

# **VAN GOGH EXCLUSIVE**

**Exclusive Business Trips / Client treatment Events**

**General Terms and Conditions of Van Gogh Exclusive**

**Filed at the Chamber of Commerce in Nieuw-Vennep**

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## GENERAL TERMS AND CONDITIONS OF VAN GOGH EXCLUSIVE

### Article 1. Applicability

- 1.1 The General Terms and Conditions under consideration, hereafter referred to as: "*these terms and conditions*", concern the terms and conditions of the sole proprietor Van Gogh Exclusive, hereafter referred to as: "*the supplier*", registered and with its principle place of business in Nieuw-Vennep at Rodelindalaan nr. 21 (2152 PM), registered in the trade register of the Chamber of Commerce in Nieuw-Vennep under file number 000021352283, under which file number these terms and conditions are also filed.
- 1.2 These terms and conditions are applicable to the entire legal relationship (including the pre-contractual phase) between the supplier and other parties, hereafter referred to as "*the client*", within the framework of the execution of the activities of the supplier, thus including all individual (legal) acts of the supplier with the client, all offers, all invitations to tender, orders placed, separate orders and all agreements with the client, hereafter referred to both individually and collectively as "*the order*" and/or "*the agreement*", with the exception of cases in which the parties have unambiguously and in writing deviated from one or more of the provisions of these terms and conditions.
- 1.3 These terms and conditions are also applicable to situations where the supplier makes use of "*third parties*" or "*assistants*" in fulfilling the order. These terms and conditions are also applicable to "*subordinates*" of the client including but not limited to employees, self-employed contractors, colleagues, managers etcetera hereafter referred to as "*participants*".
- 1.4 The applicability to the agreement of general terms and conditions (of sale) and/or stipulations of the client is excluded entirely at all times. All legal acts between the supplier and the client will take place and/or will arise exclusively subject to the applicability of these terms and conditions, except in cases where the supplier agrees unambiguously and in writing with the applicability of general terms and conditions (of sale)/stipulations of the client and/or with an amendment and/or addition to these terms and conditions.
- 1.5 If any part of these terms and conditions proves to be void or is declared void, then all other parts will remain in full force. In this case, the void or voidable clauses will be replaced with a clause that agrees as far as is legally possible with the purpose of the void or voidable clause.
- 1.6 If a situation arises between the parties that is not regulated by these terms and conditions, then this situation must be judged in accordance with the spirit and purpose of these stipulations.
- 1.7 The *Algemene Termijnenwet* (General Extension of Time Limits Act) is applicable to time limits stated by the supplier in these terms and conditions. If within the context of these time limits reference is made to days/weeks/months, then this refers to calendar days/weeks/months, excluding Saturday, Sunday and generally recognised public holidays. This means that if a stated time limit ends on a Saturday, Sunday or generally recognised public holiday, then it will be extended to the next following day that is not a Saturday, Sunday or generally recognised public holiday.

## **Article 2. Quotation and Agreement**

- 2.1 Unless expressly agreed otherwise in writing, quotations and offers made by the supplier are irrevocably valid for a period of 1 (one) month from reception of the quotation by the client.
- 2.2 Unless the parties expressly agree otherwise, an agreement between the supplier and the client will come into force only once the client has confirmed the order in writing, regardless of whether the actual handing over of the quotation/offer by the supplier to the client has taken place. This must take place within 1 (one) month of the quotation/offer being sent. Written confirmation is effected when the client returns the quotation to the supplier or when the client sends a confirmation e-mail to the supplier in which he unambiguously confirms the order. If the client fails to do so but nevertheless wishes to make use of the services of the supplier, then the parties may allow the order to be placed through mutual consultation. Further verbal agreements and stipulations bind the supplier only once these have been agreed to through mutual discussion and the client has confirmed these with the supplier in writing.
- 2.3 Once an order has been placed and confirmed and payment has been made in full the client will, subject to timely registration, receive event documentation consisting of an invitation with event documents and route description, between two and not more than one week(s) before the commencement of the order (the event). If additional persons or activities must be booked within the time limit of seven days, then these additions will be confirmed after written confirmation and payment are received before the start of the event.
- 2.4 If the order as described above has been placed (in a valid manner) and the client does not appear on the agreed day, then the (content of the) agreement will remain in full force and remains applicable in full to the parties in accordance with article 4.9 of these terms and conditions, except in the case of 'force majeure' as stated in article 10 of these terms and conditions.

