



GENERAL TERMS AND CONDITIONS

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1. DEFINITIONS

In these General Terms and Conditions, the following terms shall have the following meanings (in alphabetical order):

- 1.1. Tendering:** Having an item, usually a Vessel, built by a shipyard. Tendering typically includes solicitation, evaluation of bids, assisting, if required, in entering into agreements with a Builder and/or suppliers, providing advice, Building Supervision and all other activities for the purpose of the Tender.
- 1.2. Offer:** An offer by the Yacht Designer to the Client to perform Work.
- 1.3. GC2022:** These General Terms and Conditions.
- 1.4. Building Supervision:** supervising the building of a Vessel on behalf of the Client and in a manner to be agreed. Building Supervision may consist of:
 - a. giving instructions at the outset;
 - b. exchanging information with the Builder during the building process;
 - c. monitoring the building process and supervising the execution and progress of the building process, by means of a number of visits to the Builder and/or suppliers, as often as this is necessary in the opinion of the Yacht Designer;
 - d. conducting consultations with the Builder and other parties involved in the building and giving further instructions as far as necessary in the opinion of the Yacht Designer;
 - e. the performance by the Client of inspections, nautical maneuvers during Sea Trials, as often and extensively as, in the opinion of the Yacht Designer, this is necessary, all in accordance with the predetermined acceptance protocol.
- 1.5. Building Contract:** The agreement between the Builder and the Client regarding the building of the Vessel. The Yacht Designer is not a party to that agreement. Typically set forth herein are:
 - a. the construction, in accordance with the Preliminary Design 1.32.a and 1.32.b;
 - b. the scope of delivery as described in the specifications;
 - c. the expected delivery term;
 - d. the amount charged by the Builder to its Client for building;
 - e. payment terms;
 - f. the General Conditions of the yard.
- 1.6. Builder:** The shipyard, builder, metal construction company, woodworking company, etc. that builds the Vessel on behalf of the Client.
- 1.7. Building Right:** The right to use the Design and/or Design Drawings and related documents for the building of one or more Vessels. At a minimum, each Building Right shall specify:
 - a. the number of Vessels that may be built on the basis of the Design;
 - b. whether the right is exclusive or whether third parties may also use the Design;
 - c. the period during which the Design may be used;
 - d. the conditions attached to the right of use;
 - e. the price due for the right of use, per period and/or per Vessel to be built or ordered.
- 1.8. Building Cost:** The total price of the built Vessel ex yard, excluding VAT that the Client owes to the Builder for the building thereof, including all third-party supplies. This does not include the Yacht Designer's Fee.
- 1.9. Concept Design:** A sketchy plan of the Vessel, worked out in the Concept Design drawings, that gives only an outline of the form and/or the lines, functions and dimensions. These drawings may serve as a starting point for the Preliminary Design.
- 1.10. Concept Design Drawings:** Design drawings produced in the concept phase. These drawings describe the Concept Design.
- 1.11. Final Design:** The definitive description of the Vessel by means of Final Design drawings and other documents for description. For this purpose, in addition to the Design Drawings, among other things but not exclusively and to the extent applicable and agreed, drawings and documents concerning:
 - a. the general lines plan;
 - b. the building specifications;
 - c. the sails plan;
 - d. information regarding the 3D shape of the hull, appendages and superstructure;
 - e. the tank plan;
 - f. the general building plan;
 - g. the weight and center of gravity calculation;
 - h. the hydrostatic and stability calculations;
 - i. the resistance and propulsion calculations;
 - j. mast and rigging drawings;
 - k. the deck plan;
 - l. drawing of the engine room layout;
 - m. drawing of the propulsion system;
 - n. drawing of fire prevention devices;
 - o. drawings of keel and rudder;
 - p. drawing of the anchor installation;
 - q. windows and doors plan;
 - r. navigation lighting plan;
 - s. security plan;
 - t. docking plan.
- 1.12. Final Design Drawings:** Design drawings made in the final design phase, based on the Preliminary Design Drawings.
- 1.13. Completion Date:** The date on which the Builder notifies the Client that the built Vessel is ready and lying ready for the Trial.
- 1.14. Dispute**
A dispute exists when it is considered as such by one of the Parties and that party has notified the other party thereof.
- 1.15. Fee:** The amount that the Client owes the Yacht Designer in connection with the execution of the Agreement for the skill and creativity offered by the Yacht Designer and for the Work performed or to be performed as well as for the Building Right specified in the Agreement, not including turnover tax.
- 1.16. Yacht Designer:** The natural person, partnership or legal entity whose business is to offer and perform Activities.
- 1.17. NBJA:** The Dutch Society of Yacht Designers and Naval Architects, established in Haarlem and registered in the Trade Register under number 40595051. The NBJA was founded on 6 May 1966 and approved by Royal Decree dated 21 February 1968 No. 105.
- 1.18. Design:** A Vessel designed by the Yacht Designer. The Design may consist of a Concept Design, a Preliminary Design and a Final Design. These designs are created in respectively the concept phase, the preliminary design phase and the final design phase. The (detailed) Production Drawings and Revision Drawings are not part of the Design.
- 1.19. Design Drawings:** Drawings of the Vessel, or part thereof, with a limited degree of detail, showing the general nature and broad outline of the Vessel, or a part thereof. These drawings are sufficiently detailed for any technical inspection. The Design Drawings may serve as the basis for producing the Production Drawings. Depending on the stage in which the Work has progressed, reference is made to Concept Design Drawings, Preliminary Design Drawings or Final Design Drawings.
- 1.20. Assignment:** The assignment to perform Work as specified in the Agreement and the General Terms and Conditions applicable thereto.
- 1.21. Client:** The natural person, partnership or legal entity that negotiates with the Yacht Designer and/or concludes an Agreement for the execution of Work or (other) services.
- 1.22. Agreement:** The agreement whereby the Yacht Designer undertakes vis-à-vis the Client to carry out

Work and/or to grant Building Rights subject to the conditions described in that agreement and the general conditions applicable thereto. The Agreement is only established in writing, for example by a written agreement, by email or by signing an offer.

