

**KBK Visuals****General Terms and Conditions**

These General Terms and Conditions (GTC) are applicable to any agreement between Client and Coöperatie KBK Visuals U.A., Van Speijkstraat 24, 5021 RB Tilburg, Chamber of Commerce (KvK) 67529259.

**Mission Statement and Performance**

KBK Visuals connects the fields of motion graphics, stage design, live visuals/VJ performances and technical production into a coherent visual experience for various events ranging from corporate events to large-scale dance events, artists or TV shows.

**Article 1 Applicability of the GTC**

These GTC are applicable to all legal documents, contacts and activities between KBK Visuals's Clients and KBK Visuals (Parties). Parties comply with the GTC and the applicable law and regulations when using delivered services, the website and/or connected services from KBK Visuals. Deviation from these GTC will only be possible if explicitly approved by Parties, in written and signed form.

**Article 2 Definitions**

Client: the other party;

Show: the actual performance for Client of Product as agreed with Client;

Product: is the show-concept including all manifestations, media, graphics and supporting services related to the Show, agreed upon by Parties;

Project: Products, such as Shows, delivered by KBK Visuals for a longer period than one week or any Show outside The Netherlands;

Quotation: any offer by KBK Visuals for the Product and/or Project and/or performance of required services to a Party;

Third Party: any party to whom KBK Visuals or Client has outsourced certain activities or performances;

Website: The platform created by KBK Visuals, including all electronic services made possible by this platform as threads, services, visuals, descriptions and mail processors.

**Article 3 Quotations**

Offers are free of obligations and are open for acceptance for 30 days, unless otherwise stated.

Acceptance of the offer is only valid if accepted and confirmed in writing or via confirmed email. Possible alterations to the offer by requested changes in workload will have financial consequences. During the working process changes in the original offer can be made and will be submitted to Parties for approval. Offers are excluding VAT and extra costs as travel costs, visa applications, licensing costs, taxation, local expenses, etc. unless presented otherwise. Additional work will not be included in the offer and will be agreed upon by Parties concerning the workload and financial consequences.

**Article 4 Payment**

Payment to KBK Visuals has to be made in full within 14 days from the date of the invoice. Complaints about the invoice will not suspend the obligation to pay the agreed amount. If Client does not pay in time, KBK Visuals will have the right to demand a statutory interest as of that date and time from the date of default onward. For Projects with a longer duration than two weeks of work, 50% of the total amount must be paid in advance and 50% after finalization of the Project, within 14 days, including possible extra costs. Any Event that is performed outside the Netherlands, has to be paid in advance, unless agreed otherwise in quotation. Client will be liable for any extra cost as administration, collection, legal costs, or any extra effort to realize payment of the agreed amount if payment is exceeding the final date of payment. KBK Visuals will have the right to suspend activities during the time that Client is in default.

**Article 5 Execution of Agreement**

KBK Visuals will endeavor to execute the commissioned agreement as carefully and as effectively as possible, taking into account the requirements and interests of Client. Client will provide all physical and organizational requirements as well as necessary licenses or other legal requirements which are necessary for KBK Visuals to execute the agreement in a correct and timely way. Client will perform all duties required to execution of Agreement including all technical and organizational requirements to be concluded two weeks before starting date of Show, as well as due payment of the agreed amount within fourteen days after invoice date.

**Article 6 Required Information**

Client must provide timely all the necessary information, documents and contacts necessary to KBK Visuals for a correct execution of Agreement. If information or documents are not complete or supplied too late, KBK Visuals cannot guarantee 100% performance or a timely delivery or execution of the Product. Client must deliver two weeks before the Show all visuals / logos (eg. the artists) in a proper format to KBK Visuals if Client wants those applications to be used during the Show. KBK Visuals cannot guarantee any performance of visuals or logos or any other representation that is dependent of the delivery of Client, arriving outside the given time window.

In the event that Client delivers late, upon discretion of KBK Visuals, the late delivered information or documents may be discarded or KBK Visuals may use the late delivered material and charge Client for the extra work that concerns this late delivery, for example last moment adjustments of technical show specifications.

**Article 7 Required Technology and Facilities**

Client guarantees that during the engagement for the Show, adequate and appropriate facilities, electrical power, and any other necessary connection and conditions for KBK Visuals to carry out its tasks properly and safely, are available. If KBK Visuals sent a technical/hospitality rider to Client then all conditions mentioned therein must be fulfilled. Client further guarantees adequate protection against (unexpected) meteorological conditions that could be detrimental to any Equipment of KBK Visuals.

Client guarantees that all necessary licenses are acquired to execute Product and subsequent Show, performances and services, including licenses for use of content/visuals delivered by Client. Client will guarantee sufficient physical and organizational security conditions in order to protect KBK Visuals' equipment, its employees and contracted third parties. If the conditions are not met by Client, KBK Visuals has the right to cancel the order and not fulfil its obligations in the contract. If the failure to fulfil the requirements is on the side of the Client, then Client is obliged to pay the total agreed amount to KBK Visuals.