## **Article 3 (General) rights and obligations of the parties**

- 3.1 The supplier will endeavour to carry out the order carefully and properly, to promote the interests of the client to the best of his knowledge and to strive towards an optimal result for the client.
- 3.2 Unless expressly agreed otherwise in writing, the supplier has the right to have certain activities or deliveries carried out by another person or third party designated by him. The supplier determines the manner in which and by whom the order is carried out. This includes but is not limited to an art historian, the caterer, the museum guide, the bus driver, transport companies, painting tutors or volunteers in the broadest sense of the word engaged for the purposes of executing the order.
- 3.3 The supplier will, if possible, take account of any directions given responsibly and in a timely manner by the client with regard to the execution of the order. The supplier is not liable for damage, of any nature whatsoever, that arises as a result of the supplier following incorrect and/or incomplete details supplied by the client.
- 3.4 The client is obliged to supply all details and documents that the supplier in his opinion requires for the correct execution of the order placed, in full and in a timely manner in the desired form and in the desired manner to the supplier. This includes but is not limited to the client stating the number of participants, any allergies of the participants with regard to the catering etcetera.
- 3.5 The supplier has the right to suspend the execution of the order until the moment at which the client has complied with the obligations stated in the previous paragraph.

#### **Article 4 Payment, collection expenses, cancellation and alterations**

- 4.1 Unless the parties expressly agree otherwise, payment of 100% of the amount to be paid after placing the order must be made within 14 (fourteen) days of the invoice date by bank transfer in the currency stated on the invoice by means of a deposit made to the following bank account **NL05 RABO 0145209547** with as reference **Van Gogh Exclusive**.
- 4.2 If the agreement between the parties takes place 14 days before execution of the order, then 100% of the amount to be paid must be made within 3 days but before commencement of the order. If payment is not made in a timely manner, then the supplier reserves the right to cancel the event.
- 4.3 Unless otherwise agreed to in writing, payment can in addition to bank transfer be made net in cash at the commencement of the order (start of the intended business trip).
- 4.4 The supplier has the right to require a deposit of 25% of the total price from the client before or at commencement of the order. This deposit will be returned in full at the conclusion of the order or will be subtracted from the amount charged in the final invoice.
- 4.5 If the client remains in default with respect to the timely and/or full payment of the invoice and the supplier does not receive (full) payment within 14 (fourteen) days of the expiry of the above time period, then the client will be in default by operation of law. From the moment of default the client is liable for payment of interest at the statutory commercial rate stated in article 6:119a of the Dutch Civil Code until the moment at which the amount owed is paid in full.
- 4.6 If the client is in default with respect to the (timely) fulfilment of his obligations, then all reasonable costs incurred in obtaining settlement through extrajudicial means including but not limited to legal costs and extrajudicial costs are to be paid by the client. Extrajudicial costs will be calculated on the basis of that customary in Dutch collection practice, currently the calculation method stated in the *Besluit Incassokosten* (Extrajudicial Collection Costs (Fees) Decree).
- 4.7 At no time does the client have the right to offset the amount owed by him to the supplier unless the supplier agrees to this offset unambiguously and in writing.
- 4.8 At no time does the client have the right to suspend payment of invoices for activities already carried out. Objections to the invoice amount do not suspend the client's obligation to make payment. If the client does not appeal to section 6.5.3 (Articles 231 to 247 of book 6 of the Dutch Civil Code), then he is not entitled to suspend payment of an invoice for any other reason.
- 4.9 If the client wishes to cancel an agreement, then the supplier has the right to charge any ensuing cancellation costs up to the level of the quotation or invoice amount. In the case of cancellation within two weeks of the start of the order the client is liable for 100%, in the case of cancellation within 4 weeks for 75% and in the case of cancellation within 6 weeks for 50% of the full amount owed. In the case of cancellation within 2 months the client is liable for 10% of the full amount owed. The invoice amount named above includes the costs related to the (type of) catering chosen by the client (Brabant-style lunch).
- 4.10 That which is stated in article 4.9 of these terms and conditions with regard to cancellation remains applicable in full in the case of alteration to or reduction in the number of participants. If the number of participants is increased, then the client must confirm this with the supplier in writing and in a timely manner in accordance with article 3.3 of these terms and conditions.

