

# GENERAL TERMS & CONDITIONS DVA FOR **BUSINESSES [B2B]**

## GENERAL

### Article 1 Applicability

1.1 Contractor, performing its activities as an independent private limited liability company acting under the (trade) name **Locatie Marketing & Management Company BV (Fokker Terminal)**, registered with the Trade Register of the Dutch Chamber of Commerce under number 27372364, KvK Haaglanden, provides its services in accordance with the present *General Terms & Conditions of the Dutch Venue Association*. The *Dutch Venue Association* is an industry association representing the Dutch event venue industry. The terms and conditions are applied by all members.

1.2 Contractor is entitled to unilaterally change or amend these General Terms & Conditions.

1.3 Contractor's house rules ((internal regulations) also apply to the agreement, with the exclusion of all other regulations. These rules are appended to the agreement as an attachment and can also be consulted on the [direct web page house rules](#). In the event of any contradictions between these General Terms & Conditions and the house rules, the stipulations of the house rules shall prevail.

## OPTION AND ESTABLISHMENT OF AGREEMENT

### Article 2 Options

2.1 The contractor may provide an option for a venue at the client's request. An option is entirely without obligation for the contractor as the client, unless otherwise agreed in writing.

2.2 If a fixed-term option has been agreed with the client, the contractor shall be entitled to require security for the option. If the client does not use the option, the contractor is entitled to retain the security deposit (i.e. not to repay the client).

### Article 3 Offers/Quotations

3.1 All offers/ quotations made by or on behalf of the contractor are without obligation unless otherwise agreed in writing.

3.2 In any event, contractor shall only be held to a written offer/quotation if it at least stipulates:

- which venue(s) will be rented during what period and for what price;
- what kind of project/event the venue(s) will be used for;
- an estimate of the number of people that are expected to attend;

and the offer/quotation was confirmed by the signatures of both parties or was confirmed by client by email and was received by contractor in time.

The risk of any ambiguities or inaccuracies caused by the assignment being granted and communication being held over telephone falls to the client.

### Art. 4 Client's Obligations (including safety and information)

4.1 The client shall, at his own expense and risk, take sufficient measures to ensure the safety of performers, third parties engaged by him, guests and visitors. If agreements have already been made regarding the aforementioned measures, the contractor shall nevertheless be entitled to impose additional requirements at any time if changed circumstances so require.

4.2 The client is required to notify the contractor in writing of any risks to the status of (the premises of) the rented venues and/or the good name of the contractor that might arise due to or because of the event. These include, but are not limited to, risks due to the visitor profile, the (changed) nature of the event, any threat or attraction of undesirable behaviour, political or social unrest and possible refusal of necessary permits in a general sense, including under the Bibob<sup>1</sup> Act or the venue's own permits. The contractor has the right to cancel the event without liability for damages if the client's duty of disclosure has been violated and/or the information provided is incorrect or incomplete. Upon termination of the agreement by the contractor, it will not be obliged (i) to compensate the client for any damage suffered in any sense whatsoever, and/or (ii) to return any (down) payments made.

4.3 The client will be obliged to provide the contractor with all information that the client knows or should know is necessary for the performance of the assignment in a timely manner. The client warrants the accuracy and completeness of the information provided.

4.4 The client will not be entitled to any form of compensation if he has not or not adequately fulfilled his obligations as included in article 4.1 and/or 4.2 of these general terms and conditions and as a result the contractor (i) does not allow the assignment to go ahead in whole or in part, which the contractor is entitled to do in that case and/or (ii) the contractor has pointed this out to the client in writing and the client nevertheless wishes the assignment to go ahead.

4.5 The client is responsible for the payment of fees for the use of third-party (intellectual property) rights (including but not limited to BumaStemra<sup>2</sup> rights).

4.6 Unless otherwise agreed in writing, the client is responsible for the required third-party permission and/or permits.

4.7 The client is aware that the event to be organized must be appropriate to the reputation, image and other events of the contractor's location and may not cause nuisance to other tenants/users of the building and local residents.

4.8 Client is responsible and liable for the acts and omissions of visitors, guests, third parties, etc it engages during the assignment (including but not limited to the event).