- 1.23. Force Majeure:** situations beyond the control of the Yacht Designer, including but not limited to: war, riots, terrorism, fire, power failure, acts of nature, acts of war, strikes and lockouts, failure of machinery and/or tools, unavailability of tools or other resources to be used by the Yacht Designers, stagnation in the supply of raw materials, parts or energy, import or other trade restrictions, government measures, epidemics and pandemics and related (government) measures or recommendations, and furthermore delays in the execution of work by the Builder or third parties engaged by the Builder, as well as any other circumstance as a result of which it is reasonably impossible or difficult for the Yacht Designer to execute the Agreement (in time).
- 1.24. Production Drawings:** Drawings of the Vessel with a high degree of detail, generally produced from the Design Drawings and/or other data of the Vessel. The Vessel can be produced on the basis of the Production Drawings. These drawings are also called Working Drawings. The Production Drawings are not part of the Design.
- 1.25. Sea Trial:** One or more detailed tests and Sea Trials as part of the Client's acceptance of the Vessel built for it by the Builder, in accordance with an acceptance protocol agreed between the Builder and the Client for that purpose.
- 1.26. Revision Drawings:** Drawings of the Vessel as finally built (based on the Production Drawings), also called: "as built".
- 1.27. Series Building:** Building or having built several (more than one) Vessels on the basis of the same Design.
- 1.28. Series Building Right:** A Building Right for the building of an agreed number of Vessels in a given period.
- 1.29. Downtime**
A delay in the execution of the Work by the Yacht Designer due to circumstances that cannot be attributed to the Yacht Designer, including - but not limited to - Force Majeure.
- 1.30. Drawings:** Design Drawings, Working or Production Drawings, Revision Drawings and all other drawings, (computer) models and paper sketches, whether or not expressly mentioned in these GTC2022.
- 1.31. Variant:** A Design that is based on an existing Design but differs from it in essential respects.
- 1.32. Preliminary Design:** A description of the Vessel by means of Preliminary Design Drawings and other documents based on the Concept Design but with a greater degree of detail. This may include, to the extent applicable and agreed:
- a general plan, which establishes the layout and design. This general plan is based on a preliminary lines plan and on preliminary calculations regarding functionality, speed, carrying capacity, towing capacity, weight, rigging, stability, durability and engine power;
 - information relating to the overall design of the structure for the purpose of preliminary calculation of weight and center of gravity and preliminary assessment of strength, stiffness and indicative building price;
 - a brief specification, possibly incorporated into the drawing(s), sufficiently detailed to enable competent yards to estimate costs.
- 1.33. Vessel:** A sailing or motor yacht, commercial vessel, platform, houseboat or other floating or sailing object or one or more parts thereof.
- 1.34. Delay Costs:** The costs incurred by the Client as a result of Downtime, as enumerated in Article 20.2.
- 1.35. Preliminary Design Drawings:** Design drawings made in the Preliminary Design phase, based on the Concept Design.

1.36. Working Day: Any day that is not a Saturday, Sunday or official Dutch national holiday.

1.37. Working Drawings: Another name for Production Drawings.

1.38. Work/Activities: All work/activities performed by the Yacht Designer under or in connection with the Agreement.

2. APPLICABILITY, INTERPRETATION

2.1. Application

The GC2022 apply to all offers, all agreements and all other legal relationships between the Yacht Designer and the Client. The Parties may deviate from the provisions in the GC2022, but only if these deviations have been agreed upon in writing.

2.2. Exclusion

The applicability of any general terms and conditions other than the GC2022 is expressly excluded.

2.3. Nullity

If one or more provisions of the GC2022 should prove to be wholly or partially void or non-binding at any time, the other provisions of the GC2022 will remain fully in force. The void or non-binding provision shall be replaced as soon as possible by a valid provision that approximates the intended purpose of the void or non-binding provision as closely as possible.

2.4. Precedence

In the event that any other general terms and conditions are declared applicable to an offer, assignment and/or agreement and/or any other legal relationships, as a result of which certain stipulations conflict with those in the GTC2022, the stipulations in the GTC2022 shall take precedence over those in the other general terms and conditions.

2.5. Meaning

Capitalized words in the GC2022 shall have the meanings defined in Article 1 of the GC2022, unless expressly stated otherwise. Definitions denoted in singular shall also be deemed to include the plural and vice versa.

2.6. Translations

If and in so far as there is a difference between the Dutch GC2022 and the GC2022 drawn up in another language, regardless of whether this concerns a textual, legal, numerical or other difference, the Dutch GC2022 shall be decisive for the content and interpretation of the GC2022. The GTC2022 drawn up in another language shall be deemed to be a translation of the Dutch GTC2022 and shall not be applicable to that extent. If the GC2022 drawn up in another language contain any provision (or part thereof) which does not appear in the Dutch GC2022, then that provision (or part thereof) shall be deemed not to have been written.

