions.

10.6 Seaward is never liable for indirect damage, including consequential damage, lost profits, missed savings, and damage due to business interruption.

10.7 The limitations of liability included in this article do not apply if the damage is due to intent or gross negligence on the part of Seaward.

#### **Article 11 Indemnification**

11.1 The Client shall indemnify Seaward against any claims by third parties that suffer damage in connection with the execution of the agreement and the cause of which is attributable to others than Seaward. If Seaward is held liable by third parties on this basis, the Client shall be obliged to assist Seaward both in and out of court and immediately do what may be expected in that case.





11.2 If the Client fails to take adequate measures, Seaward is entitled to do so without notice. All costs and damage on the part of Seaward and third parties resulting from this will be charged in full to the Client.

#### **Article 12 Intellectual Property**

12.1 Seaward reserves the rights and powers that belong to Seaward under the Copyright Act and other intellectual legislation and regulations. Seaward has the right to use the knowledge gained through the execution of an agreement for other purposes as well, provided that no strictly confidential information of the Client is brought to the attention of third parties.

#### **Article 13 Applicable Law and Disputes**

13.1 Dutch law applies exclusively to all legal relationships in which Seaward is a party, even if a commitment is carried out in whole or in part abroad or if the party involved in the legal relationship is domiciled there. The applicability of the Vienna Sales Convention is excluded.

13.2 The judge in the location of Seaward has exclusive jurisdiction to take cognizance of disputes, unless the law prescribes otherwise. Nevertheless, Seaward has the right to submit the dispute to the competent court according to the law.

13.3 The parties will only appeal to the courts after they have made every effort to settle a dispute in mutual consultation.

#### **Article 14 Location and Amendment of General Terms and Conditions**

14.1 These terms and conditions can be found at <https://seaward.blue>

14.2 The version that applied at the time of the establishment of the legal relationship with Seaward is always applicable.

14.3 The Dutch text of the general terms and conditions is always decisive for the explanation thereof.