## RENTED VENUE AND EVENT CONDITIONS

### Article 5 Rented venue

5.1 It falls to client to check whether the rented venue is suitable for the envisaged event prior to entering into the agreement.

5.2 Only the room(s) described in the agreement and the facilities mentioned therein belong to the rented venue. Unless otherwise agreed in writing, the central entrance areas, corridors, stairs, restrooms, cafes, restaurants, the outside areas and garages/parking lots are not part of the rented venue.

5.3 Without prior written permission from contractor, client shall not be permitted to:

- a) use the rented venue for any purpose other than that described in the agreement;

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<sup>1</sup> Public Administration Integrity Assessment Promotion Act

<sup>2</sup> BumaStemra is an advocacy organisation for music creators.

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- b) sublet (a part of) the rented venue or allow third parties to use it, with the express understanding that no prior written permission is required for exhibitors during fairs or exhibitions;
- c) if and to the extent applicable, exhibit items and services in the rented venue that fall outside of the scope of the exhibition programme described in the agreement;
- d) materially change the name or purpose of the event during the term of the agreement, for which contractor shall not unreasonably withhold its permission.

**5.4** Client is held to bring the venue's house rules to the attention of guests, visitors, staff, employees, etc. and will be continuously and severally responsible for the (full) observance of the house rules by these parties. Client indemnifies contractor against all damage and third-party claims ensuing from any violation of the house rules or the General Terms & Conditions or the agreement by guests, visitors, staff, employees, etc.

## **Article 6 Number of Visitors**

**6.1.1** The budget estimate is based on the number of visitors that is included in the agreement. Any change to the number of visitors will affect the agreement's price quote and/or the suitability of the rented venue.

**6.1.2** Client is held to inform contractor in writing as soon as possible in case of any changes or additions that deviate from the agreement's stipulations.

**6.3** Reducing the agreed-upon visitor count and a corresponding cost reduction shall only be possible once, until ten days before the event is to start. The reduction shall not exceed 5% of the total number of visitors recorded in the agreement. All possible cost reductions shall be made with full application of the terms and conditions parties have agreed upon. In the event of a visitor count reduction of more than 5%, contractor shall be entitled to adjust the other calculations to the new situation. This shall among others pertain to possibly assigning the event a different venue.

**6.4** If more visitors show up to the event than was agreed upon, the affiliated additional costs and expenses will be charged based on the calculations included in the agreement. The contractor has the right to refuse guests if the agreed number of guests is exceeded, taking into account, among other things, the safety of the other guests in connection with the surface area of the rented venue. The number of guests present determined by the contractor is decisive in this regard.

**6.5** Assignments are accepted based on subsequent calculation, unless otherwise agreed upon in writing.

## **Article 7 Execution**

**7.1** Decorating, using, and clearing the rented venue(s) shall be discussed with the contractor beforehand.

**7.2** Contractor shall at all times be entitled to stipulate further regulations for decorating, using, and clearing the rented venue(s), if the fire department, the police, the municipal authorities, or the contractor consider such advisable for ensuring safety and the (public) peace.

**7.3** Subject to contractor's express prior written permission, client shall not implement or order any changes to the rented venue(s) or the other venue(s) and (exterior) premises.

**7.4** Client accepts the rented venue(s) in the state this/these are in at the commencement of the rental period. Defects found at the end of the rental period to the rented property as well as to the general area(s) handed over for use (such as but not limited to toilets) are deemed to have arisen during the rental period, unless the client can plausibly demonstrate that said defects (such as damage) already existed before the rental period.

**7.5** At the time indicated in the order confirmation at the end of the rental period, client shall have cleared and completely cleaned the rented venue(s) and will leave them in the condition in which the venue(s) was/were provided to client. Client is held to reverse all changes that were made by or on behalf of client. If client does not clear and completely clean the rented venue(s) on time contractor shall be entitled to charge client a fine equal to the assignment sum.

## **Article 8 Suppliers**

Unless expressly agreed otherwise in writing, the use of suppliers (including but not limited to catering, audio/visual, technology) within the rental property is reserved exclusively to the contractor.

