



## General Terms and Conditions ByJackyH

### Article 1: Definitions

In these General Terms and Conditions, the following definitions apply, unless explicitly stated otherwise.

<b>General Terms and Conditions:</b>	These General Terms and Conditions of Sale and Delivery.
<b>Data Subject:</b>	Identified or identifiable natural person to whom the processed Personal Data relate.
<b>ByJackyH:</b>	Mrs J.M. Sijnke-Hoitsema, acting under the name <b>ByJackyH</b> , or her legal successors.
<b>Data Breach:</b>	A breach of security in relation to Personal Data, being a breach of security which accidentally or unlawfully results in the destruction, loss, alteration or unauthorised disclosure of, or the unauthorised access to, data transmitted, stored or otherwise processed (' <b>Data Breach</b> ').
<b>Client:</b>	Any natural or legal person with whom an Agreement for the provision of Services is concluded.
<b>Quotation:</b>	The Quotation made by ByJackyH for the provision of Services.
<b>Agreement:</b>	Any Agreement between the Client and ByJackyH, which should be understood to mean the agreements to develop and provide Services.
<b>Services:</b>	The services to be developed and provided by ByJackyH as an event organiser, the provision of creative services, including marketing and PR services, as well as the production of works of intellectual and/or industrial property.
<b>Parties</b>	ByJackyH and the Client.
<b>Personal Data</b>	Any information relating to an identified or identifiable natural person ('the Data Subject'); an identifiable natural person is a person who can be identified directly or indirectly.
<b>Supervisory Authority</b>	An independent government body responsible for supervising and monitoring compliance with the law in connection with the processing of Personal Data. In the Netherlands, this is the Dutch Data Protection Authority.
<b>Processing</b>	An operation or set of operations relating to Personal Data or a set of Personal Data, whether or not performed by automatic means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

### Article 2: General Terms and Conditions

1. These General Terms and Conditions shall apply to every offer and every Quotation from ByJackyH and every Agreement with ByJackyH. The General Terms and Conditions are publicly available on the website of ByJackyH: [www.byjackyh.com](http://www.byjackyh.com).
2. Deviations from these General Terms and Conditions by the Client shall only apply insofar as ByJackyH has accepted them explicitly and in writing. Deviating provisions only apply to the Agreement in which they have been included.
3. ByJackyH shall be authorised to change these General Terms and Conditions unilaterally.
4. The changed General Terms and Conditions shall apply to new Agreements and Quotations as of the time of the change, and to existing Agreements as of thirty days after written notification to the Client of the change.
5. ByJackyH will announce the changes to the Client in writing.
6. If any rights or favours for the benefit of ByJackyH are stipulated in these General Terms and Conditions, these are also considered to be stipulated for any third parties engaged by ByJackyH in connection with the conclusion and/or execution of the Agreement.
7. The nullity or nullification, for whatever reason, of any provision of these General Terms and Conditions, in part or in full, shall not prejudice the validity of the other provisions. In consultation with the Parties, the provision (or parts of the provision) in question will be converted into the legally permissible provision that corresponds most closely to the content and purport thereof, without prejudice to the provisions of Section 3:42 of the Dutch Civil Code.



8. The applicability of any general terms and conditions of the Client or of any third parties engaged by the Client is explicitly rejected.
9. Insofar as the present General Terms and Conditions have been drawn up in a language other than Dutch, the Dutch General Terms and Conditions shall always prevail.