3. RELATIONSHIP BETWEEN THE CLIENT AND THE YACHT DESIGNER, POWER OF ATTORNEY.

3.1. Trust

In the relationship with the Client, the Yacht Designer is the confidential advisor, who advises on technical and aesthetic matters, who promotes the Client's interests to the best of his knowledge and ability and who realizes the Client's wishes to the best of his ability.

3.2. Authorization

The Yacht Designer acts as the Client's authorized representative in the execution of the Agreement. This authorization is unlimited and unconditional within the framework of the Agreement, until the moment that the Agreement ends or until the Client and the Yacht Designer agree otherwise in writing. The authorization relates in any case to all (legal) actions that the Yacht Designer, in all reasonableness, must perform according to his own judgment in the context of the Assignment granted to him.

4. THE ASSIGNMENT

4.1. Scope and Components of the Assignment. The Assignment includes one or more of the following Activities (a more detailed description of these Activities is included in Article 1 above):

- designing a Design or a Variant;

- making a Concept Design;
- making a Preliminary Design;
- making the Final Design;
- making the Production Drawings;
- making Revision Drawings;
- drafting specifications;
- testing and/or trialing and/or certifying (parts of) a Vessel;
- assisting with and/or requesting and reviewing offers/quotes;
- conducting and/or assisting in the Tender;
- providing Building Supervision;
- giving advice;
- providing aid and assistance;
- performing expert assessments;
- acting as an authorized representative on behalf of the Client;
- providing other services to the extent explicitly described in the Agreement.

4.2. The Yacht Designer is authorized to engage third parties to perform Activities.

5. OFFER, AGREEMENT, DELIVERY TERM

5.1. Offer without engagement

Every Offer is without engagement, unless the Offer sets a deadline for acceptance.

5.2. Revocation

An Offer without engagement may, subject to the provisions in Article 5.3 within three Business Days of its acceptance, be withdrawn by the Yacht Designer without the Yacht Designer being or becoming liable to pay damages to the Client. The Client may also, revoke its acceptance of the Offer, subject to the provisions in Article 5.3, within three Business Days after his acceptance of the Offer, without being or becoming liable for damages towards the Yacht Designer.

5.3. Conclusion of the Agreement

The Assignment shall be deemed to have been definitively established as soon as:

- the Client has accepted the Offer and the period for revocation has expired;
- the Client has confirmed that acceptance of the Offer is irrevocable or has requested that the Activities commence;
- the Yacht Designer, with the approval of the Client, has commenced the Activities without the Client having made an immediate written objection; or
- the Client has requested assistance or information of the Yacht Designer and the Yacht Designer has confirmed his intention to provide the requested assistance or information, or the Yacht Designer has commenced providing the requested assistance or information with the approval of the Client without the Client's immediate objection.

5.4. Providing security

The Client shall, at the first request of the Yacht Designer, provide security in respect of the timely fulfilment of its obligations under the Agreement.

5.5. Delivery term

An agreed delivery term has the purport of an indicative delivery term and is not a deadline, unless this has been explicitly agreed in the Agreement. The indicative delivery terms can be extended by the Yacht Designer each time by 10% of the original delivery term, but with a minimum of one week. An extension will not constitute a fatal delivery term, unless this has been explicitly agreed upon.

5.6. Delivery term in case of change of the Order

If changes are agreed during the execution of the Order, the originally agreed delivery term will automatically lapse.

5.7. Default

The Yacht Designer will never be in default of a non-fatal delivery term. By exceeding a fatal delivery term - and if this delivery term has been extended in accordance with Article 5.5, the extended delivery term - the Yacht Designer will only be liable for damages towards the Client if (i) the delay can be attributed to the Yacht Designer, (ii) the delivery term in question has been exceeded by more than 20%, and (iii) the (other) legal conditions for the occurrence of an event of default have been met.

The Client acknowledges that situations of Force Majeure cannot be attributed to the Yacht Designer, so that in such situations there can be no question of default. At the moment that the Yacht Designer expects the delivery term to be exceeded, he must notify the Client, stating the reason.

6. THE BUILDING RIGHT

6.1. One-time Building Right

If the Assignment issued by the Client also includes the production of a Final Design, and if this Final Design has been delivered by Yacht Designer and the agreed price has been paid by the Client, the Client thereby automatically acquires the right to use the Design drawings to build the Vessel in question, or have it built, in accordance with the Design, on a one-off basis.

6.2. Series Building Right General

The Customer is only entitled to Series Building on the basis of the Design (or drawings and/or other designs preceding it) if the Parties have expressly agreed to this. This Series Building Right will include a deadline by which the Series Building must be completed. Upon expiration of such deadline, the Series Building Right shall lapse, regardless of whether the intended number of Vessels has been built or not.

6.3. Series Building Right Commencement

Client does not acquire the right to use the Design for Series Building until after the Parties have expressly agreed to this in writing and Client has fulfilled all its obligations to Yacht Designer.

6.4. Series Building Right continued

If, after the completion of a Vessel, the Client by virtue of an obtained Series Building Right wishes to build a subsequent Vessel in the same series, he is not entitled to do so until he has completely fulfilled all his obligations vis-à-vis the Yacht Designer up to that time.

6.5. Exclusive (Series) Building Right

The Parties may agree that the Client, to the exclusion of third parties, has the right to use the Design to build one or more Vessels. This exclusivity will lapse immediately at the time the Client is in default of its obligations vis-à-vis the Yacht Designer.