## **Article 9 Prices**

**9.1** Unless otherwise agreed upon in writing (including but not limited to email), all prices shall be exclusive of VAT. All other statutory taxes and levies, which are imposed by the government, shall also be paid by the client. Contractor will inform client of such taxes and levies beforehand as much as possible. Contractor shall be entitled to charge client any government-imposed increases in taxes, duties, or social security contributions. Contractor is entitled to charge all statutory increases in taxes, excises, or social security contributions to client.

**9.2** If the contractor provides a composite quotation, there shall be no obligation to perform part of the quotation at a corresponding part of the price quoted for the entire quotation.

## **Article 10 Payments**

**10.1** Unless stated otherwise in the offer/quotation, all invoices shall be paid within 14 days of the invoice date.

**10.2** Client shall be held:

- to pay 100% of the agreed-upon lease sum when the reservation is made final and/or when the agreement is concluded;
- to pay 25% of the agreed-upon assignment sum, excluding the lease sum, as a down payment when the agreement is concluded;
- to have paid 90% of the agreed-upon assignment sum, excluding the lease sum, as a down payment no later than 14 days prior to the execution of the agreement;
- the contractor will invoice any positive or negative difference in costs after the execution of the agreement in a final invoice, to be settled against the aforementioned down payments;
- For each of the payments, contractor shall send a timely invoice to client.

**10.3** The final invoice will include a detailed specification of the services provided to be billed on subsequent calculation as well as a breakdown of the V.A.T.

**10.4** All payment terms are considered firm deadlines. Client shall not be entitled to suspend or settle payments.

**10.5** If the payment term lapses without a payment having been made, client shall automatically be in default. Client will then owe the statutory commercial interest (with a part of a month to be considered a whole month) as well as all extrajudicial collection costs, to be calculated as 15% of the principal sum, with a minimum of € 350.00.

**10.6** Foreign clients are bound by the guidelines provided by the Dutch tax authorities regarding payment of VAT.

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## LIABILITY/ FORCE MAJEURE/ EPIDEMICS AND PANDEMICS

### Article 11 Liability

11.1 The client will be liable for damage suffered by third parties arising from the use of the rented venue and/or the venue(s) made available for use and will indemnify the contractor against third-party claims in respect of such damage.

11.2 Damage to or loss of goods owned by the contractor and/or suppliers contracted by the contractor caused by the client and/or his guests/employees/third parties, etc., must be compensated in full by the client to the contractor.

11.3 Everything brought into the building and/or rented venue by or on behalf of the client will be there at the client's expense and risk. The contractor is by no means charged with insuring and/or safeguarding it. The contractor is not liable for damage to or loss of goods, property and monetary values of the client or third parties (including invitees, the public and performers) due to any cause whatsoever, except in the case of intent or gross negligence on the part of the contractor or its staff. The contractor is also not liable for damage to or loss of goods deposited in the checkroom. Client shall indemnify Contractor for claims by third parties (as referred to above).

11.4 Contractor is not liable for damages, of any kind, caused by its reliance on incorrect and / or incomplete information provided by or on behalf of the client.

11.5 The contractor is only liable for damage (i) if such damage is covered by its liability insurance up to the amount paid out by its insurance policy plus the excess or (ii) if there is intent or gross negligence on the part of the contractor or one of its managers.

11.6 If (i) there is no intent or gross negligence, or (ii) the insurance does not pay out, and the contractor is nevertheless liable, such liability will be limited to direct damage only (whereby liability for indirect damage is expressly excluded) with a maximum of the contract sum.

11.7 All rights of action and other powers, on whatever grounds, which the client may have vis-à-vis the contractor must be received in writing by the contractor within one month of the end of the rental period, failing which they will lapse.

11.8 Any advice given by the contractor will always be without obligation and any follow-up thereto will be at the client's expense and risk.

