

**Appendix B**  
**General terms and conditions ACS 2013**

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**GENERAL TERMS AND CONDITIONS ACS AUDIOVISUAL SOLUTIONS BV 2013**

**Article 1 - Definitions**

1. "ACS": ACS Audiovisual Solutions BV, a company with limited liability incorporated under the laws of the Netherlands, with statutory seat at Amsterdam and offices at Amsterdam, Archangelkade 5a-b, 1013 BE. ACS also acts under the trade names ACS AV Company, (ACS) Avisco, ACS Projects, ACS Utrecht and/or ACS Rotterdam.
2. "The Services": The hiring out of audiovisual and ICT equipment, transport, delivery and installing thereof and the providing of services with respect to the operation of the audiovisual equipment in relation to congresses and other events and the providing of further congress facilitating services.
3. "The Equipment": audiovisual equipment and ICT equipment as listed in the catalogue of ACS from time to time.
4. The "Client" refers to: the organisation, that hires audio-visual equipment and/or services from ACS.

**Article 2 - Applicability of general terms**

These general terms form an integral part of all quotations from ACS and of contracts and transactions entered into by ACS and apply to all services provided by it and all hiring out of Equipment by it. Deviation from (any of) the provisions of these general terms is only possible with ACS's prior written consent. General terms and conditions of the Client are not applicable.

**Article 3 - Quotations**

1. Quotations are made to measure on the basis of an estimate of the Services to be rendered and Equipment to be hired out and the cost thereof on the basis of the information provided by the Client and the specific circumstances of the event and the requests of the Client at the time of the quotation.
2. Quotations cannot be split or amended without recalculation of constituting items.
3. Quotations will be valid for the time indicated in the quotation, or a month failing such indication. ACS is nevertheless in view of the availability and planning of its Equipment and staff at all times entitled to request acceptance by the Client of quotations issued by it within 5 working days from the request, failing which the quotation will expire.
4. The quotation will form an appendix to the contract and will be considered as integral part thereof.

**Article 4 - Contract**

1. A contract is established after written confirmation of acceptance by the Client of the quotation of ACS issued to the Client.
2. These general conditions will form an integral part of the contract between the parties.
3. Upon request of the Client to extend the agreed Services or to provide additional Equipment, ACS shall provide the Services or Equipment requested if available on such notice. The request shall be confirmed by email by the Client to the representative of ACS prior to ACS' delivery of the same or, if urgent during the course of an event, confirmed by ACS within due course after delivery of the same, whichever occurs earlier. The extra Services shall be rendered and Equipment hired at the prices quoted by ACS if possible in view of the urgency or shall be based on the prices used by it per the date of the providing of the Service or rental of Equipment.

**Article 5 - Prices and consideration**

1. The applicable prices will be the prices quoted by ACS in the quotation to the Client.
2. The actual consideration due by the client will be recalculated as follows:  
 In case of deviation of the indicated circumstances or requests or the provision of additional Equipment or Services, ACS shall be entitled to calculate any extra Equipment or Services needed and provided by it on the basis of the quoted prices if applicable or on the basis of the prices used by it at the time of the providing of the Services in case no quotation could be made prior to the delivery of the Services. In case less Equipment or Services shall have been provided than agreed the provisions concerning cancellation shall apply.
3. A rental day for equipment starts at 8:00 a.m. and ends at midnight, unless ACS's has expressly indicated a different starting time in writing.
4. ACS is entitled to revise its prices 6 months after the date of the conclusion of the agreement or if earlier per the start of another calendar year following the year in which the agreement was concluded in accordance with the increase of cost levels involved since the date of the agreement.
5. Prices are quoted and payable in Euro.

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### Article 6 - Invoicing

1. ACS is entitled to invoice 50% of the total amount due by the Client for the hire of Equipment and Services 3 months prior to the first date of hire or providing of Services.
2. ACS is entitled to invoice 90% of the total amount due by the Client for the hire of Equipment and Services 1 month prior to the first date of hire or providing of Services or the first day of the event concerned.
3. ACS is entitled to invoice the remaining 10% of the total amount as well as any additional Equipment and Services provided within one week from the end of the Event or from the last day of hire of Equipment or providing of Services.
4. Invoices may be sent electronically to the email address of the Client used in the quotation or indicated by the Client in writing to ACS.

### Article 7 - Payment

1. Payment by the Client of invoices of ACS is due within 21 days from the date of the invoice of ACS.
2. ACS is entitled at its sole discretion on the basis of the financial situation of the Client or in case of arrears in payments experienced by it, to request a bank guarantee with respect to payment by the Client of any amounts due by the Client to ACS for provision of the Services or Equipment, prior to its providing of the Services or Equipment to the Client.
3. The Client is not entitled to offset any amounts due to ACS with amounts due to it by ACS, unless expressly approved in writing by ACS.
4. ACS is entitled to suspend its obligations in case payments due by the Client shall not have been received by it per the due date.
5. In case of late payment by the Client, ACS is entitled to interest in accordance with the Netherlands statutory interest rate for late payment of commercial debts from the date payment is due until the date of payment.