6.6. Personal Right

The rights of use referred to in this Article 6 are a personal right and are granted exclusively to the Client. The right of use is not bound to a mold and/or to a computer file, an image carrier or any other information carrier. The right of use of the Design or any part thereof cannot be transferred to third parties, so that a transfer of property is excluded.

6.7. Lapse of exclusive Building Right in the event of building being halted

If an exclusive Building Right is not used to build a Vessel (or have it built) within one year after it was obtained, or if the building is interrupted or stopped, the Yacht Designer may request the Client in writing to start or continue the building. If the Client has not complied with this written request one year after it was made, all his rights to use the Design or any parts thereof for the building (or having it built) or to complete the building (or having it completed) of the type of Vessel in question will lapse.

6.8. Execution/Changes to the Design

The Building Right may only be used to build one or more Vessels in accordance with the Design and the drawings and other documents made available by the Yacht Designer. The Client is not allowed to make any changes to the Design or to have changes made, or to deviate from the Design in the building of the Vessel.

6.9. Changes to the Design in mutual consultation

If the Client considers a different building or execution necessary or advisable, he must consult with the Yacht Designer. Such a deviation from the Design may only be carried out after the Yacht Designer has agreed to it in writing and the Client has fulfilled all his obligations vis-à-vis the Yacht Designer.

7. RESPONSIBILITIES OF THE YACHT DESIGNER

7.1. Meeting requirements

The Yacht Designer is responsible for ensuring that

his Design meets reasonable requirements of reliability and usability in connection with the intended purpose for which the Client wishes to use the Vessel and insofar as this intended purpose was demonstrably known to the Yacht Designer at the time that the Agreement was concluded.

7.2. Correct execution

The Yacht Designer is responsible for the correct execution of the calculation and drawing work for the Design.

7.3. Duty of effort

Inasmuch as Building Supervision has been agreed, this relates exclusively to a duty of effort on the part of the Yacht Designer. The Yacht Designer is not responsible for the way in which the Builder builds the Vessel and the degree to which it complies with the Design.

7.4. Aesthetic appreciation

The aesthetic appreciation of the Design is not a ground for assessing whether the Yacht Designer has fulfilled his obligations vis-à-vis the Client or not.

8. ADDITIONAL REQUIREMENTS

8.1. Additional requirements

The Yacht Designer will also take into account additional requirements after the Agreement has been concluded, insofar as these requirements have demonstrably become known to him before the completion of the Preliminary Design and he has not objected to that in writing without delay. The Yacht Designer may, in turn, impose additional requirements on the incorporation of the additional requirements into the Design.

8.2. Obligation to inform the Client

If the Yacht Designer is of the opinion that the additional requirements referred to in Article 8.1 cannot be realized in the Design, he is obliged to inform the Client thereof within a reasonable period of time after this has become apparent to him.

8.3. Unfeasible additional requirements

In the event that the Yacht Designer is of the opinion that the additional requirements cannot reasonably be realized within the agreed framework of the Assignment, or if the Parties cannot agree on the conditions subject to which the additional requirements can be realized, this does not give the Client the right to dissolve or otherwise terminate the Agreement.

9. POWERS AND RIGHTS OF THE YACHT DESIGNER

9.1. Deviation from the Assignment

The Yacht Designer is authorized to deliver a Design that deviates from the Agreement if it involves changes that are required in order to comply with applicable regulations, statutory or otherwise, or if it involves minor changes that, in his judgment, constitute an improvement.

9.2. Advice on Building Supervision

If the assignment also includes Building Supervision, then the Yacht Designer shall, with due observance of the provisions in Article 9.3, be authorized to advise the Builder on the basis of the authorization provided to him in Article 3.2 regarding deviations from the Design, without requiring any further permission from the Client for that.

9.3. Conditions for advising to deviate from the Design

The right to advise to deviate from the Design as meant in Article 9.2 is limited to changes in building regulations or changes that, in the opinion of the Yacht Designer, are necessary in connection with safety and/or soundness. The Yacht Designer is responsible for ensuring that these changes remain within the scope of the Building Contract, and that, in his own judgement, the practical usability of the Vessel for the intended purpose does not suffer as a result and that the agreed Building Cost and delivery term are not exceeded.

9.4. Assessment of progress of the building

The Yacht Designer to whom the Building Supervision has been assigned is authorized - to the exclusion of others - to assess whether the Work has progressed to such an extent that, given the situation on the day of inspection, the Builder is entitled to

payment of (a part of) the Building Cost, all in accordance with the provisions of the Building Contract.

10. INTELLECTUAL PROPERTY AND OWNERSHIP

10.1. Calculations

The results of the calculations made shall be incorporated into the Design. The calculations do not constitute a separate part of the delivery and are not issued to the Client.

10.2. Ownership of originals and copies of drawings, documents, etc.

The Yacht Architect at all times retains ownership of all originals and copies of Drawings, sketches, calculations, estimates, budgets, reports, computer files, image carriers and all other data carriers, as well as of any models and scale models made by the Procurement Architect, regardless of whether they have been made available to the Client or to third parties or not.

10.3. Intellectual Property Rights

All intellectual property rights of the Yacht Designer, including in any case, but not exclusively, the copyright under the Dutch Copyright Act 1912 and the exclusive right to a Drawing or model under the Uniform Benelux Law on Drawings and Models with regard to the designs, production drawings, sketches, photographs and all other images of the Design or any part thereof, the models and building templates, as well as all objects, computer files, image carriers or other data carriers that form an image or representation of the Design or a part thereof, remain the exclusive property of the Yacht Designer.