### Article 12: Epidemics and/or pandemics government measures

12.1 Neither party shall be liable - subject to the provisions set out below in the following clause - for any failure or delay in the performance of the agreement, insofar as such failure or delay is caused by government measures due to epidemics or pandemics (such as the outbreak of the COVID-19 virus) that directly affect the agreement as a result of which the execution of the agreement is prohibited or impossible (such as a restriction on the number of visitors/participants).

12.2 If there is a situation as referred to in Article 12.1, the parties will discuss the consequences and decide together whether the event (whether or not in a modified form) can still take place at the agreed time or can be postponed.

12.3 If the parties fail to reach consensus on whether the event can still take place at the agreed time, or whether the event must be postponed, either party may terminate the agreement by giving written notice (this includes cancellation or dissolution). The contractor shall in that case be entitled to retain the first advance payment of @% of the agreed order price or to still receive payment of the first advance payment of @% of the agreed order price. If the client fails to act as a good client within the framework of article 12.2 or 12.3, the client will be required to pay the full agreed order amount immediately.

### Article 13 Force majeure

13.1 This article does not relate to epidemics/ pandemics subject to government measures (such as COVID-19).

13.2 Circumstances not attributable to the Contractor, which are of such a nature that compliance with the Agreement can no longer reasonably be demanded or can no longer be demanded in full (such as but not limited to (i) extreme weather (including but not limited to code red for the city/municipality/province where the event is to take place and/or for the province(s) from which the visitors/employees/(suppliers)/client is to originate),

(ii) revocation of one or more permits (of both the contractor and the client), (iii) national mourning, (iv) complete or partial inaccessibility of the event location and (v) illness of staff or suppliers' staff, e.g. in connection with a (flu) epidemic or pandemic) shall entitle the contractor to dissolve the agreement in whole or in part and/or to suspend the performance thereof without any obligation to pay compensation. In that case the contractor retains its right to compensation for the agreed assignment sum (including but not limited to costs for third parties it has engaged).

13.3 Recourse to force majeure on the part of the client is excluded.

## CANCELLATION/ DISSOLUTION

### Article 14 Cancellations

14.1 Cancelling the agreement shall be done in writing (including but not limited to email) and (and if multiple current agreements exist between the parties to be accompanied by the relevant agreement).will be accompanied by the relevant agreement.

14.2.1 If a cancelled agreement pertains to the lease of a venue, contractor shall be entitled to retain all lease payments (in other words: lease payments are non-refundable).

14.2.2 If there are other services (such as organizational activities, including but not limited to catering, artists, audio/visual, etc.) in addition to the venue rental, the client shall pay the following costs to the contractor in case of cancellation:

a) in the period prior to 365 days before the commencement date: 30% of the full assignment sum (as it is at the time of cancellation), not including the lease sum;

b) in the period between 365 and 180 days before the commencement date: 50% of the full assignment sum (as it is at the time of cancellation), not including the lease sum;

c) in the period between 179 and 90 days before the commencement date: 85% of the full assignment sum (as it is at the time of cancellation), not including the lease sum;

d) in the period between 89 and the commencement date: 100% of the full assignment sum (as it is at the time of cancellation), not including the lease sum;

The assignment sum shall be the assignment sum agreed upon in the agreement, to be increased with any and all mutations that were agreed upon.

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**14.2.3** If there are other services (such as organizational activities, including but not limited to catering, artists, audio/visual, etc.) in addition to the venue rental, the client shall pay the following costs to the contractor in case there is no agreement on the entire<sup>3</sup> agreement and the client does not use the services of the contractor:

- a) in the period prior to 365 days before the commencement date: 30% of the full assignment sum (as it is at the time of cancellation), not including the lease sum;
- b) in the period between 365 and 180 days before the commencement date: 50% of the full assignment sum (as it is at the time of cancellation), not including the lease sum;
- c) in the period between 179 and 90 days before the commencement date: 85% of the full assignment sum (as it is at the time of cancellation), not including the lease sum;
- d) in the period between 89 and the commencement date: 100% of the full assignment sum (as it is at the time of cancellation), not including the lease sum;

The assignment sum shall be the assignment sum agreed upon in the agreement, to be increased with any and all mutations that were agreed upon.