- 4.11 Regardless of that which is stated in article 4.8 the client may request alterations to the agreement from the supplier up to a minimum of 4 weeks before commencement of the order. This request must occur in writing.
- 4.12 In the case of significant circumstances, which must be communicated to the client without delay, the supplier may be obliged to amend the event offered. Furthermore, the parties must enter into mutual discussion in a timely manner before the event is or is not amended.
- 4.13 The event will in principle also take place in the event of poor weather unless other arrangements are made beforehand in writing. In the event of poor weather the supplier will endeavour to alter the programme so as to minimise any discomfort to the client. Inside activities will in any case take place.
- 4.14 If the parties agree to alter or add to the agreement, then this may affect the time period for the completion of the execution of the agreement. The supplier will inform the client in this regard as swiftly as possible.
- 4.15 If the alterations or additions to the agreement have financial and/or qualitative consequences, then the supplier will inform the client in this regard beforehand. An amount to be agreed after further discussion will be owed for any alterations to the agreement. If the amount of the amended agreement is more than 10% lower than the earlier agreement, then the cancellation clause will apply to the difference.
- 4.16 The client will arrange his own transport and will arrive at the location concerned by his own means. Transport costs are accordingly not included in the price unless the parties have expressly agreed otherwise.

#### **Article 5 Engagement of/outourcing to third parties/indemnity**

- 5.1 The supplier has the right to have (certain) activities carried out by third parties. Unless the parties expressly agree otherwise in writing, orders placed with third parties in the framework of the realisation and execution of the order will be considered to be approved by the client tacitly and automatically and the engagement of and outsourcing to third parties and all activities carried out by them in the framework of the order as part of the order to be executed form part of this order in full.
- 5.2 The supplier is not liable for damages arising during the execution of activities by third parties engaged by him.
- 5.3 The client indemnifies the supplier or persons engaged by the supplier in respect of the order against all claims from third parties that arise in connection with the execution of the order, including but not limited to claims arising from the application or use of the result of the order or damages suffered or where the cause cannot be attributed to the supplier.

#### **Article 6 Suspension and dissolution**

- 6.1 The supplier is authorised to suspend the fulfilment of his obligations or to dissolve the agreement if: (A) the client does not fulfil the obligations arising from the agreement or does not do so in a timely manner or in full; (B) after the agreement has been made, circumstances become known to the supplier that give him good reason to suspect that the client will not fulfil his obligations.
- 6.2 The supplier is also authorised to dissolve the agreement if circumstances arise that result in him being unable to comply with the agreement or if circumstances arise under which unaltered continuation of the agreement cannot be reasonably expected of the supplier. Such circumstances include but are not limited to a situation in which

the client is bankrupt or requests suspension of payment or (the company of) the client is subject to a guardianship order, suspension of operations or liquidation.