10.4. Use or alienation

Use or alienation of the images, data carriers, templates, etc. referred to in the previous paragraph is not permitted, except with the explicit written permission of the Yacht Designer. In no case will such use or alienation result in the intellectual property being transferred to or vesting a different (usage) right in any third party. The Client is obliged to point this out to the Yacht Designer.

10.5. Other use of the Design

Unless otherwise agreed, the Yacht Designer is entirely free to use the Design himself or to use parts of it for other Clients. This should in any case be understood to mean the right to alienate the Design and/or any other rights attached to the Design, or to change the Design at his own discretion or to use it or have it used for the building of one or more Vessels.

10.6. Protection of the Design

The Client is only permitted to change anything about the Design, the Design Drawings and the Production Drawings, the specifications or the Vessels themselves, at least concerning the Design, after having received written permission from the Yacht Designer for that.

11. CONFIDENTIALITY

11.1. The Client is obliged to maintain the confidentiality of all Designs, Drawings, calculations, computer files, sketches, models and all (other) representations of the Design or any parts thereof provided to it by the Yacht Designer in connection with the Assignment, which he has in his possession or of which he has knowledge.

11.2. To the extent that, in connection with repairs or maintenance work, there is a need to share the information to be kept confidential with third parties, the Client shall not do so until after notifying the Yacht Designer thereof. In no case will the Client share more information than is strictly necessary for the repairs or maintenance work to be carried out to the Vessel.

11.3. Under no circumstances is the Client permitted to show or make available the information to be kept confidential to any third parties who might use it for themselves or for the benefit of others.

11.4. Promotion

The Yacht Designer is entitled to make pictures, or have pictures made, of the exterior and interior of the Vessel. The Yacht Designer is entitled to change these images and the general plan, to duplicate them

and to make them public for promotional purposes in the broadest sense of the word.

11.5. Name sign

The Yacht Designer has the right to provide the material realization of his Design with his name, logo and/or name sign, provided that this does not, in all reasonableness, harm the appearance or use of the Vessel.

11.6. Removal of name in case of infringement

Without prejudice to its other rights in the event of infringement of his intellectual property rights, the Client is obliged, at the Yacht Designer's first request, to remove the Yacht Designer's name, logo or name sign from the Vessel.

11.7. Prizes and distinctions

All prizes, awards and the like obtained with a Design or with its execution by reason of its design capacity shall become the property of the Yacht Designer at the time of acquisition.

12. LIABILITY YACHT DESIGNER

12.1. Limitation of liability

The Yacht Designer is only liable for damage suffered by the Client that is the result of a failure in the fulfillment of his obligations or a wrongful act attributable to the Yacht Designer. Article 5.7 is applicable mutatis mutandis.

12.2. Obligation to limit damage

The Client is obliged to limit or reverse its damage as much as possible from the moment of discovery thereof. The Yacht Designer is furthermore entitled to limit or reverse the damage at his own expense.

12.3. No liability for non-subordinates or third parties

The Yacht Designer is not liable for damage resulting from intent or conscious recklessness of non-subordinates and/or third parties whose services are used in the execution of the Assignment.

12.4. No liability capacity, quality, suitability of materials

The Yacht Designer is not liable for damage consisting of or resulting from defects in the capacity and/or quality and/or suitability of materials and other items the use of which has been prescribed by the Client or which have been supplied by him.

12.5. No liability for incompetent or insufficient use

The Yacht Designer is not liable for damage occurring after delivery of the Vessel or the part concerned as a result of incompetent or insufficient use, of lack of care and/or normal wear and tear, or caused by changes made to the Vessel by the user or by third parties.

12.6. No liability Builder or third parties

The Yacht Designer is not liable for any damage suffered by the Client as a result of errors made by the Builder or by third parties engaged by the Builder or the Yacht Designer in violation of the Design, (other) calculations or drawings, the specifications and/or the further conditions.

12.7. No liability for third-party parts

The Yacht Designer shall not be liable for any errors with respect to parts of the Vessel not designed by him or under his responsibility or not executed under his supervision. Nor is he liable for them if liability has been transferred to the Builder by specifications or building contract or on delivery. The Yacht Designer shall in no event be responsible for the operation, performance or results, etc., of any such third-party components incorporated, nor shall the Yacht Designer be liable for any defect therein. Nor is the Yacht Designer responsible for the operation, performance or results, etc., of such fitted third-party parts in conjunction with (the other parts of) the Vessel, nor is the Yacht Designer liable for any defect therein.

12.8. Liability for technical incorporation

The Yacht Designer is only liable for the technical fitting of parts in the Vessel designed and manufactured by third parties if the Yacht Designer has explicitly designated these parts as part of the Design.

12.9. Indemnification of the Builder or other third party/parties involved

The Builder as well as any other third party engaged by the Yacht Designer in or as part of the execution of the Work shall indemnify the Yacht Designer against any claims from the Client due to any act or omission that can be attributed to the Builder or the third party in question.

12.10. No liability for price estimates

The Yacht Designer will always draw up price estimates to the best of his ability, but without obligation. The Yacht Designer is not liable for any damage caused by the fact that the Vessel or any part thereof cannot be built for the estimated price.