**14.3** If because of (but not limited to) payment obligations that contractor incurs due to client's cancellation, such as obligations toward and/or claims by third parties in the context of the execution of the agreement, client shall pay contractor at the time of cancellation for any damage incurred by contractor that exceeds the sum of the cancellation fee described in Article 14.2 of these General Terms & Conditions.

**14.4** The cancellation date shall be the first date on which contractor receives the cancellation.

## Article 15 Dissolution of the Agreement

**15.1** Contractor is entitled to dissolve the agreement if:

- a) client fails to observe its obligations under the agreement, fails to observe them in full, or fails to observe them in time;
- b) after entering into the agreement contractor is informed of circumstances that give it good reasons to fear that client will not (be able to) observe its obligations;
- c) client's assets are seized, or the client is granted a suspension of payments, or is declared bankrupt.

**15.2** In the event of the dissolution of the agreement, all of contractor's claims on client will become immediately claimable.

**15.3** If contractor decides to dissolve the agreement, it will in no way be held to compensate client for any damage or expenses that client may incur because of the dissolution.

## OTHER CONDITIONS

### Article 16 Complaints / Claims

Contractor must receive all complaints and reports of defects in writing (including but not limited to email) within 24 hours after client becomes aware of them or could reasonably be expected to have become aware of them. If this deadline is not met, any claims the client may have will lapse.

### Article 17 Confidentiality

**17.1** Both parties commit to the confidentiality of the other party's confidential information that they may receive in the context of the agreement. Information shall be considered confidential if this is made explicit by the counterparty or if this can be assumed from the nature of the information. The party receiving confidential information will only use this for the purposes for which that information is provided.

**17.2** The stipulations of Article 17.1 of these General Terms & Conditions does not pertain to information that:

- a) is provided to its consultants, if those consultants are also bound to confidentiality;
- b) was already in the lawful possession of the receiving party before they were obtained from that party;
- c) was independently developed by the receiving party without using the counterparty's information or data;
- d) is or becomes public knowledge through any action except actions or negligence on part of the receiving party;
- e) the receiving party obtains from a third party without violation of a confidentiality obligation vis-à-vis the counterparty;
- f) must be disclosed pursuant to laws, regulations, or court orders, or pursuant to the decree of a government body, on the condition that the receiving party makes all possible effort to limit the scope of the disclosure and informs the counterparty of this pending disclosure beforehand.

### Article 18 Image Rights and Drawings

**18.1** All images, drawings, ideas, and intellectual property rights used in or appended to a quotation, or an order confirmation may only be used in the context of the assignment that is (to be) granted and client shall not be entitled to use these for its own purposes or to provide them to a third party. All rights will remain with contractor in full.

**18.2** Contractor therefore retains the right to request that client return the documents referred to in Article 17.1 of the present General Terms & Conditions.

**18.3** The contractor is entitled to make sound, photo - and/or image recordings of the event and to post that material - as well as the client's logo - on its website for marketing purposes. The contractor shall not make (a copy of) the relevant material and the client's logo available to third parties.

### Article 19 Applicable Law

**19.1** Only Dutch law shall apply to all legal relationships between contractor and client.

**19.2** All disputes pertaining to or ensuing from quotations made by contractor and agreements concluded between parties, as well recovery procedures in case of a default on payments, will exclusively be heard by the competent court in contractor's district, unless contractor decides to lodge a claim in client's district.

**19.3** The clause designating the competent court shall not apply in the event of claims or rent issues with a total value not exceeding € 25,000.00. In such cases – except in exceptional circumstances – the court in client's district shall be competent to hear the claim.

**19.4** If the client is based outside Europe, Switzerland, Norway or Iceland, a dispute will be settled by arbitration, pursuant to the NAI ("Netherlands Arbitration Institute"), whereby the official language is English, and hearings will take place in Amsterdam.

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<sup>3</sup> This applies when, for example, there is no agreement yet regarding food and beverage only, but agreement has been reached on all other parts of the contract/event (such as the number of guests, artists).

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**19.5** In the event of any differences of interpretation between the Dutch original of these General Terms & Conditions and any translation thereof, the interpretation following the Dutch text shall be binding.