### **Article 3: Quotations**

1. At the request of the Client, ByJackyH can provide a written Quotation for the provision of its Services. A Quotation shall be valid for a period of 14 days. If the Quotation is not accepted within this period, it is cancelled.
2. Assignments resulting from Quotations must be confirmed by the Client in writing. If the Client nevertheless agrees to ByJackyH starting the execution of the Agreement, the content of the Quotation will be considered as having been agreed upon between the Parties.
3. Price quotations may be subject to change due to an unforeseen change in the work. Exceedances will be reported to the Client in advance, and will only form part of the Agreement with the written consent of the Parties.
4. Any changes regarding the agreed upon development and/or provision of ByJackyH's Services must be communicated by the Client to ByJackyH in time and in writing. Any changes shall only come into force when they have explicitly been accepted by ByJackyH in writing.
5. If ByJackyH draws up an estimate for costs of third parties at the request of the Client, this estimate will only be indicative and no rights can be derived therefrom, unless ByJackyH issues an explicit guarantee for that. The same applies when costs of third parties are part of a specified Quotation. If desired, ByJackyH can request Quotations on behalf of the Client.
6. Quotations shall not automatically apply to future Agreements.
7. An Agreement is considered to have been concluded exclusively with ByJackyH and not with one of the employees of ByJackyH individually.
8. If the Client eventually does not enter into an Agreement with ByJackyH, ByJackyH shall be entitled to charge the Client for all the costs ByJackyH had to incur to be able to make its Quotation and/or offer.

### **Article 4: Execution of the Agreement**

1. During the execution of the Agreements, ByJackyH will observe the due care of a good contractor as much as possible, and will do its utmost to achieve the best possible result for the Client.
2. Any advice given by ByJackyH shall always be without obligation and without engagement, and any following up of such advice shall be at the own expense and risk of the Client.
3. Any timeframe given by ByJackyH to complete the Assignment shall be indicative, unless agreed otherwise in writing. ByJackyH shall, also in case of a given term, only be in default after the Client has given ByJackyH notice of default by registered post and has failed yet to perform within the reasonable term mentioned in the notice of default.
4. If necessary for a good execution of the Agreement, ByJackyH can let certain activities be carried out by third parties. The choice of third parties to be engaged by ByJackyH will, as far as possible and reasonable, be determined in consultation with the Client. In that case, ByJackyH will of course act with all due care.
5. The Client must do everything that is reasonably necessary and/or advisable to enable ByJackyH to perform the activities correctly and in time. If the aforementioned required materials and information for the execution of the Agreement have not been provided to ByJackyH in time, ByJackyH shall have the right to suspend the execution of the Agreement and/or to charge the Client for the additional costs resulting from the delay according to the usual rates.
6. Unless otherwise agreed in writing, the Client shall, at its own expense, take sufficient measures to guarantee the safety at the location where the Assignment is being executed (including but not limited to the safety for artists, employees and visitors). If agreements have already been made about the aforementioned measures, ByJackyH shall nevertheless be entitled to set additional requirements at any time when changed circumstances so require.
7. The Client undertakes to insure, insofar as and to the extent possible, all risks relating to the performance of the Assignment, including the work and/or acts and/or omissions of third parties engaged by it. The Client shall in any event be obliged to take out a regular Company Third Party Liability Insurance (AVB), and, if applicable, a professional liability insurance. The Client shall furthermore be obliged to ensure that the employee(s) hired by ByJackyH for the execution of the Agreement and the items made available by ByJackyH are also insured under the aforementioned insurance policies. The Client shall be obliged to provide copies of the policies of the aforementioned insurances to ByJackyH upon first request.
8. The Client shall be obliged to provide ByJackyH in time with all information which it knows or should know is necessary for the execution of the Assignment. The Client shall be responsible for the correctness and completeness of the information provided by it.
9. The Client shall not be entitled to any form of compensation if (a) the Client has not or not sufficiently fulfilled its obligations as included in the paragraphs 4, 5 and 6 in these General Terms and Conditions and ByJackyH cancels the Assignment wholly or partially (which ByJackyH is entitled to do), and/or (b) the Client has not or not sufficiently fulfilled its obligations as included in the paragraphs 4, 5 and 6 in these General Terms and Conditions, ByJackyH has pointed this out to the Client in writing and the Client nevertheless still wishes to proceed with the Assignment.



