

## **General Terms and Conditions of Niek Holen, Also Trading Under the Name DJ Nico**

### **Section 1      Applicability of General Terms and Conditions**

#### **Article 1      Applicability**

1. Niek Holen (hereinafter referred to as: "User") makes use of these general terms and conditions. These general terms and conditions apply to any agreement that User enters into and form part of any offer made by User to enter into an agreement.
2. Personal information of Niek Holen, also trading under the name DJ Nico:
  - a. Legal form: sole proprietor
  - b. Trade names: DJ Nico
  - c. Physical address: Rozengaard 9, 9753 BK Haren, Groningen
  - d. Visiting address: Rozengaard 9, 9753 BK Haren, Groningen
  - e. Telephone number: 06-30503741
  - f. Available by phone on the following days and times: from Monday to Saturday between 09:00 and 17:00  
Deviations in availability on Sundays and public holidays are possible.
  - g. Website: [www.djnico.nl](http://www.djnico.nl)
  - h. Email address: [info@djnico.nl](mailto:info@djnico.nl)
  - i. Chamber of Commerce registration number: 73465879
  - j. VAT number: NL002436351B55
  - k. Contact point for complaints: [klachten@djnico.nl](mailto:klachten@djnico.nl)
3. The contracting party of User for the agreements referred to in section 1 is hereinafter referred to as "the Contracting Party".
4. If the Contracting Party is a natural person who, with regard to the agreement referred to in section 1, is not acting on purposes related to their trade, business, professional or commercial activity, they will hereinafter also be referred to as "Consumer". These general terms and conditions apply to any agreements that User enters into with a Contracting Party who is also a Consumer and with a Contracting Party who is not a Consumer.
5. If a provision of these general terms and conditions or a provision of the agreement that parties enter into is or becomes null and void, this does not affect the legal significance of the other provisions of these general terms and conditions. In such cases, parties will confer to draw up a new provision to replace the provision that is null and void, thereby observing the purpose and purport of the original provision as closely as possible.
6. If the content of a provision of these general terms and conditions is incompatible with the content of a provision of the written agreement between parties, the provision of the written agreement shall take precedence, unless User did not intend to deviate from the content of the provision of these general terms and conditions at the time of entering into the written agreement. If the written agreement was not drawn up by User and parties did not specifically negotiate the content of the deviating provision of the written agreement, it applies that User did not intend to deviate from the content of the provision of these general terms and conditions.
7. By accepting the applicability of these general terms and conditions, the Contracting Party renounces the applicability of their own general terms and conditions.
8. User reserves the right to unilaterally amend these general terms and conditions. In such cases, User shall inform the Contracting Party of the changes in a timely manner. There will be a period of at least one month between this notification and the effective date of the amended terms and conditions. If the Contracting Party is a Consumer and the amendment results in User providing a service to the Contracting Party that differs substantially from the service that parties originally

agreed to, the Contracting Party has the right to dissolve the agreement per the effective date of the amended terms and conditions.

9. To deny liability toward the Contracting Party, User's (former) subordinates and/or non-subordinate staff may also invoke these general provisions. Insofar as required, this section grants User's subordinates and/or non-subordinate staff this right in accordance with Article 6:253 of the Dutch Civil Code.
10. If these general terms and conditions were also drawn up in any language(s) other than Dutch, the Dutch text is binding.

## **Section 2 Performing Services as a DJ**

### **Article 1 Applicability**

User performs services as a DJ. Complementing the other provisions of these general terms and conditions, the provisions of this section apply to any agreements between parties for which User is to provide a service to the Contracting Party that consists (in part) of performing services as a DJ. If a provision of this section is incompatible with a provision of another section, the provision of this section applies with exclusion of the incompatible provision of another section.

