

# GENERAL TERMS & CONDITIONS

## Nikolaas & Beets Visual Management

Nikolaas & Beets Visual Management  
Located: Tappersweg 25  
2031 ET Haarlem

Registered with the Chamber of Commerce under no. 34129705

### 1 Definitions and applicability:

1.1 In these General Terms and Conditions, the following definitions will apply:

- a. Client: any natural person or legal entity entering into an Agreement with Nikolaas & Beets Visual Management, or to whom/which Nikolaas & Beets Visual Management makes an offer, and in addition to these, their representative(s), proxy holder(s), successor(s) and heirs.
- b. Agreement: any Agreement entered into between Nikolaas & Beets Visual Management and the client, including any modification thereof or addition thereto, as well as all (juridical) acts in preparation for and in execution of that Agreement.
- c. Service: all (juridical) acts, including the provision and/or delivery of goods and/or services, or part thereof, which Nikolaas & Beets Visual Management performs within the framework of this Agreement.
- d. Services: the provision of audio, visual and lighting facilities and creative designs for theatre productions, conferences, product presentations and events, each in the broadest sense of the word.
- e. Products: hardware and/or software and furthermore all materials that can be object of an agreement in light of the business activities of Nikolaas & Beets Visual Management.
- f. Location: the place(s) where Nikolaas & Beets Visual Management must perform the tasks.

1.2 The General Terms and Conditions form part of all Offers and all Agreements and apply to all (other) acts and legal acts by Nikolaas & Beets Visual Management and the Client.

1.3 Amendments and/or additions to any provision within the Agreement and/or General Terms and Conditions will only be valid if they are confirmed in writing and will exclusively apply to the Agreement in question.

### 2 Offers:

2.1 All offers and quotations by Nikolaas & Beets Visual Management will be valid for a period of 30 days, unless specified otherwise, and without engagement, unless they include an acceptance term.

2.2 All drawings and information included in any offer, such as measures, weights, power requirements and quantities have been put together as accurately as possible. Any information is only binding if and in as far as this is expressly stated. No details need to be provided.

2.3 In any offers, Nikolaas & Beets Visual Management assumes that all products will be delivered in the usual form and way and that all work can be executed in the normal way. Nikolaas & Beets Visual Management should be informed in advance and as detailed as possible regarding any particular requirements and circumstances. Nikolaas & Beets Visual Management will subsequently explicitly state in the offer whether and to what extent Nikolaas & Beets Visual Management has taken these into account.

2.4 Offers, as well as any reports, recommendations, drawings, designs, schedules, models, software and calculations produced by (or commissioned by) Nikolaas & Beets Visual Management will be the property of Nikolaas & Beets Visual Management and may not be transferred or provided for inspection to third parties without permission from Nikolaas & Beets Visual Management.

2.5 Nikolaas & Beets Visual Management reserves the right to refuse assignments and/or orders as they deem appropriate, without specifying reasons.

### 3 Agreements:

3.1 In case a quotation includes a non-binding proposal and this is accepted, Nikolaas & Beets Visual Management are entitled to withdraw the offer within two working days after receiving the acceptance.

3.2 The Client will receive a written confirmation of the offer and/or written records of the Agreement from Nikolaas & Beets Visual Management. The Client must return the signed copy of the order confirmation or written records of the Agreement to Nikolaas & Beets Visual Management, within 7 days of receipt.

3.3 If an Agreement concerns rental of equipment and/or technical staff for a series of productions, a production specific agreement should be put in place concerning the services agreed for that particular production.

3.4 Any additional agreements or modifications as well as agreements with promises made by Nikolaas & Beets Visual Management personnel, will only commit Nikolaas & Beets Visual Management if and in as far these have been confirmed in writing by Nikolaas & Beets Visual Management.

3.5 Should the counterparty require additional services during the execution of the agreement, and/or require (the) services for a longer period of time than initially agreed, and Nikolaas & Beets Visual Management is in the position to fulfil this wish, this will be determined in writing in a supplement to the agreement. Any such additional services will only be provided after the supplement has been duly signed. The additional services will be charged and should be paid in accordance with the provision in article 16.