10. The Client shall be responsible for paying the fees for the use of intellectual property rights of third parties for the purposes of the Services (including but not limited to BumaStemra and SENA rights).
11. Unless otherwise agreed in writing, the Client shall be responsible for any required third-party permissions and/or permits, as well as for doing research into that.
12. The Client shall be responsible for the acts and omissions of the third parties it engages and/or invites to the Assignment, such as visitors to an event.
13. The Client shall be responsible for any tax consequences, payments and/or retrospective levies relating to the Assignment. The Client shall indemnify and hold ByJackyH fully harmless regarding any claims the Client may receive in this respect.
14. If ByJackyH concludes an Agreement with two or more persons or legal entities, each of these persons and legal entities shall jointly and severally be liable for the fulfilment of the obligations which arise for them from that Agreement vis-à-vis ByJackyH.
15. If ByJackyH, for reasons of leniency or otherwise, grants the Client a postponement for any performance, the new term will always be regarded as firm.

#### **Article 5: Intellectual and Industrial Property Rights**

1. All intellectual and industrial property rights arising from the Agreement, including but not limited to all portrait rights, copyrights, neighbouring rights, database rights, trademark rights, model rights and patents, shall belong exclusively to ByJackyH, its licensors and/or its suppliers, and the Client acknowledges this, unless the Parties have explicitly agreed otherwise in writing.
2. Insofar as it concerns intellectual or industrial property rights which are subject to a registration obligation, these will be registered exclusively in the name of ByJackyH, and only ByJackyH shall be authorised to do so, unless the Parties explicitly agree otherwise in writing.
3. The Agreement shall not in any way arrange or provide for the transfer of any intellectual and industrial property rights in the Services of ByJackyH to the Client. The Client shall only acquire the user rights with regard to the Services actually used by the Client, insofar as necessary for the provision of the Services. Insofar as, within the framework of the Agreement, ByJackyH develops Services that are not used by the Client, these Services will remain outside the user rights, unless the Parties agree otherwise in writing. Any other or further right of the Client to reproduce or publish these Services or materials is excluded, unless explicitly agreed otherwise in writing. A right of use to which the Client is entitled in accordance with the provisions of the Agreement shall be non-exclusive and non-transferable, and cannot be (sub)licensed to third parties, all this without prejudice to the provisions of paragraph 4 of this Article. The duration of the licence will be determined in the Agreement.
4. As far as licences of third parties have been obtained for the Services, the licence conditions of these third parties shall apply. In that case, the licence conditions of ByJackyH will be adjusted accordingly.
5. Unless agreed otherwise, the Client shall not be allowed to (let others) make any changes to the provisional or final designs without ByJackyH's written permission.
6. ByJackyH may always oppose any deformation, mutilation or other impairment of its works that could prejudice the honour or good name of ByJackyH or its value in this capacity.
7. With due observance of the interests of the Client, ByJackyH shall have unlimited freedom to use the design for its own publicity and/or promotion purposes.
8. The Services developed by ByJackyH within the framework of the Agreement, which in any case, but not exclusively, include: illustrations, prototypes, designs, design sketches, films and other materials or (electronic) files, shall remain the property of ByJackyH, irrespective of whether they have been handed over to the Client or to third parties, unless explicitly agreed otherwise in writing.
9. Notwithstanding the provisions of this Article, the Client shall be responsible for paying the fees for the use of third-party intellectual property rights for the Services (such as BumaStemra and SENA fees).

#### **Article 6: Fee**

1. In the Agreement, ByJackyH will present the Client with an estimate for ByJackyH's fee for the Service.
2. The fee of ByJackyH agreed in the Agreement is exclusive of VAT and in Euros.
3. At the end of the Service, ByJackyH shall draw up a final invoice for all the Services provided and the associated costs.
4. In addition to the agreed fee in the Agreement, the out-of-pocket expenses and production costs incurred by ByJackyH for the execution of the Agreement must also be reimbursed.
5. The rates charged and quoted by ByJackyH are based on prices and (cost-determining) conditions as they were known to ByJackyH at the time it drew up the Quotation. Insofar as prices and conditions between the aforementioned moment and the moment of provision of the Services change by more than 10% to the detriment of ByJackyH, ByJackyH will consult with the Client and will reasonably agree upon new rates.
6. ByJackyH shall be entitled to adjust its hourly rates annually company-wide in accordance with the annual inflation correction as determined by Statistics Netherlands (CBS).