### **Article 2 Delivery**

1. The agreed service is delivered once User has actually performed the service.
2. The service is performed during the agreed performance period with a maximum overrun of 30 minutes. If the service continues after the end of the performance period at the Client's request, Client will be charged an additional fee of €20 (exclusive of VAT) per 30 minutes. Before the start of the performance period, User must be given at least 5 minutes to perform a sound check.
3. The Client must ensure that the location where the service is to be provided is fit for purpose and equipped with at least the following:
  - a. A power supply (230V/16A) within 30 metres of the DJ booth. If a power supply with 32A is available, Client must inform User of this so that User can install a transformer;
  - b. Consumptions at the Client's expense - if explicitly agreed in the order confirmation - based on a "rider" (i.e. a supplementary list of wishes with regard to consumptions and material) provided by User to Client;
  - c. If the activities are performed (in part) between 17:00 and 20:00, a warm meal at the Client's expense;
  - d. Client has made a rights payment to Buma Stemra;
  - e. Parking facility at the Client's expense;
  - f. For outdoor performances, a covered DJ booth;
  - g. Facilities to prevent damage to User's property;
  - h. Security to prevent damage and/or injury to User and their property;
4. Under the following circumstances, the performance period shall commence at a later time than agreed without being extended and without prejudice to Client's liability to pay the full agreed sum:
  - a. In the event of circumstances that deviate from those known to User when they set the performance period, e.g. another (DJ) performance preceding that of User running late.
  - b. If Client fails to meet their obligations as referred to in section 3 of this article.
  - c. In the event of unworkable weather conditions.
5. The Contracting Party is liable to pay any costs incurred by User as a result of a delay of the performance period as referred to in the previous section.

### **Article 3 Complaint Obligation**

1. The Contracting Party is required to express any complaints about the performance of the service immediately while the service is being performed.
2. Complaints regarding invoices must be submitted in writing within seven days of the invoice date.
3. If one of the aforementioned terms has expired, the Contracting Party is deemed to have accepted the service as provided and the invoice. From that time, User is no longer required to accept complaints regarding the service provided or the invoice.
4. If User deems a complaint regarding the performance of the service valid, the manner in which the service is being performed will be amended in consultation with the Client.

### **Article 4 Guarantee**

User is required to perform their services as a DJ to the best of their ability. As a DJ, User has no obligation to produce results.

## **Section 3 General Provisions**

### **Article 1 Liability**

1. User excludes any liability toward the Contracting Party as a result of non-performance, unlawful conduct and/or any other grounds related to the agreement between parties.
2. If User, despite the exclusion of liability in the first section, is liable toward the Contracting Party, any consequential damage - including but not limited to stagnation damage, loss of production, lost profit, transport costs and travel and accommodation costs - and damage resulting from intent or wilful recklessness on the part of auxiliary staff or non-supervising subordinates of User are not eligible for compensation, barring intent or wilful recklessness on the part of User or their supervising subordinates. User's liability on the grounds of this section is limited to the amount that is covered in such cases by a standard insurance policy as used in the sector in which User operates and to the amount that the insurance provider pays out. If User does not have such insurance and/or the insurance policy does not cover the damage, User's liability is limited to the amount owed by the Contracting Party to User as per their agreement.
3. If User is held liable by third parties for any incident as referred to in the previous sections, the Contracting Party indemnifies User for that part of the damage for which User is held liable on the grounds of statutory regulations.
4. In addition to the foregoing, User cannot be held liable for any damage resulting from or caused by incorrect information provided by the Contracting Party, nor for any damage resulting from the Contracting Party's own actions, nor for any damage resulting from or caused by any other outside cause that is not directly related to any action by User.
5. Client is liable for any damage to User or their property that occurs during the performance of the service, unless this damage is the result of User's own actions. Client is required to take out adequate insurance to cover such damage.
6. Claims from the Contracting Party concerning damage or otherwise will be barred/expire one year after the Contracting Party first learned or should have known about the damage.