3.6 The Agreement can only be cancelled by the counterparty if this is done in writing, before implementation of the services and/or delivery of the goods has commenced. Taking into consideration the provisions outlined below, in case of cancellation at any time all possible preparation costs by Nikolaas & Beets Visual Management will be charged to the counterparty.

3.7 If cancellation takes place after 15 working days prior to the start of the implementation of this Agreement, the counterparty will be liable to compensation, in addition to the preparation costs, which will be determined to 50% of the fee/price agreed. If cancellation takes place after 5 working days prior to the start of the Execution of this Agreement, the compensation due as indicated above will be equal to the total fee/price agreed.

3.8 Any financial commitments by Nikolaas & Beets Visual Management to third parties, related to the cancelled Agreement, which Nikolaas & Beets Visual Management are held to honour, including bought-in or ordered services and/or hired goods, will also be charged in full to the counterparty.

#### **4 Provision and delivery times**

4.1 The delivery term agreed is not mandatory, unless expressly agreed otherwise.

4.2 Nikolaas & Beets Visual Management at all times retains the right to, before commencing or continuing provision of services and/or delivery of goods, to demand sufficient security for the fulfilment of the Client's payment obligations.

4.3 If the Client owes Nikolaas & Beets Visual Management payment, especially, if payment of Nikolaas & Beets Visual Management invoices is still due, in whole or in part, Nikolaas & Beets Visual Management is entitled to suspend the obligation to deliver, until the Client has met all its obligations.

4.4 Nikolaas & Beets Visual Management will provide every Service as agreed in writing. Nikolaas & Beets Visual Management has the right to Provide the Service in whole or in part by means of (goods from) third parties.

4.5 If the Agreement includes works, Nikolaas & Beets Visual Management has the right to charge any costs related to demonstrable extra or more difficult work than foreseen or connected with the fact that work had to be done during other hours than the usual working hours, or if any delays beyond the control of Nikolaas & Beets Visual Management, were encountered during the execution of the works, in addition to the agreed price. Nikolaas & Beets Visual Management is also authorised to index the salary component and charge for the thus calculated higher labour costs.

4.6 Nikolaas & Beets Visual Management will assume that the Client is familiar with the way the equipment operates and that the equipment ordered by the Client meets the requirements for which the equipment is hired.

#### **5 Licences etc. and intellectual property rights:**

5.1 The Client undertakes to obtain, at his own costs, all permits, licences and exemptions necessary to provide the Service. In case Nikolaas & Beets Visual Management takes care of a request on behalf of the Client, this will be at the expense and risk of the Client.

5.2 The Client will take care of any applicable third party claims or liabilities regarding intellectual property rights, such as Buma/Stemra rights, related to the Service. The Client will take care of payment to the third party concerned, i.e. the copyright organisation, and will indemnify Nikolaas & Beets Visual Management if the latter would be addressed by a third party on this subject.

## **6 Location:**

6.1 In case the Agreement extends to work to be carried out outside the premises of Nikolaas & Beets Visual Management, the Client must ensure easy accessibility of the work place as well as the necessary facilities, including electrical connections and proper lighting to work in. If, and to the extent that this would be, necessary, the Client will put tools at their disposal, such as hoisting gear and scaffolding. The Client will also ensure that Nikolaas & Beets Visual Management will not encounter any inconvenience or delays due to (work carried out by) third parties at the work site.

6.2 The Client will ensure that Nikolaas & Beets Visual Management will be able to reach the Location, using the means of transport used by them or by third parties engaged by them, without any obstacles, and by means of a properly surfaced and sufficiently wide road.

6.3 The Client commits to ensure, at his costs, sufficient and secure parking for the means of transportation mentioned. The Client is also held to ensure, on first request by Nikolaas & Beets Visual Management, a sufficient and appropriate space that can be correctly locked, for storage of materials and equipment belonging to Nikolaas & Beets Visual Management and/or third parties employed by them in connection with the Services.