7. If ByJackyH has to perform extra work due to an extension and/or amendment of the Agreement determined by the Client, then this extra work will have to be paid by the Client, irrespective of any fixed price agreement, on the basis of ByJackyH's usual hourly rates.
8. If the Client accepts ByJackyH's Quotation, ByJackyH will, after having received the signed Agreement back, send an invoice for at least 75% of the total amount of the budgeted fee for the Service, by way of an advance payment. This invoice must be paid by the Client within 14 days after the invoice date. Until payment has been made, ByJackyH will not perform any work and will never be liable for any damages towards the Client.
9. The Client shall at all times, at ByJackyH's first request, be obliged to provide security for the payment of all that it is due to ByJackyH.
10. If payment has not been made within the agreed term of payment, the Client shall be in default by operation of law.
11. The Client shall only have the right to cancel the Service in writing by email to [jacky@byjackyh.com](mailto:jacky@byjackyh.com). The Client must then pay the following fee to ByJackyH, as stipulated in the Agreement, in case of cancellation:
  - a. in the period up to 9 months before the starting date, 30% of the full fee (as applicable at the time of the cancellation);
  - b. in the period between 9 and 6 months before the starting date, 50% of the full fee (as applicable at the time of the cancellation);
  - c. in the period between 6 and 3 months before the starting date, 65% of the full fee (as applicable at the time of the cancellation);
  - d. in the period between 3 and 2 months before the starting date, 75% of the full fee (as applicable at the time of the cancellation);
  - e. in the period between 2 and 1 months before the starting date, 85% of the full fee (as applicable at the time of the cancellation), and
  - f. in the period between 1 month before the starting date and the starting date itself, 100% of the full fee (as applicable at the time of the cancellation). The full fee amounts to the price stated in the Agreement, including production costs, increased by any agreed changes subsequently indicated by the Client.
12. Up to one month before the date of the Service, the final number of participants can be communicated with a maximum deviation of 10% downwards. This number will then be considered to be the final number for the final invoice. If the number of participants is reduced (with a maximum deviation of 10%), the variable cost component will be deducted from the final invoice. If, on the day of the performance, the number of participants is higher than the number communicated, this will be invoiced afterwards against the agreed price per person.
13. If, at the moment of cancellation, the damage suffered by ByJackyH exceeds the cancellation fee as included in Article 6.11 of these General Terms and Conditions, the Client must reimburse ByJackyH for this excess amount.

#### **Article 7: Invoicing**

1. ByJackyH will send several invoices for the provision of the Service, including an advance invoice and a final invoice, as further provided for in Article 6.
2. Insofar as ByJackyH has to advance amounts in excess of € 5,000.00, it will be entitled to invoice the Client for this in advance as well.
3. The fees and amounts to be charged as stated in these General Terms and Conditions are in Euros and are exclusive of sales tax (VAT) and other government levies.
4. Invoices must be paid within 14 days of the invoice date. Objections to the amount of the invoices do not suspend the payment obligation.
5. The Client will make the payments due to ByJackyH without any reduction or compensation, except for settlement with offsettable advances which relate to the Agreement and which the Client has provided to ByJackyH.
6. Insofar as the Agreement is a long-term Agreement, ByJackyH shall be entitled to charge its fee on a monthly basis for work carried out and costs incurred for the execution of the Agreement.
7. If between the date of entering into the Agreement and the execution of the Agreement the government and/or trade unions introduce any changes in wages, employment conditions, social security insurances, etc., ByJackyH shall be entitled to charge these increases through to the Client.
8. If the agreed term of payment is exceeded, the Client shall be due default damages from the payment due date, without any notice of default being required for that, equal to the statutory interest as referred to in Section 6:119 of the Dutch Civil Code.
9. From the moment that the Client does not (fully) fulfil its payment obligations under the Agreement or is otherwise in default, the Client shall no longer be permitted to use the Services provided, and any licence granted to the Client under the Agreement will lapse, unless the Client's default is of minor significance in light of the Assignment as a whole.
10. From the payment due date, the Client shall also be due extrajudicial costs on the outstanding invoice amount. The extrajudicial collection costs are set at a minimum of 15% of the invoice amount with a minimum of € 350 (three hundred and fifty euros).