### **Article 2 Force Majeure**

1. In the event of force majeure, User is not required to comply with their obligations toward the Contracting Party.

2. In these general terms and conditions, the term force majeure refers to any unforeseen circumstance that occurs independent of the will of either party, on the grounds of which one party can no longer reasonably require the other party to comply with the terms of the agreement. In any event, force majeure includes a failure on the part of User and/or their suppliers and/or their subcontractors and/or transporters and/or other auxiliary staff hired by User to comply with their obligations (in a timely manner) as a result of circumstances such as:
  - a. weather;
  - b. earthquakes;
  - c. fire;
  - d. power outages;
  - e. loss or theft of tools or materials;
  - f. roadblocks;
  - g. any type of strike or similar work stoppage;
  - h. (in)voluntary (trade-)restrictive (government) measures imposed due to an epidemic/pandemic.
3. In the event of force majeure, User has the right to deliver or perform only part of what was agreed.
4. User is authorised to suspend the provision of their services if they believe the force majeure is only temporary. In such cases, User has the right to suspend the execution of the agreement until the circumstance causing the force majeure passes.
5. In the event of permanent or temporary force majeure, User may extrajudicially dissolve the agreement with regard to that part of the obligations that have not been met yet.
6. In the event of permanent or temporary force majeure, e.g. if User falls ill, the Contracting Party has the option to confer with User to come to an arrangement regarding dissolution of the agreement and the consequences thereof. User will do everything in their power to find a replacement in a timely manner or initiate a substitute show, all in close conference with the Client.
7. User has the right to claim payment for any services that were already provided as part of the execution of the agreement prior to the arising of the circumstance causing the force majeure and before this situation became apparent.
8. If either party finds themselves in a situation causing force majeure or if they expect that this will soon be the case, they must inform the other party of this fact in writing without delay.
9. A penalty clause in the agreement will lose its effect in the event of force majeure.
10. Parties are not liable to provide compensation for any damage resulting from or caused by the dissolution of the agreement or the suspension of the obligations resulting from the agreement to which these general terms and conditions apply in situations involving force majeure.

### **Article 3      Dissolution, Suspension and Termination**

1. Under the following circumstances, User has the right to partially or fully dissolve their agreement with the Contracting Party in writing and/or verbally without prior notice of default or judicial intervention and/or to suspend their obligations toward the Contracting Party and/or to immediately claim in its entirety any sum owed by the Contracting Party on the grounds of a service provided by User:
  - a. If the Contracting Party fails to comply with any of their obligations resulting from their agreement with User, i.e. non-performance;
  - b. If the Contracting Party is declared bankrupt, files a request for suspension of payment, invokes the Debt Rescheduling Natural Persons Act, invokes the Act on the confirmation of private restructuring plans (WHOA) or some or all of their possessions are seized;

- c. If the Contracting Party passes away or is placed under guardianship;
  - d. If the Contracting Party fails to pay an invoice amount or a part thereof within the specified payment term;
  - e. If the Contracting Party dissolves their business or transfers their business or a part thereof, including incorporation of their business or a part thereof in an existing or yet-to-be-formed company, or if they transfer control of their business or a part thereof to a third party in some other way, or if they amend the objective of their business.
2. If the Contracting Party wishes to terminate the agreement without User having failed to comply with their obligations, the agreement can only be terminated with mutual approval.
  3. If User fails to comply with any of their obligations resulting from the agreement, the Contracting Party may only dissolve the agreement or suspend any of their obligations after sending User a written notice of default and having given User a reasonable amount of time to comply with their obligations. The Contracting Party may only dissolve the agreement or suspend any of their obligations in the event of serious failure.
  4. If, at the time of dissolution, User has already performed activities as part of the execution of the agreement, User has the right to require that, as a result of the dissolution, any activities properly performed by User and the Contracting Party's resulting payment obligation are not nullified. If need be, the Contracting Party's payment obligations resulting from the activities performed by User will be immediately payable in the event of dissolution.
  5. The Contracting Party renounces any authority to unilaterally terminate an agreement that was entered into for a limited duration.
  6. When terminating an agreement with unlimited duration, the Client will observe a notice period of one month.
  7. If User wishes to unilaterally terminate the agreement, User must observe a minimum notice period of one month.