6.4 The Client will ensure that Nikolaas & Beets Visual Management will not be hindered by third parties, such as the public, when providing the Services. The Client will ensure, at his cost and risk and in a timely manner, sufficient assistance and Security personnel. 6.5 The (interior of the) Location must comply to the minimum requirements as set out in the Agreement. The Client will ensure timely preparation of the Location where Nikolaas & Beets Visual Management will provide the Services. 6.6 The facilities of the Location and specially the stage, i.e. the place where a performance will take place, and the power supply must be of such a nature that Nikolaas & Beets Visual Management will be able to provide the Services without having to make special arrangements, incur extra work or goods owned by Nikolaas & Beets Visual Management or by third parties employed by Nikolaas & Beets Visual Management can be damaged.

6.7 The Client will ensure that Nikolaas & Beets Visual Management will be able to start deconstructing the equipment rented out or made available immediately after the agreed show time.

6.8 All services and goods made available on location by third parties via the Client or at request of the Client, such as electricity, electrical and sound equipment and other materials and tools will be used by Nikolaas & Beets Visual Management at the expense and risk of the Client.

6.9 The Client commits to ensure that sufficient refreshments will be available on location for Nikolaas & Beets Visual Management employees/associates involved in providing the Services.

## **7 Warranty:**

7.1 All goods rented out by Nikolaas & Beets Visual Management to the Client, or put at their disposal will be of good quality and properly maintained.

7.2 If the Client notifies Nikolaas & Beets Visual Management in a timely manner that the goods rented out or made available do not meet the requirements of the Agreement, the maintenance service of Nikolaas & Beets Visual Management will carry out the necessary repairs as soon as possible.

7.3 If the goods do not meet the requirements of the Agreement as a result of any action(s) by the Client that constitute a breach of the Agreement, the costs related to the repairs will be charged separately to the Client.

## **8 Acceptance and advertising:**

8.1 Inspection and testing of the goods provided and/or rented will take place immediately upon receipt. Nikolaas & Beets Visual Management will be notified immediately and in writing of any objections, faults and/or defects.

8.2 Any complaint(s) regarding faults and/or defects which is/are not immediately visible must be reported as soon as possible after detection, or after the Client had been able to determine this/these to Nikolaas & Beets Visual Management in order that they can inspect the validity of the complaint(s) on location.

8.3 Without the aforementioned notifications, the goods concerned will be considered to have been rented out without damage, faults or defects and the service will be considered to have been provided in accordance with the Agreement.

## **9 Use of goods rented out/ made available:**

9.1 The Client commits to exclusively use the goods rented out to him/her or put at his/her disposal for the agreed purpose and in compliance with the operating instructions and directions provided by Nikolaas & Beets Visual Management.

9.2 Unless approved in writing by Nikolaas & Beets Visual Management, the Client may not move the goods rented out or made available to a different place than the Location agreed.

9.3 The Client may not make the goods rented out or put at their disposal available to third parties or rent them out without prior consent in writing by Nikolaas & Beets Visual Management.

9.4 Nikolaas & Beets Visual Management reserves the right to verify at any given time that the Client meets its obligations and to this purpose, the Client will grant Nikolaas & Beets Visual Management or any person assigned by them free access to the location where the goods rented out or made available are kept.

9.5 The Client may not modify the goods rented out or made available in any way and/or paint them and/or glue anything (stickers for example) onto them, nor alter the appearance in any way, without prior written consent from Nikolaas & Beets Visual Management.

## **10 Returning goods rented out or made available and restoring them to their original condition:**

10.1 The Client will return the goods rented out or made available to Nikolaas & Beets Visual Management at the agreed time and in the same condition as they were received, both in appearance and from a technical point of view.

10.2 If it has been agreed that the goods rented out or made available will be removed from a Location by Nikolaas & Beets Visual Management, the Client will ensure access to that Location.

10.3 The official moment of return will be constituted by the moment Nikolaas & Beets Visual Management will have received all goods rented out or made available in good order.

10.4 In the event that Nikolaas & Beets Visual Management has expressly allowed the Client to modify and/or (spray)paint the goods rented out and/or made available, or change the appearance in any way, all costs related to returning the goods to their original state will be borne by the Client.

## **11 Payments:**

11.1 Unless otherwise agreed, the Client must pay the price in cash upon delivery/provision of the Services without deductions or compensations, or have transferred the amount before any work commences to the bank account of Nikolaas & Beets Visual Management.