11. ByJackyH may, without coming in creditor's default, refuse the full repayment of the principal sum, if this does not include the interest that has fallen due, the current interest and the extrajudicial costs.
12. Without prejudice to the foregoing, the Client shall be obliged to pay the full legal court costs.

#### **Article 8: Suspension**

1. In the event of any attributable failure by the Client to fulfil its obligations under the Agreement, ByJackyH shall have the right to suspend the performance of the Agreement, in whole or in part, including the granting of a licence to the Client, all this without prejudice to its other rights of suspension and without prejudice to its entitlement to full damages.
2. ByJackyH shall be entitled to suspend all its obligations from the Agreement if it has justified doubts about the sound and/or timely performance of the obligations from the Agreement by the Client.

#### **Article 9: Guarantees and Indemnities**

1. The Client guarantees ByJackyH that everything will reasonably be done to ensure that the materials made available to ByJackyH are free from defects (including viruses).
2. The Client indemnifies ByJackyH against any liability regarding the transfer of computer viruses. ByJackyH will regularly check the materials which it uses for computer viruses and will try to prevent or remove them. If it turns out that there has been a reasonable chance of computer viruses having been transferred to the systems of the Client, ByJackyH will inform the Client thereof as soon as possible. The same obligation to inform rests on the Client.
3. The Client guarantees the correctness of the actual contents of the developed and provided Services when and as far as these have been approved by the Client, and indemnifies ByJackyH against all claims of any third parties in this respect.
4. The Client indemnifies ByJackyH against any claims from rightful claimants (including collective rights organisations) concerning intellectual property rights in materials and/or data provided by the Client which are used in the execution of the Agreement.
5. The Client indemnifies ByJackyH and/or the third parties brought in by ByJackyH within the framework of the Agreement against all claims of third parties arising from the applications or the use of the developed and provided Services.

#### **Article 10: Duration, Termination and Dissolution**

1. The Agreement between ByJackyH and the Client is entered into for the period stated in the Agreement, and/or for the period that ByJackyH provides the Service.
2. The Agreement will end by operation of law, without any judicial intervention or notice of default being required, if ByJackyH gives notice of termination by registered letter in the following cases:
  - a. If, despite a summons, the Client fails to fulfil its contractual obligations - other than payment obligations - within 5 working days after the summons;
  - b. With immediate effect: if the Client is in default with regard to any payments owed to ByJackyH;
  - c. With immediate effect: in the event of a petition for bankruptcy, suspension of payments of the Client and/or if a debt rescheduling arrangement is declared to be applicable to the Client;
  - d. With immediate effect: upon dissolution of the Client as a legal entity.
3. In case of premature termination by one of the Parties, the claims of ByJackyH on the Client shall be immediately due and payable and ByJackyH has the right to claim full compensation from the Client for the losses it has suffered.
4. Upon termination of the Agreement for whatever reason, all user rights regarding the intellectual and industrial property which may have been granted to the Client by virtue of the Agreement will expire as stated in Article 5 of these General Terms and Conditions, and ByJackyH will have the right to request the Client to cease and desist from the use of the Services with immediate effect and to request the Client to return all documents and materials relating to the Services to ByJackyH, which request the Client will comply with immediately.
5. If the Agreement is dissolved by ByJackyH due to an attributable failure in the performance of the Agreement by the Client, the Client must, in addition to compensation, pay the fee and the costs incurred in connection with the work performed until that moment. In this context, conduct by the Client on the grounds of which ByJackyH can no longer reasonably be expected to continue the Agreement is also considered to be an attributable failure.
6. The compensation referred to in paragraphs 3 and 5 of this Article will at least include the costs arising from commitments made by ByJackyH in its own name with third parties for the execution of the Agreement, as well as at least 30% of the total price quote included in the Quotation.
7. The Client waives all rights to dissolve the Agreement pursuant to the Sections 6:265 et seq. of the Dutch Civil Code or other statutory provisions, unless mandatory statutory provisions dictate otherwise. This shall apply subject to the right to terminate the Agreement pursuant to this Article.