### Article 8 - Providing of Services and Equipment

1. ACS will provide the Equipment and Services as agreed in writing by the Parties.
2. ACS will use its best endeavours to provide up to standard and state of the art Equipment and to use good and up to standard craftsmanship in supplying the Services to the Client.
3. In case of breakdown or malfunctioning of Equipment the Client shall inform ACS as soon as reasonably possible and confirm the same in writing within 2 working days and ACS shall use its best endeavours to restore the same or supply replacement Equipment as soon as possible.

### Article 9 - Use of Equipment

1. The Client will handle the rented Equipment with due care and attention and in accordance with ACS's technical terms and instructions. The Client is not entitled to modify or repair any part of the Equipment or have it repaired or modified by third parties. The Client shall not use software or data storage devices in combination with the Equipment other than prescribed or authorized by ACS.
2. The Client will allow ACS to inspect the rented Equipment at all times. ACS reserves the right to recover the rented Equipment for technical inspection and maintenance, whereby ACS will provide replacement Equipment.
3. In case the Client uses the Equipment or Services of ACS for the benefit of third parties, the Client shall stipulate application of these general terms in its contracts with the third party, failing which the Client will hold ACS harmless against claims of the third party concerned. In case of claims by these third parties for malfunctioning of the Equipment or Services of ACS or damages incurred by these third parties in connection with the use of the Equipment or Services of ACS, the Client shall refrain from accepting liability on behalf of ACS and forward the claim to ACS for direct settling.
4. If the rented Equipment or parts thereof are lost or damaged beyond repair as a result of negligence or misuse on the part of the Client, the Client shall pay ACS a sum equal to the purchase price of replacement equipment or of spare parts and the cost of replacing the same.
5. In the event of damage to or loss of Equipment, the Client is obliged to notify this immediately in writing to ACS and provide all requested or necessary information in relation thereto.

### Article 10 - Supervision of Equipment

1. The Client will take all necessary measures and will ensure that there is adequate security, during the Event during and after working and opening hours, in order to prevent theft or misappropriation of or damage to the Equipment.
2. For as long as ACS is directly servicing or supervising the Equipment at the premises of the Client or the venue rented or used by the Client, the risk of loss and damage will fall under the responsibility of ACS. From the time that ACS is no longer directly servicing or supervising the Equipment at the premises of the client or the venue of or used by the Client or after opening hours of the venue, the supervision of the Equipment will fall under the responsibility of the Client.

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### **Article 11 - Equipment insurance**

1. The Equipment is insured by ACS within Europe against damage as a result of fire and water - both during transport and during the hire and rental days and the days that the Services are performed.
2. The insurance of ACS does not cover the risk of loss or theft or misappropriation of the Equipment at the premises of the Client or the venue rented or used by the Client. The Client is therefore liable for loss resulting from theft (with or without traces of forced entry) and misappropriation of the Equipment, or for any other loss which is caused by negligence of or misuse by the Client, or third parties engaged by it during the time that the Equipment is not actually serviced or operated by ACS.

### **Article 12 - Inspection of Equipment and Services**

The Client shall have inspected the Equipment upon installation of the same at the location concerned prior to the start of the Event concerned at the latest 2 hours prior to the start of the Event or within 12 hours from the request of ACS if earlier. The Equipment and installation thereof will be considered in good order and accepted by the Client failing a written notice by the Client to the contrary 2 hours prior to the start of the event or within 2 hours from inspection if inspected earlier.

### **Article 13 - Return of Equipment**

The Client is obliged to enable ACS to recover the hired Equipment on the very day of the end date of the rental period or per the end of the Event, whichever occurs earlier.

### **Article 14 - Third party materials and rights**

1. ACS will handle materials entrusted to it, such as videotapes, cd-roms, dvd's, usb sticks or other data storage devices, documents and other materials, hereafter referred to as "Materials" containing information, images, sound and other data, hereafter referred to as "Content" to be reproduced with the Equipment or incorporated into the Equipment, with great care.
2. ACS disclaims all liability for loss of or damage to Materials and Content provided to it or loaded into the Equipment for reproduction purposes, from whatever cause, except in the case of wilful intent or gross negligence on the part of ACS.
3. In cases involving valuable or irreplaceable unique Materials or Content to be reproduced with the Equipment, the Client must notify this in advance in writing and very emphatically and in detail to ACS's handling staff.
4. The Client shall fully indemnify ACS and its subcontractors and hold ACS and its subcontractors harmless against claims from owners of or right holders with respect to the Materials or Content concerned or from other third parties with respect to claims of infringement of such third party trademark, copy, neighbouring, performing, video or other intellectual or industrial property rights on the basis of the Materials and its Content.