11.2 If it has been agreed that an invoice will be sent, the Client must pay the price without deductions or appeal to compensation within 14 days from the invoice date.

11.3 In the event the payment term is exceeded, this fact in itself will entitle Nikolaas & Beets Visual Management to either consider the agreement as cancelled without any intervention by the courts, or postpone (further) execution of the agreement, or demand immediate payment in full of any amount due by the Client for Services already provided by Nikolaas & Beets Visual Management without this requiring any prior warning or formal notice of default, and all this without prejudice to Nikolaas & Beets Visual Management's right to compensation of costs, damages and interest.

11.4 In the case of late payment the Client will be liable to pay interest from the day the invoice payment has expired, equal to the statutory interest rate plus two percentage-points, without this requiring any formal notice of default.

11.5 In the event of late payment the Client will also bear all juridical and extra-juridical costs. The juridical costs to be paid by the Client will also include all reasonable procedural costs that cannot be liquidated by Nikolaas & Beets Visual Management. The extra-juridical costs will be at least 15% of the amount owed by the Client, including any interest and costs as mentioned above, with a minimum of € 250.

## **12 Force Majeure**

12.1 In the event of force majeure, Nikolaas & Beets Visual Management will have the right to either postpone implementation of the Agreement, or to cancel the Agreement in whole or in part without being held to pay the other party any form of compensation.

12.2 With regard to Nikolaas & Beets Visual Management Force Majeure will also be understood to include: strikes by or illness of Nikolaas & Beets Visual Management employees and third parties engaged by the company to help provide the Services, any measure and/or interdiction by the Dutch government and/or a foreign government, foreseeable and unforeseeable traffic jams or problems, accident(s) with a vehicle used by Nikolaas & Beets Visual Management or a third party engaged by them, unforeseen technical defects to such vehicles, the lack of the required licences or dispensations, (culpable) shortcomings in the compliance of suppliers of Nikolaas & Beets Visual Management, theft of materials required for providing the Services and all circumstances prohibiting Nikolaas & Beets Visual Management to provide such services in a proper and timely manner, and this cannot be reproached to our company.

12.3 Nikolaas & Beets Visual Management is also entitled to invoke Force Majeure if the Client is in default of one or more obligations of the Agreement.

12.4 In the event of force majeure, Nikolaas & Beets Visual Management will be entitled to immediately collect all and any goods made available to the Client by Nikolaas & Beets Visual Management, or have them collected.

## **13 Liability, insurance and indemnity**

13.1 If Nikolaas & Beets Visual Management rents out goods to the Client, The client will be held responsible - until the moment of returning the goods - as if he/she was the owner, possessor or user, for any loss due to damage to, loss or destruction of the goods rented and/or made available, as well as for any damage caused by or with these goods.

13.2 The Client will be liable for any loss suffered by Nikolaas & Beets Visual Management if the Client does not properly return the goods immediately when the rental period expires. This loss will be calculated to be at least 10% of the value of the goods rented out or made available.

13.3 In the event of theft, loss or damage of/to the goods rented out and/or made available, the Client must immediately inform Nikolaas & Beets Visual Management of this. Furthermore, in the case of theft or damage to it due to conflict situations, the Client must immediately report this to the police in the municipality where the theft took place or the damage due to a conflict situation was done, and provide Nikolaas & Beets Visual Management with a copy of this report.

13.4 The Client is obliged -on behalf of Nikolaas & Beets Visual Management - to fully ensure the goods rented out and/or made available, as well as all and any risks related to the Services provided by Nikolaas & Beets Visual Management. and keep all this ensured against all insurable damages. At request of Nikolaas & Beets Visual Management, the Client must submit a copy of the insurance policy and policy conditions.

13.5 In the case of loss, alienation, damage, decay, theft or embezzlement of the goods rented out and/or made available, the Client must compensate the replacement value of the goods rented out and/or made available to Nikolaas & Beets Visual Management.

13.6 If when the hire goods are returned it turns out that parts of it are damaged and/or do not correspond in number with the number as was made available to the Client by Nikolaas & Beets Visual Management, the Client will be held responsible for such damage(s) and/or the missing part. In such a case, the Client will pay for the damage and/or the value of the missing part - as will be charged by Nikolaas & Beets Visual Management - to Nikolaas & Beets Visual Management.