#### **Article 11: Confidentiality**

1. The Parties shall be obliged to treat as confidential all facts and circumstances, including business and financial data, which come to the knowledge of the other Party within the scope of the Agreement.



2. Each Party shall take all reasonable precautions to maintain the secrecy of information of a confidential nature to which the other Party has access or which it receives.

#### **Article 12. Obligations and Restrictions of the Client**

1. The Client shall be obliged to check the goods delivered by ByJackyH for any defects and/or shortcomings at the start of the Agreement and continuously thereafter.
2. The Client can no longer invoke a complaint regarding the execution of the Agreement if it has not notified ByJackyH in writing within a reasonable time, but no later than within five working days, after it has discovered or should have discovered the defect.
3. In case of a justified complaint, ByJackyH will endeavour to remedy the defect as soon as possible.
4. The Client shall be responsible for having and keeping available any software, hardware (including peripheral equipment) and/or (internet) connections that are necessary to be able to use the Services. ByJackyH shall have no obligation to provide the Client with these possibilities.

#### **Article 13: Liability**

1. ByJackyH will carry out its tasks as may be expected from a company in its line of business, but accepts no liability for any damages, including death and personal injury, consequential loss, trading loss, loss of profits, stagnation damage, immaterial damage, loss of goodwill, loss of whether or not future turnover or profit, claims from third parties for any damage other than direct damage, hours of staff, which is the result of acts or omissions of ByJackyH, its staff or third parties it has engaged, unless there is an intentional act or omission and/or conscious recklessness on the part of ByJackyH, its management and/or its managerial staff.
2. Without prejudice to the provisions in the previous paragraph, the liability of ByJackyH - for whatever reason - is limited - insofar as it might nevertheless yet be liable unexpectedly - to at most the amount of the fee that ByJackyH has received or would have received for that which has been provided and/or delivered by it. If the Services resulting from the Agreement are divisible, the liability shall be limited to the fee that relates to that part of the Services to which the shortcoming or the wrongful act relates. The fee shall not include any charged through costs of third parties.
3. Without prejudice to the provisions in the other paragraphs, the liability of ByJackyH - in case of an Agreement with a duration of more than three months – shall be limited to at most the amount of the fee which is due to or has been paid to ByJackyH over the three months preceding the damage-causing event.
4. In the event that ByJackyH can recover (part of) the damage suffered by the Client from a third party, and in the event the amount actually collected, after deduction of collection costs incurred by ByJackyH, is higher than both of the preceding amounts, the damage is limited to that amount minus collection costs. In that case, ByJackyH is entitled to assign its claim against that third party to the Client against final discharge [for the Client].
5. Liability shall in any case always be limited to any direct damage suffered by the Client. Direct damage is understood to mean only the out-of-pocket expenses that the Client has necessarily incurred in order to restore the faulty performance.
6. Furthermore, ByJackyH shall not be liable for any damage caused to any equipment and/or data files as a result of the Services provided by ByJackyH.
7. ByJackyH shall not be liable for the accuracy of any information and/or any advice provided by it and its employees before the Agreement with the Client is concluded.
8. ByJackyH shall not be liable for any damage or malfunction caused by other use of the Services than is directly necessary for the use and utilisation of the agreed functionality.
9. ByJackyH shall not be liable for any damage caused by errors, incompleteness or inaccuracies in data, materials, information carriers, etc., which are provided and/or prescribed by or on behalf of the Client to ByJackyH.
10. ByJackyH shall not be liable for any damage which has occurred because the Client or a third party commissioned by the Client has performed work on the Services without ByJackyH's prior written permission.
11. ByJackyH shall not be liable for any damage caused by the Client's failure to carefully check the previews or final versions.
12. ByJackyH shall not be liable for any damage caused by illegal, punishable and/or unlawful acts by third parties involved in the execution of the Service.
13. All liability will lapse by the expiry of six months after the expiry of a fixed-term Agreement, or, in the case of an indefinite Agreement, within one year after the occurrence of the event that would lead to any liability, whether alleged or not.
14. Without prejudice to the provisions in the previous paragraphs of this Article, ByJackyH shall only be obliged to pay damages to the Client up to the amount paid out by ByJackyH's insurer. Until that moment, the Client cannot claim or demand any damages from ByJackyH. By paying any damages, the undoing obligation of ByJackyH is also fulfilled, insofar as applicable.