12.11. No liability for indirect damage

Liability of the Yacht Designer for damage other than direct damage is excluded, regardless of the nature, scope and basis of the liability. 'Direct damage' is understood to mean: damage suffered by the Client as a result of the repair of the defect in the Vessel or of the otherwise defective execution of the Assignment, but limited to the reasonable costs charged by the Builder or other repairer in connection with the execution of the repair, i.e., labor costs, material costs, etc. 'Direct loss' shall not include any form of indirect or consequential loss, which shall in any event be understood to mean (non-exhaustively): trading loss, loss of production, loss of turnover and/or profit, decrease in value of products, storage or stowage costs of the Vessel, personal injury and other forms of loss which are not financial in nature.

12.12. Liability and legal provisions

In no event shall the Yacht Designer be liable if his Design meets the following conditions:

- it has been executed in accordance with the Order received, and
- it complies with the 'European Recreational Craft Directive' (2003/44/EC) and/or with the regulations of a classification society recognized for the type of vessel concerned, insofar as these directives and/or regulations relate to the properties to which the deficiency relates.

12.13. Limitation of the scope of liability

The liability of the Yacht Designer is in all cases limited to the agreed-upon Fee. Furthermore, the liability of the Yacht Designer is limited to the amount paid out by the insurer for the case in question.

12.14. Duty to complain

Any claim against the Yacht Designer due to a defect in the Vessel (visible or non-visible), except for a defect that has been explicitly acknowledged by the Yacht Designer in writing, must be reported to the Yacht Designer in writing and in sufficient detail, within two weeks after the Client became aware of that defect or should reasonably have been aware of it, on pain of forfeiting the right to complain, whereby the Client must offer the Yacht Designer a reasonable period of time for repair. Article 5.7 is applicable mutatis mutandis. In determining the reasonable period, the time required in connection with the repair by the Builder, the availability of the necessary materials and the Builder's planning will in any case be taken into account.

12.15. Expiry period with no/little use of the Vessel

If the Vessel is not used by the Client on a monthly basis and for the intended purpose immediately after delivery, any claim by the Client (or its legal successor) on account of a defect which would have existed at the delivery term shall lapse in any case twelve months after delivery, without prejudice to the provisions of Article 13.

13. RIGHTS AND OBLIGATIONS OF THE CLIENT

13.1. Inspection / Sea Trial within 4 weeks after Completion Date

As part of the delivery, the Client, together with the Builder and, insofar as relevant, with suppliers, will organize a Sea Trial and invite the Yacht Designer to this. This Sea Trial will take place no later than four weeks after the Completion Date, barring unforeseen circumstances. During the Sea Trial, the Client shall have the Vessel extensively and professionally tested in order to be able to judge whether the Yacht Designer has delivered properly.

13.2. Delivery by the Yacht Designer

The work to be delivered by the Yacht Designer as a result of the Assignment shall be deemed to have been delivered without attributable failure in the following situations:

- the Client has not, within two weeks after the Completion Date, reported in writing a failure attributable to the Yacht Designer; or
- the Client has informed the Yacht Designer that there are no shortcomings attributable to him or that the Vessel complies with the Order; or
- shortcomings reported to the Yacht Designer within two weeks of the Completion Date have been remedied; or
- in the event that the Agreement only concerns Activities related to giving advice, making a calculation or another kind of limited Assignment, at the moment that the Yacht Designer delivers the goods to be supplied by him to the Client and the Client does not report any shortcomings attributable to the Yacht Designer within four Working Days, or when the Yacht Designer has remedied all shortcomings reported to him and attributable to him.

14. PUBLICITY

14.1. Publicity for advertising purposes

In case of an Assignment for Series Building, the Client is entitled to publish for advertising and publicity purposes the general plan and photographs of the designed Vessel. Other drawings of the Design may be published by the Client only with the written permission of the Yacht Designer.

14.2. Publicity in other cases

In all other cases than those mentioned in Article 14.1, the Client may publish drawings or photographs of the designed Vessel only after prior written permission of the Yacht Designer.

14.3. The Client shall, upon publication of drawings, photographs or descriptions of the designed Vessel:

- clearly state the name of the Yacht Designer as designer;
- clearly state the copyright of the Yacht Designer;
- send the Yacht Designer a copy of the publication or a copy of good quality thereof.

15. TERMINATION OF THE ASSIGNMENT

15.1. Termination by the Client

Termination of the Assignment other than in the event of default by the Contractor may take place only if:

- the Agreement has been terminated in writing and that notice of termination has been received by the Yacht Designer;
- the Client has paid the Fee for (i) all parts of the Work that the Yacht Designer has completed up to the termination date, (ii) the part of the Work that the Yacht Designer has worked on up to that time, based on the state of the work, and (iii) 20% of the Fee for the Work that the Yacht Designer no longer needs to perform at all; and
- the Client has reimbursed the Yacht Designer for costs already incurred or necessarily yet to be incurred and advances paid.

15.2. Moment; retention right

If the Yacht Designer has received the written notice of termination referred to in Article 15.1 before the obligations referred to in that Article have been met, then the termination of the Agreement will not be completed until these obligations have been met. As long as the obligations in question have not been met, the Yacht Designer is entitled to retain the Vessel, or have a third party retain it, at the Client's expense. Retaining the Vessel in his possession, or having it retained in his possession, will also serve as security for the payment of the costs arising from that.

15.3. Termination upon death

15.3.1. Natural person

In the event of death of the Client or the Yacht Designer, his heir(s) or other legal successor(s)

under universal title shall be entitled to dissolve the Agreement without being obliged to compensate the full damage suffered by the other party as a result. The heir(s) or other legal successor(s) under universal title who have dissolved the Agreement shall only be obliged to reimburse the Fee and the costs as referred to in Article 15.1 under b and c. For substantiating the Fee and the costs, the administration of the executing party will be decisive.