#### **Article 4 Offer**

1. Offers made by User are valid for 30 days after the offer date, unless the User states otherwise in the offer itself or User rescinds their offer before that time.
2. When a new offer is made, any earlier offers will become void.
3. The Contracting Party cannot hold User to an offer if said offer or a part thereof contains an apparent mistake or error.

#### **Article 5 Payment**

1. The method and time of payment of the sum owed by the Contracting Party to User are determined by User. If User does not require payment to be made prior to, at the time of or after provision of the agreed services, the Contracting Party must deposit or transfer the amount due into the User's bank account within thirty days of the invoice date, unless agreed otherwise in writing and in the amount for which no advance payment was required.
2. The Contracting Party is not authorised to offset claims and/or suspend their obligations toward User. An exception is made in the event that User is declared bankrupt or undergoes legal debt restructuring.
3. The entire sum owed by Contracting Party to User on the grounds of the agreement will be immediately payable if:
  - a. a payment term is exceeded;
  - b. the Contracting Party files for bankruptcy or requests suspension of payment;
  - c. the Contracting Party invokes the Act on the confirmation of private restructuring plans (WFOA);

- d. the Contracting Party's possessions or receivables are seized;
- e. the Contracting Party (legal entity or private partnership) is dissolved or liquidated;
- f. the Contracting Party (natural person) files a request for legal debt restructuring, is placed under guardianship or passes away.

The above applies regardless of whether User has provided the agreed services in full.

4. Payments made by the Contracting Party are primarily used to pay any interest and collection costs incurred by User and subsequently to pay the earliest dated outstanding invoices.

#### **Article 6 Interest and Costs**

1. If no payment was made within the payment term agreed by User and the Contracting Party, the Contracting Party will immediately be liable to pay interest. The interest rate is 12% per year. If the statutory interest – as referred to in Article 6:119 and Article 6:119a of the Dutch Civil Code for commercial agreements - is higher than the aforementioned percentages, the statutory (commercial) interest will apply. For the purpose of calculating the interest, the interest is calculated per month, whereby part of a month shall be treated as a full month.
2. If payment is not made within the agreed payment term, the Contracting Party who is not acting as a Consumer will be liable to pay to User all extrajudicial expenses, which amount to 15% of the principal sum with a minimum of €40. The Contracting Party who is not acting as a Consumer will be liable to pay the actual extrajudicial expenses incurred by User if these exceed those based on the aforementioned formula. The Contracting Party acting as a Consumer will be liable to pay the extrajudicial expenses calculated in accordance with the Extrajudicial Collection Costs Decree of 27 March 2012 (Staatsblad 2012, 141) as soon as the Contracting Party was fruitlessly urged to pay within fourteen days with mention of the consequences of a failure to pay, including the liability to pay the extrajudicial costs calculated in accordance with this article section.
3. If judicial proceedings are decided in User's favour, the Contracting Party is liable to pay all related legal costs incurred by User.

#### **Article 7 Promotion, Intellectual Property and Privacy**

1. Client may only use User's name and logo to announce and promote an upcoming event. Any other use of User's name and logo are prohibited without express permission from User.
2. Client requires permission from User to use or show User's name or likeness on any promotional materials or announcements or in an aftermovie distributed via the internet, social media or other digital channels.
3. Visitors of events tacitly agree that they may be included in recordings made by or on behalf of User, which User may distribute via their own (social media) channels.
4. Client guarantees that User's privacy is respected at all times and no footage or images of User that may discredit User are distributed.

#### **Article 7 Applicable Law and Competent Court**

1. Any agreement between parties is subject to Dutch law.
2. Any conflicts between parties are exclusively presented to the Dutch civil court that is competent in the User's business location, unless this is in violation of compulsory law. User has the right to deviate from this jurisdiction rule and apply the statutory jurisdiction rules. For a period of one month after User invokes this article section in writing, a Contracting Party acting as a Consumer will have the option to choose to have the case settled by the court with statutory jurisdiction.