#### **Article 14: Force Majeure**

1. ByJackyH shall not be obliged to fulfil one or more obligations under the Agreement if it is prevented from doing so as a result of force majeure. Force majeure includes, but is not limited to, a non-attributable shortcoming of engaged third parties or suppliers, circumstances of a technical nature and circumstances as a result of government action,



circumstances as a result of a virus outbreak, a lockdown and as a result of the enforcement of any applicable rules and regulations, as well as any other situation in which the Client may not reasonably expect ByJackyH to still fulfil its obligations. In case of a force majeure situation, ByJackyH shall not be obliged to compensate any damage which the Client has suffered as a result of the force majeure situation.

2. ByJackyH may also invoke force majeure when it is already in default.
3. If at the time of the force majeure, ByJackyH is still able to perform partially or has performed partially, the Agreement will remain in force for that part if ByJackyH so wishes.
4. Without prejudice to the other provisions in this Article, the following applies: as long as measures from the government because of a pandemic are applicable, ByJackyH will do everything possible to have the Service take place within the guidelines of the Dutch National Institute for Public Health and the Environment (RIVM). The Client shall remain ultimately responsible for its guests' compliance with these RIVM guidelines. ByJackyH can never be held liable for any negative consequences incurred by persons during the provision of the Service.
5. Any fines resulting from non-compliance with RIVM guidelines will be at the expense of the Client, and the Client indemnifies ByJackyH against this.
6. In case the Service cannot take place due to a government directive or order, the Client shall be obliged to purchase the Service from ByJackyH within 1 year. Depending on the conditions of the suppliers involved, relocation costs may apply, for which the Client is responsible.
7. If the Client cancels the Service while it could be continued according to the guidelines, the usual cancellation conditions will apply, as stipulated in Article 6.

#### **Article 15: Proof and Communication**

The log files and other data of ByJackyH, whether electronically administrated or not, provide complete proof for its statements, subject to evidence to the contrary by the Client.

#### **Article 16. Approaching Staff of ByJackyH**

1. It is prohibited for the Client to offer staff, employed by or acting on behalf of ByJackyH, to be employed by it or to perform work for it on a similar basis. If the initiative comes directly from the staff member/contractor of ByJackyH, the Client shall be prohibited to enter into negotiations with them without the express permission of ByJackyH, unless such an initiative is the result of the response to an advertisement in newspapers and/or other media.
2. The prohibitions and obligations arising from the previous paragraph shall apply during a period of 2 years after the termination of the Agreement between ByJackyH and the Client.
3. Insofar as the Client acts in breach of paragraph 1 and/or paragraph 2 of this Article, it shall owe ByJackyH an immediately due and payable penalty of € 20,000 per breach or per day that the breach continues, without prejudice to ByJackyH's entitlement to full compensation for damages.

#### **Article 17: Retention of Ownership**

1. ByJackyH retains ownership of the delivered and to be delivered goods and/or documents and/or designs until the Client has fulfilled its related payment obligations towards ByJackyH. These obligations consist of paying the purchase price, increased by any claims relating to work performed relating thereto, as well as any claims relating to possible damages due to any failure to comply with obligations on the part of the Client.
2. If ByJackyH invokes the retention of ownership, the Agreement concluded in this regard shall be deemed to have been dissolved, without prejudice to ByJackyH's right to claim compensation for damages, lost profit and statutory interest.
3. The Client shall be obliged to inform ByJackyH immediately in writing about the fact that third parties are enforcing rights on goods which are subject to retention of ownership under this Article.