15.4. Termination by the Yacht Designer

In the following cases, the Yacht Designer is in any case entitled, without prejudice to his right to demand performance, to proceed with immediate termination of the Agreement:

- a. if the Yacht Designer becomes aware of any circumstances which, in his opinion, give him good reason to fear that the Client will not meet its obligations towards him;
- b. if the Yacht Designer has requested the Client to provide security for the fulfilment of his obligations when the Agreement was concluded or during the execution of the Assignment and the Client has not provided the requested security within two weeks of that request.

The Yacht Designer is not liable for damages to the Client in the event of termination of the Agreement pursuant to the provisions of this paragraph.

15.5. Surviving provisions

In the event the Agreement ends, whether prematurely or not, all provisions relating to intellectual property (Article 10) and confidentiality (Article 11) will remain in full force and effect.

16. PRICE

16.1. The Yacht Designer, with due regard for the provisions of the following paragraph, is entitled to payment of:

- a. a Fee;
- b. royalties for the use of the Design;
- c. a reimbursement of costs incurred by him, to the extent not included in the Fee.

16.2. The price is in euros, excluding VAT.

17. CALCULATION OF FEE, INSTALMENTS

17.1. Fixed amount, hours worked and/or % of the Building Cost

The Fee can be calculated on the basis of the number of hours worked and/or on the basis of the amount of the Building Cost, all this depending on the arrangements made between the Parties in this respect. The Parties can also agree a fixed amount if the Activities can easily be estimated in advance.

17.2. Fee depending on hours worked

Insofar as the Parties have agreed that the Fee will be calculated in proportion to the number of hours worked, the Parties will agree a standard hourly rate for the various types of Work.

The Yacht Designer is entitled to increase this hourly rate as per the first day of the year following the year in which the Agreement is concluded, in accordance with the consumer price index.

17.3. Provisional Fee

When concluding the Agreement, the Yacht Designer will make a provisional estimate of the Fee, on the basis of which he will charge the various partial instalments. After all Work has been completed, the Yacht Designer will make a final calculation. Insofar as, based on the final calculation, more hours have been worked than have already been charged, the Yacht Designer will charge the hours not yet invoiced on the final invoice.

17.4. Fee for changes/extra work

Insofar as the Assignment has been extended as a result of changes or extra work, the Yacht Designer will invoice the hours involved separately - insofar as possible - at the time that the Work has been completed, or, at his own discretion, indicate this clearly on the final invoice.

17.5. Fee dependent on the Building Cost

If the Parties agree that the Fee will be calculated depending on the Building Cost, the various installment amounts will be calculated depending on

the Building Cost estimated in advance by the Yacht Designer to the extent that the final Building Cost is not known.

The moment the final Building Cost is known, the Yacht Designer will make a post calculation and charge the difference between the amounts already paid and those to which the Yacht Designer is entitled based on the final Building Cost on the final invoice.

If, in the opinion of the Yacht Designer, the previously estimated Building Cost should be revised during the Work, the instalments already charged will also be revised and settled.

17.6. Payment of Fee in instalments

The Fee due will be charged in installments in accordance with the agreements made by the Parties in this regard when entering into the Agreement. In any case, the Yacht Designer will be entitled to charge installments after completion of:

- a. the Concept Design;
- b. the Preliminary Design;
- c. the Final Design;
- d. the Production Drawings;
- e. the Revision Drawings;
- f. per designed Variant.

Furthermore, during the Building Supervision and Sea Trial, the Yacht Designer is entitled to charge at the end of each Monday the hours he has spent, insofar as this is not included in the Activities mentioned in sub a to f of this Article.

17.7. Suspension of Activities

If an instalment has not been paid on time by the Client, the Yacht Designer is entitled to immediately suspend the Work until the Client has met all its obligations vis-à-vis the Yacht Designer existing at that time. All additional costs and damages incurred as a result will be borne by the Client. The Client acknowledges that if the Client fails to meet its obligations in a timely manner, the Activities cannot immediately be resumed by the Yacht Designer, for instance because available capacity is used for another project and cannot be made available to the Client immediately. In that case the Yacht Designer is only obliged to resume the Work at the first possible moment at which he can, in all reasonableness, make the required capacity available again. If additional costs must be incurred to resume the Work earlier, these will be reimbursed to the Yacht Designer by the Client.

18. ROYALTY CALCULATION AND PAYMENT

18.1. The Client may obtain rights of use of drawings for a Design that, in the opinion of the Yacht Designer, has been fully completed, only upon express approval of the Yacht Designer and subject to the conditions to be set for that by the Yacht Designer. For the use of the final Design Drawings and the Production Drawings based thereon, the Client shall owe Royalty to the Yacht Designer.

18.2. Royalties for the building of the first Vessel

In the event that the Work includes the design of a Vessel, the royalties in connection with the building of the first Vessel according to that Design shall be included in the last instalment of the Fee.

18.3. Royalties for the building of more than one Vessel

When using the Design to build more than one Vessel, royalties will be due per Vessel to be built.

18.4. Royalties for existing Design

If the Parties agree that the Client may use an existing Design for the building of one or more Vessels, the Client shall owe to the Yacht Designer the royalties in accordance with the agreements made by the Parties in this regard.

18.5. Payment / start of the right of use of the Design

The Client obtains the right of use of the Design (and accompanying Design- and Production drawings) as of the day following the day on which the royalties due to the Yacht Designer have been received by the Yacht Designer and all other obligations vis-à-vis the Yacht Designer arising from the Agreement have been fulfilled.