- 6.3 If the agreement is dissolved, then all claims of the supplier from the client will be due immediately. If the supplier suspends the fulfilment of his obligations, then he retains his claims under the law and the agreement.
- 6.4 If the supplier proceeds to suspension or dissolution, then he is in no way liable for payment of damages and costs that may arise in any way as a result of this.
- 6.5 If the dissolution is attributable to the client, then the supplier has the right to restitution for damages including costs arising directly and indirectly as a result of this. In addition to this payment of damages the client is obliged to pay the costs incurred in relation to the activities already carried out (full invoice amount).
- 6.6 In the case of the liquidation, (request for) (temporary) suspension of payment or bankruptcy, seizure of property or debt restructuring of the client or of another situation that results in him being unable to freely dispose of his assets the supplier has the right to cancel or to dissolve the agreement immediately without any obligation on his part to pay damages or compensation. The claims of the supplier from the client are in this case due immediately.
- 6.7 In the case of dissolution by the client as a result of an attributable shortcoming in the fulfilment of the obligations by the supplier, the services already delivered and the associated payment obligations will not be subject to cancellation unless the client provides evidence that the supplier is in default in respect of these services. Amounts invoiced by the supplier before the dissolution in relation to that which he has completed or delivered properly in respect of the execution of the agreement remain, in accordance with the previous sentence, payable in full and are due immediately from the moment of dissolution.

#### **Article 7 Retention of title and confidentiality**

- 7.1 Except in the case of prior written permission from the supplier, the client is prohibited both during and after the order from making information and details provided to the client in the framework of the order including but not limited to know-how, financial information, technical and commercial information known to third parties or to use these for any purpose other than that for which the information has been provided by the supplier to the client in a given situation.

#### **Article 8 Intellectual Property Rights, usage and licence**

- 8.1 Unless the parties agree otherwise, all rights to intellectual property arising from the order including but not limited to patent rights, design rights and copyright vest in the supplier.
- 8.2 The client guarantees that neither he nor third parties will infringe upon the intellectual property rights vested in the supplier.
- 8.3 Unless the parties agree otherwise all items of intellectual property including but not limited to films, video presentations and advice whether with or without the engagement of third parties arising in the framework of the order remain the property of the supplier, regardless of whether these have been made available to the client or to third parties.

## **Article 9      Guarantees**

- 9.1 The supplier guarantees that the service provided by him or on his behalf and/or third parties engaged by him will fulfil the request of the client as closely as possible.
- 9.2 All forms of guarantee will be void if the service does not fulfil the agreement as the result of reckless behaviour on the part of the client in disregard of the manner stipulated by the supplier with regard to the execution of the order.

## **Article 10      Force majeure**

- 10.1 The supplier is not obliged to fulfil any obligations to the client if he is impeded in doing so as a result of circumstances for which he cannot be blamed or held accountable for by law, a legal act or generally accepted practice.
- 10.2 In these terms and conditions 'force majeure' will be taken to mean, in addition to its definition in law and legal precedent, all external causes, foreseen or unforeseen, upon which the supplier has no influence but as a result of which the supplier is unable to fulfil his obligations, including but not limited to war, natural disasters, poor weather conditions, traffic disruption, the unavailability of buses or other means of transport, riots, strikes, accidents or government measures prohibiting the import or export of persons or goods.
- 10.3 The supplier may, during the period that the 'force majeure' endures and he cannot fulfil his obligations or cannot do so in a timely or proper manner, suspend his obligations arising from the agreement until the moment that he is once again able to fulfil these in the agreed manner.
- 10.4 The client has the right, should a 'force majeure' situation as described above arise, after imposing a final time limit of two weeks, to cancel the agreement in part or in full but will nevertheless continue to be liable for payment of that which has already been invoiced and for work in progress without refund or payment of damages.
- 10.5 If and for as far as the client as a result of a 'force majeure' situation as described above cannot take part in the programme offered by the supplier or cannot do so in a timely manner, any invoice amount already paid will be returned in full provided that the client can demonstrate and provide evidence that such a situation as described above has occurred. If the client cannot take part in the programme or cannot do so in a timely manner for reasons other than 'force majeure', then he is and remains liable to the supplier for the invoice amount.
- 10.6 The above does not affect the ability of the client to join the day programme at a later time and take part in the event.