**Article 8 Intellectual Property Rights**

Unless indicated otherwise in the Terms and Conditions, or in any special agreement between Parties, all rights - including copyrights and other intellectual property rights - relating to Product, Website concepts, techniques, models, tools, illustrations, all images, designs, animations, visuals, advice and the information provided for any Event or special concept remain with KBK Visuals. Client may consult the KBK Visuals Website and information and make copies thereof for his own use, for example by printing or saving. Any other use of the Website or any information, for example the saving or reproducing (part of) the Website or video, audio, photo or any above mentioned IP products on an internet page, or on any other medium or the inclusion of links, hyperlinks or deeplinks to websites or to a Third Party page, is not permitted without the explicit permission of KBK Visuals. All treaties, (a.o. WIPO, Benelux merkenwet) and national laws (a.o. auteurswet) are governing the acts of Parties.

**Article 9 Transfer and Use of Intellectual Property**

The use of intellectual property of KBK Visuals will be governed by a separate End User License Agreement (EULA), unless otherwise agreed upon. Transfer of Intellectual Property Rights will be governed by a separate Transfer of IP Rights Agreement (TIPRA), unless otherwise agreed upon.

**Article 10 Dissemination of Information**

Parties will disseminate information about the Shows and other information about the activities of Parties only with mutual consent. Client may not disseminate any information about KBK Visuals without permission. Client may not use, disclose or publish any work of KBK Visuals without permission, as interviews, articles

or any publication on any medium. If any information will be published or disclosed without consent of a Party, the other Party will have the right to remove his name or reference from that publication or have the publication deleted.

**Article 11 Outsourcing**

KBK Visuals has the right to outsourcing activities to Third Parties for creating and supporting the Show. For as far as there is a direct relationship between that party and KBK Visuals based on contract, KBK Visuals will be responsible for the activities and performance of that party. KBK Visuals will not bear responsibility nor will be liable for any performance or other activity of a Third Party, taking part in the Show.

**Article 12 Liability**

KBK Visuals has a best efforts obligation for the deliverance of the Product. KBK Visuals is not liable for errors, misunderstandings, omissions or demise at the hands of Client or Third Parties. KBK Visuals is only liable for its direct damage that is the result of gross faults or reckless behavior on the side of KBK Visuals, including all active employees in the Product. KBK Visuals will never be liable for indirect damages as result of any fault or behavior on the side of KBK Visuals or contracted Third Parties.

KBK Visuals will hold no responsibility nor can it be held liable for any of the information, just or unjust, facts or mistakes on the Website, the Product or any related service, from any source. KBK Visuals will not hold any responsibility for any mistake, technical failure, or human disturbance that will arise during the Show or Project. Neither will KBK Visuals control any of the content that will be presented during the Project or any other information that will be communicated by the other Party or participants. Client will take full responsibility for any damage, to Third Parties, public and participants, direct or indirect that occurs during an Event. KBK Visuals will not be held liable for damage caused by use of the Website or Product for any of the Products and services of any Party. In case of Shows, tests or manifestations that will be organized by Client or any behavior of participants or any Third Party, Client holds KBK Visuals harmless against any type of claims, in connection with the Products and/or related Services, IP claims or any other claim arising from a breach or a non-performance by any Third Party. KBK Visuals cannot be held liable for any type of damages, neither direct nor indirect, special nor consequential. Parties shall, without limitation, abstain from any use of - nor permit anyone else to use - the formats service, nor Website, for a purpose other than for which it is designed for or intended to be used for, nor engage in any conduct which restricts or inhibits KBK Visuals to perform its task. Parties and any other participant or Third Party will abstain from, in particular but not limited to:

- publishing, sending or receiving any material which is threatening, grossly offensive, of an

indecent, pornographic, obscene or menacing character, blasphemous or defamatory of any person, to incite hatred against any ethnic, religious or any other minority, in contempt of court or in breach of confidence, copyright, rights of personality, publicity or privacy or any other third party rights;

- sending or receiving any material which constitutes or encourages conduct that would be considered a criminal offence, give rise to civil liability, or otherwise be contrary to the law or infringe the rights of any third party in any country in the world;

- sending or receiving any material which is technically harmful (including computer viruses, logic bombs, Trojan horses, worms, harmful components, corrupted data, other malicious software or harmful data); or for any fraudulent purpose;

- furnishing false data including false names, addresses and contact details and fraudulent use of credit/debit card numbers;

- allowing or constructing any disruption of performance or services due to Third Party or any external source;

- accessing the Show, service (or Website) in such a way as to, or commit any act that would or does, impose an unreasonable or disproportionately large load on KBK Visuals infrastructure;

- sending unsolicited mail messages, including the sending of "junk mail" or other advertising material to users;

- sending malicious email, including flooding a user or site with very large or numerous emails.