19. COSTS

19.1. Reimbursement of costs to be incurred and storage

All costs incurred by the Yacht Designer in the execution of the Agreement will be charged to the Client with a mark-up to be agreed upon by the Parties.

19.2. Time to invoice

Costs will be invoiced at the time they occur. Costs that have occurred during or after the Work but have not yet been passed on, will be included in the final invoice. If the final invoice has already been sent, these costs will be charged separately.

19.3. Types of costs

Costs to be passed on include, but are not limited to, costs related to the hiring of third parties, materials to be used, travel and accommodation, translation, reproduction, testing, certification, model tests, inspections, tests, office expenses, legal assistance in connection with disputes with third parties, etc.

20. OTHER COSTS

20.1. Collection costs, judicial and extrajudicial costs

If the Client is in default or breach of contract with respect to one or more of its obligations, all costs incurred in obtaining satisfaction shall be borne by the Client in accordance with the relevant statutory provisions.

20.2. Delay Costs

If the execution of the Work is delayed due to Downtime, the Client is obliged to reimburse the Yacht Designer for the following resulting Delay Costs:

- a. the costs arising from commitments made by the Yacht Designer in connection with the Agreement which cannot be suspended, modified or terminated during the Downtime;
- b. the costs resulting from suspending, modifying or terminating those commitments to the extent possible, all at the sole discretion of the Yacht Designer;
- c. the costs, including wage costs, related to employees and/or hired workers scheduled by the Yacht Designer to perform the Work who cannot be profitably deployed on another project during the period of Downtime, all at the sole discretion of the Yacht Designer;
- d. the additional costs incurred by the Yacht Designer after the period of Downtime has ended, in connection with the continuation of the Work.

20.3. If the period of Downtime continues for more than two months, the Client is additionally obliged to pay the Yacht Designer the part of the Fee in proportion to the Work already performed.

20.4. The Yacht Designer will not be required to resume the Work after a period of Downtime until all Delay Costs have been reimbursed to him.

In no event shall the Yacht Designer be liable for any damages related to the Downtime.

21. PAYMENT, SET-OFF AND EXIGIBILITY

21.1. Unless otherwise agreed, the term of payment is four weeks after receipt of the invoice. Invoices can be sent by post, fax or e-mail. The Parties will agree on the address, fax number and/or e-mail address to be used by the Yacht Designer for this purpose.

21.2. Late payment

If the term of payment is exceeded, the Client is immediately in default without any notice of default being required. The Client owes the Yacht Designer the statutory commercial interest from the due date until the day of full payment.

21.3. Application of payments

Payments made by the Client shall first be applied to reduce the costs, then to reduce the interest already due and finally to reduce the principal sum - starting with the longest outstanding invoice - and the current interest, even if the Client states that its payment is intended for a different order of application.

21.4. Set-off

The Customer waives any right to set off amounts

owed by both parties. Guarantee claims do not suspend the payment obligations of the Client.

21.5. Settlement of fees in case of Series Building

In case of Series Building, the Yacht Designer is entitled to have an independent expert verify the settlement of the fees due from the Series Builder.

21.6. Special circumstances

In the event of cessation of the Client's activities, dissolution or a (petition for) bankruptcy, suspension of payments or receivership with regard to the Client, the Client's obligations will be immediately exigible in full.

22. DISPUTES

22.1. Governing law

The Agreement and all other legal relationships between the Client and the Yacht Designer are exclusively governed by Dutch law.

22.2. Competent court

Only the court in the court district in which the Yacht Designer is located and/or has his office has jurisdiction to take cognizance of a Dispute, unless the Parties agree on arbitration or another form of dispute resolution.

22.3. In the event that a Dispute is settled by arbitration, the arbitration shall be conducted in accordance with the arbitration rules of the Transport And Maritime Arbitration Foundation (TAMARA arbitration, <https://www.tamara-arbitration.nl/>).

22.4. If a final judicial decision fully or partially annuls an arbitral ruling or any other final decision of an arbitral tribunal, each of the Parties shall be entitled to have the Dispute, to the extent that it remains unsettled as a result, re-settled in accordance with Article 22.3 to have the Dispute settled again. The claims that are the subject of the Dispute expire if the Dispute is brought before the Foundation mentioned in Article 22.3 later than three months after the final judicial decision has become effective. The person who participated as an arbitrator or secretary in the annulled arbitral ruling may not participate in the new assessment.

23. FINAL PROVISIONS

23.1. Headings above the provisions

The headings above the provisions in these General Terms and Conditions are only for the purpose of increasing readability, do not have any independent meaning and play no role in the interpretation of the provisions of the GTC2022.

23.2. Amendment clause

The Netherlands Society of Yacht Designers and Naval Architects is free to amend these General Conditions. The amended version of these General Conditions will apply to all legal relationships between the Client and the Yacht Designer from the day that the amended version is received by the Client and the Client has not objected to it in writing within one week.

23.3. Notifications

All notifications - including offers and acceptances - by one party to the other must be in writing. Written in any case means by post, fax or e-mail.

23.4. Invalidity

If any provision of the Agreement or the GC2022 turns out to be wholly or partially invalid or non-binding, the Parties shall remain fully bound to and by the other provisions. The Parties shall replace the invalid or non-binding provision by a provision that is valid and binding and whose legal consequences, having regard to the contents and purport of the Agreement or the GC2022, correspond as much as possible to those of the invalid or non-binding provision.