13.7 The Client will be liable for any loss due to damage, decay, loss to/of goods or injury to or death of any person arising directly or indirectly during and/or caused by the Services provided by Nikolaas & Beets Visual Management at the Location.

13.8 In the event that the Client is responsible, based on the law, these terms and conditions, or any Agreement with Nikolaas & Beets Visual Management and Nikolaas & Beets Visual Management is held liable by a third party, the Client will fully indemnify Nikolaas & Beets Visual Management and pay for any damages.

13.9 In the event that Nikolaas & Beets Visual Management, notwithstanding what is specified in this Agreement and these General Terms and Conditions which are part of it, will indeed be responsible for any damage(s), Nikolaas & Beets Visual Management's liability will be limited to the amount paid out in the relevant case under the business liability insurance of Nikolaas & Beets Visual Management. This limitation of liability shall

not apply if and insofar as the damage arises from wilful acts or gross negligence on the part of Nikolaas & Beets Visual Management. Nikolaas & Beets Visual Management cannot be held responsible for any damages arising from services provided by third parties engaged by Nikolaas & Beets Visual Management on behalf of the Client.

#### **14 Default and termination**

14.1 If the Client fails to comply, or does not comply properly or in time with any obligation arising from the Agreement entered into with Nikolaas & Beets Visual Management, or from the law, this will mean that the Client will be in default without formal notice of liability and Nikolaas & Beets Visual Management will have the right to suspend implementation of the agreement, and/or to cancel such Agreement and any Agreements related to it, in whole or in part, without Nikolaas & Beets Visual Management being liable for any damages and without prejudice to any other rights due to Nikolaas & Beets Visual Management.

14.2 In the event of a (provisional) suspension of payments or bankruptcy of the Client, cessation or liquidation of the Client's company, or, if the Client is a natural person, if he/she is placed under guardianship, all Agreements with the Client will be automatically cancelled by law, unless Nikolaas & Beets Visual Management informs the Client within a reasonable timeframe that it demands fulfilment of (part of) the relevant Agreement(s), in which case Nikolaas & Beets Visual Management will have the right to suspend implementation of the agreement(s) without any formal notice of default, until payment has been secured to a sufficient degree, without prejudice to any other rights due to Nikolaas & Beets Visual Management.

14.3 Nikolaas & Beets Visual Management will have the right to terminate the Agreement in the event of permanent force majeure on the part of the Client. In such an event, the Client shall pay Nikolaas & Beets Visual Management all costs incurred and still to incur by Nikolaas & Beets Visual Management.

14.4 In all cases mentioned in paragraphs 1, 2 and 3 all claims by Nikolaas & Beets Visual Management will be due immediately, the Client will be obliged to immediately return any hire goods or items that have remained unpaid, and Nikolaas & Beets Visual Management will have the right to enter the Client's premises and buildings in order to take those goods into possession.

14.5 The Client must inform Nikolaas & Beets Visual Management without delay in the event an attachment is levied on its moving or unmovable possessions, or on the hire goods as mentioned in these terms and conditions, or if the ownership rights of the Client are in danger of being affected in any other way.

14.6 The Client must also immediately notify Nikolaas & Beets Visual Management in the event of bankruptcy, suspension of payments and show the bailiff, curator or administrator the present Agreement without delay, whilst pointing out the ownership rights of Nikolaas & Beets Visual Management.

#### **15 Applicable law and choice of forum**

15.1 All offers and quotations by Nikolaas & Beets Visual Management as well the execution thereof, will be exclusively governed by the law of The Netherlands.

15.2 All disputes resulting from or related to an Agreement to which these terms and conditions apply, including disputes regarding these terms and conditions, will be settled by the competent court within the settlement area of Nikolaas & Beets Visual Management, without prejudice to the fact that Nikolaas & Beets Visual Management will have the right to file claims, whether or not simultaneously, against the Client with other courts of justice competent in the area of such claims.

15.3 Paragraph 1 does not affect the right of Nikolaas & Beets Visual Management to settle a dispute by means of arbitration or a binding opinion, nor to determine applicable law via normal jurisdiction rules.