#### **Article 13 Force Majeure**

Parties will hold each other harmless to Force Majeure. Force Majeure is herewith defined as any uncontrollable event, detention / delay resulting from inability to obtain reasonable modes of transportation, riots, other civil strife, strikes, other forms of labor disputes, epidemics, an act or order of any governmental authority or court, any Act of God, or any cause beyond Parties reasonable control. If such an event disables Party to fulfill his obligations, then neither Party hereto shall be entitled to make any claim against the other Party for non-fulfillment of obligations as stated in this agreement, be it that the cause solely can be attributed to this Force Majeure.

#### **Article 14 Insurance**

Client warrants that he has adequate insurance, covering claims for damage related to the venue or Show and its fixtures, furnishings and fittings, as well as employer's liability and public liability insurance covering claims by Parties staff or their families or by members of the public or their families in the event of personal injury or death sustained in connection with this engagement. As far as possible, Client warrants adequate insurance against all claims associated with the cancellation of performance due to Force Majeure events, illness, physical problems or any other event.

#### **Article 15 Wrongful Use of Conduct**

KBK Visuals reserves the right to remove without prior notice and at its sole discretion, any information that would be considered as inappropriate and/or damageable for KBK Visuals or Clients reputation. At its sole discretion, KBK Visuals can decide to end a relation with a Party that will not perform in a decent manner. At its sole discretion, KBK Visuals can decide to dissolve any relation that can damage the good name of the Parties or direct relations of the persons involved with the Parties or the organization or performance for the Show.

#### **Article 16 Privacy**

For the purpose of this agreement, using the Website, preparing of Product and Show, Parties agree and confirm to KBK Visuals to only process personal information necessary for the functioning of Product, the use of Website and the contacts between Parties. In order to warrant and protect the privacy of any natural person in the performance of the Product or the processing of any Personal Data, Parties do not collect any more data and information than necessary for the full use of the Product. The personal data and information that can identify natural persons active for or acquainted with the Product, but not limited to, identification information, will exclusively be used for the purpose of KBK Visuals, Products, Shows and support services. KBK Visuals and Client will collect and store data only for the purposes and period that is necessary for described purposes and legal requirements. All personal data will be anonymized or deleted when possible. Uploaded images may contain information which show where and when the image was taken (metadata). Parties only will use this information from jpeg-, jpg-, gif-, png-, etc.- type images used by most smart devices for uploading, for the reason to publish with consent of the persons involved. Parties will be subjected to international and national laws. Parties cannot be held liable for any other privacy related consequences that is going beyond their control or legal duties.

#### **Article 17 Indemnification IP Rights & Trademark**

Client shall indemnify and hold KBK Visuals harmless from and against all claims and lawsuits due to infringement of intellectual property rights or based on

unfair competition resulting from the possession and/or use of trademarked services by KBK Visuals.

**Article 18 Confidentiality**

Although most information provided by Parties concerning the Show is publically available, certain information shall be treated as confidential if KBK Visuals decides so. Client ensures that other participants or Third Parties shall not make any public statements, declarations, advertising, press release or any other sort of promotion without KBK Visuals's prior written consent. No prior written KBK Visual consent is necessary for Client to publish Show photographs created by Client on Clients website. Any time Client refers to KBK Visuals work, such as visuals made by KBK Visuals or the Show created by KBK Visuals, Client must ensure that KBK Visuals is mentioned as the maker.

**Article 19 Compliance with Laws**

Client ensures that each Third Party and participant shall strictly comply with all laws, rules, regulations and ordinances. Client ensures that Third Parties and participants shall behave in a law abiding mode, respecting the rights of others. KBK Visuals will not take responsibility for Third Parties or participants who violate copyright or other laws. Respect for laws is expected by KBK Visuals from all Third Parties and participants.

**Article 20 Applicable Law - Jurisdiction**

The agreement shall be governed by Dutch law. Any dispute between Parties shall be submitted to the Court of Amsterdam. The Vienna Convention on the International Sale of Goods shall not apply.

**Article 21 Miscellaneous**

If any paragraph of these GTC proves to be invalid a comparable text will be accepted by Parties. This will not have any repercussions for the GTC as a whole or any other separate article.

**Article 22 Export Restrictions**

Parties acknowledge that the Product can be subjected to European Union export jurisdiction and data protection rules. Parties agree to comply with all applicable international and national laws that apply to the Product, including the Wassenaar Agreement and Export Administration Regulations of other countries, as well as end-user, end-use and destination restrictions issued by the concerned governments.

**Article 23 End of the Agreement**

The applicability of the agreement will end when KBK Visuals gives notice not to participate to the agreement anymore. Other reasons are that, KBK Visuals or Client will be bankrupt, banned by authorities to perform, or if KBK Visuals or Client will cease to exist in any other way.

---