#### **Article 18: Processing of Personal Data**

1. When ByJackyH processes Personal Data during the execution of the Agreement, ByJackyH will process the Personal Data in a proper and careful manner and will comply with the legal rules that follow from the Dutch Personal Data Protection Act and General Data Protection Regulation.
2. ByJackyH will inform the Client within 5 working days of any request and/or complaint from the Supervisory Authority or the Data Subject with regard to the Personal Data that are processed when executing the Agreement.
3. ByJackyH will cooperate with the Client if the Data Subject makes a request to exercise his or her rights, such as, but not limited to, the right to inspect, correct, remove, object to the processing of the Personal Data and a request for transferability of the own Personal Data.
4. ByJackyH will inform the Client within 5 working days of any court order, writ of summons, legal obligation or other obligation to share Personal Data with any third parties.
5. ByJackyH will inform the Client of the discovery of any Data Breach within 24 hours after the discovery. ByJackyH will then keep the Client informed about any new developments regarding the Data Breach.
6. ByJackyH will provide the following information in the event of a Data Breach:



1. a detailed description of the Data Breach;
  2. type/kind of Personal Data involved in the Data Breach;
  3. of how many persons the Personal Data are involved in the Data Breach;
  4. the identities of the persons involved in the Data Breach;
  5. the measures taken to limit the negative consequences for the Data Subjects and to remedy the Data Breach;
  6. the cause of the Data Breach;
  7. the duration of the Data Breach and the moment of its occurrence.
7. Any costs incurred in resolving the Data Breach will be borne by the person on whose behalf the costs are incurred, unless the Data Breach was caused by ByJackyH's failure to comply with the Agreement, in which case the costs will be borne by ByJackyH. In addition, ByJackyH retains the option of using other legal remedies.
  8. Communication about the Data Breach will always take place in mutual consultation.
  9. When the Agreement between ByJackyH and the Client ends, ByJackyH will return the Personal Data which it has processed during the execution of the Agreement to the Client and/or erase them.
  10. Technical and organisational measures will be taken to protect the Personal Data against loss or any other form of unlawful processing, taking into account the state of the art and the nature of the processing.
  11. ByJackyH processes Personal Data from and by order of the Client when performing the Services. ByJackyH has drawn up a Privacy Statement and Processing Conditions. These are separate documents in addition to these General Terms and Conditions. The Processing Conditions comprise an inseparable part of these General Terms and Conditions.
  12. The Client hereby authorises ByJackyH to engage sub-processors within the framework of the Agreement and the Personal Data processing included in these General Terms and Conditions.
  13. ByJackyH will inform the Client on request of which sub-processors it engages.
  14. If ByJackyH has the intention to involve new sub-processors for the processing of Personal Data, ByJackyH will inform the Client about this in advance. The Client will then have two weeks to object to that intention in writing. If the Client does not object within the aforementioned period of two weeks, the Client will be deemed to have agreed to this.
  15. The Client shall not withhold its permission to engage other sub-processors on unreasonable grounds, and ByJackyH shall make every effort to impose at least the same obligations on the sub-processor with regard to the processing of Personal Data as those agreed between the Client and ByJackyH.
  16. ByJackyH processes Personal Data in countries within the European Economic Area. The Client gives ByJackyH permission to process Personal Data in countries outside the European Economic Area, in compliance with the rules and regulations applicable there. Upon request, ByJackyH will inform the Client as to which country or countries the Personal Data will be transferred.

#### **Article 19: General Provisions**

1. The contents of the Agreement and the General Terms and Conditions jointly determine the legal relationship between the Parties, and supersede all previous agreements between the Parties regarding the subject matter of the Agreement. In the event of any deviation or inconsistency between the Agreement and the General Terms and Conditions, the Agreement will prevail, unless the contrary is explicitly stated in the Agreement.
2. The Agreement, the General Terms and Conditions and/or the provision of the Services shall exclusively be governed by Dutch law. All disputes will in the first instance exclusively be brought before the competent court in Amsterdam, unless otherwise prescribed by mandatory law.

General Terms and Conditions ByJackyH  
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ByJackyH  
Coba Ritsemahof 7  
1183 EA Amstelveen  
+31650211114  
www.byjackyh.com  
jacky@byjackyh.com  
Chamber of Commerce number 81743157