## **Article 11      Liability**

- 11.1 If the supplier is liable, then this liability is limited to that which is stipulated in these provisions.
- 11.2 The supplier is at no time liable for damages that arise to (the goods of) the client as a result of deliberate or reckless actions on the part of the client at the time of the execution of the order by the supplier.
- 11.3 The supplier is not liable for damages of any nature whatsoever if these arise as a result of the supplier following incorrect and/or incomplete details supplied by or on behalf of the client.

- 11.4 The supplier is not liable for faults or shortcomings in the material provided by the client and/or engaged third parties (such as bicycles) nor for misunderstandings, faults or shortcomings with regard to the execution of the order if these are caused by or are the result of the actions of the client/third parties, such as the failure to provide or the failure to provide in a timely manner complete, proper and clear details and/or materials.
- 11.5 The supplier is not liable for the whole or partial loss of or damage to (hand) baggage if the incident that lead to this occurred in transit or during execution of the order and for as far as this incident occurred as the result of circumstances for which the supplier could have prevented the consequences.
- 11.6 The supplier is not liable for the loss or theft of or damage to the moveable property of the client including but not limited to money, jewels, jewellery, works of art, value documents or other objects of value.
- 11.7 The supplier is liable only for direct damage that he has culpably caused as the result of reckless behaviour, which will be exclusively taken to mean reasonable costs associated with determining the cause and extent of the damage for as far this determination is related to the damage in the sense of these terms and conditions, for any reasonable costs necessarily incurred in rectifying the supplier's inadequate performance and for any reasonable costs incurred in preventing or limiting damage for as far as the client demonstrates that these costs have led to a limiting of the direct damage as intended in these terms and conditions.
- 11.8 The supplier is at no time liable for any damage other than that mentioned above such as indirect damage including but not limited to consequential damage and damage caused as a result of interruptions to business operations.
- 11.9 Except in the case of deliberate or conscious recklessness on the part of the supplier, the liability of the supplier for damage arising under an agreement or an unlawful deed committed against the client is limited to the amount payable by the insurer to the supplier in the case that has arisen.
- 11.10 Any case in which the above items are taken into safekeeping is exclusively at the client's risk.
- 11.11 The client is obliged to repay any damage that he or his moveable property has caused to the (goods of the) supplier or third parties engaged for the purposes of the order.
- 11.12 If an employee of the client causes damage to (the goods of) the supplier, then the client is obliged to repay the damages to the supplier that the supplier has suffered on the basis of the obligations imposed upon the client by these terms and conditions and by law that he has not fulfilled.
- 11.13 All liability will cease upon the expiry of twelve months from the moment at which the order is complete.

## **Article 12      Applicable law and disputes**

- 12.1 Complaints must be made in writing to the supplier as soon as possible but in any case within 7 working days of completion of the order. If this does not occur, then the client will be considered to have fully accepted the result of the order.
- 12.2 Dutch law is exclusively applicable to the entire legal relationship between the parties, including the agreement, including in situations where an agreement is executed abroad in part or in full and including situations in which one or more parties to the legal relationship is resident abroad. The Vienna Convention is explicitly excluded.



- 12.3 All disputes in the entire legal relationship that arise between the supplier and client including those related to the agreement will be adjudicated by the competent court in the court district in which the supplier is resident, thus the court of Noord-Holland, location Haarlem, unless mandatory law states otherwise. The supplier nevertheless has the right to submit the dispute to the court stipulated by law.
- 12.4 The parties will submit a dispute to the courts only after they have endeavoured their utmost to settle the dispute through mutual consultation.
- 12.5 For as far as these terms and conditions are available in another language in addition to Dutch, the Dutch text will prevail in the event of any dispute with regard to the interpretation of these terms and conditions.
- 12.6 The latest registered version and/or the version in force at the time that the legal relationship with the supplier arose will always apply.