### **Article 15 - Collection of Materials**

If it has been agreed with the Client that Materials processed by ACS or provided to ACS will be collected by the Client on a stipulated date and the Client shall not have collected the same by that date, ACS shall be entitled to have these Materials stored or sent to the Client's address at the Client's expense and risk.

### **Article 16 - Information**

Parties shall provide adequate and timely information to each other with respect to the requirements to be observed by the other party and the details of the event reasonably necessary for the providing of the Services by the other party.

### **Article 17 - Cancellations**

1. In case of cancellation by the Client of the rental of Equipment or providing of Services up to 1 month prior to the first date of rental or providing of Services, the Client will pay ACS an administrative fee of € 3000,- ex VAT. Any prepaid instalments shall be reimbursed to the Client after deduction of the aforementioned fee.
2. If the Client cancels the rental of Equipment or the Services or a substantial part thereof within 1 month immediately prior to the first date of rental or the providing of Services, a cancellation fee of 25 % of the agreed price for the respective total or part will apply; In case ACS shall have incurred costs in preparing the Services and rental of Equipment prior to the receipt of the notification of the cancellation in excess of the amount of 25% of the agreed price, ACS is entitled to reimbursement of these cost by the Client upon specification of the same.
3. The Client will notify a cancellation of a contract/order or part of an order in writing or by email to the account manager of ACS mentioned in the quotation or contract with acknowledgment of ACS of such notice.

### **Article 18 - Liability**

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1. In case of malfunctioning of Equipment or failure in the providing of Services the Client will enable ACS to repair or replace the same or provide the Services once again if reasonably possible. In case of non functioning or malfunctioning of Equipment or in case of non fulfilment of the Services because of fault or negligence of ACS, ACS will refrain from charging for that part of its performance concerned or will grant a reasonable deduction to its prices.
2. ACS is not liable for acts and omissions by the Client or third parties engaged by the Client.
3. ACS's liability is in all cases restricted to the amount covered under its liability insurance policy and if no coverage is awarded to the amount of the order concerned.
4. ACS is never liable for indirect or consequential or immaterial damages resulting from whatever cause.
5. ACS waives any liability for any claims not notified to it in writing with adequate justification within 1 month from its occurrence.

### Article 19 - Force majeure

1. If a party is prevented from fulfilling its obligations in full or in part or in time due to force majeure, that party is entitled to suspend its obligations in so far as they have not been fulfilled, without the other party having any claim against that party for damages as a result, notwithstanding subparagraph 3 hereof.
2. Each party is entitled to dissolve the contract without being liable for damages with respect to the non-performed part thereof if the force majeure event continues until or during the period of the event/congress for which the contract was concluded and cannot reasonably be fulfilled timely thereafter, notwithstanding subparagraph 3 hereof.
3. The Client remains nevertheless obliged to pay ACS any already performed part of the Services or provided Equipment or cost involved therewith.
4. Force majeure includes all involuntary and unforeseeable disruptions or obstructions beyond the control of a party that make it impossible for that party to perform its obligations, such as amongst other causes, storms, floods, earth quakes or volcano eruptions and other natural disasters, obstructions by third parties, strikes, civil commotion, lock-outs, riots, war or threat of war, terrorism or nuclear disasters, epidemics, and loss of or damage to materials which have originated from an unforeseeable cause beyond that party's control. Cancellation of an event for lack of or insufficient participants cannot be considered as a force majeure event.

### Article 20 - Termination

Termination of the agreement for Services or hire of Equipment with immediate effect is possible by either party by registered letter to the other party, without prejudice to its claim for damages against the other party:

- a. If the other party shall have failed by its fault or negligence to comply with any substantial term or condition of the agreement upon written notice to the other party to remedy such failure within a reasonable period set by such notice;
- b. if the other party fails to pay any amount due on the basis of the agreement;
- c. If the other party is declared bankrupt or a request for insolvency proceedings or moratorium of debts shall have been filed by or against that party.

In case of termination of the agreement between the parties, the Client shall put the rented Equipment at the disposal of ACS or return the same promptly to ACS at its request.

### Article 21 - Notifications

All notifications by a party to the other party shall be made by letter or email to the email address and to the attention of the account manager of the other party stated in the quotation or in the contract, or in any later explicit notification thereof by that party to the account manager of the other party, with acknowledgement or proof of receipt of the notification by that other party, or proof of receipt of the notification, unless otherwise indicated in these general terms.

### Article 22 - Assignment

1. The Client is not entitled to assign its rights under the agreement to third parties or to allow third parties to use the Equipment or to use the Equipment at another location than agreed, unless otherwise agreed in writing.
2. ACS is entitled to assign the contract to a third party in the course of a transfer of its business activities to such third party.
3. ACS is allowed to delegate part of the performance of the contract to a third party or subcontractor while maintaining its liability under the agreement with respect to the performance of that party concerned.

### Article 23 - Applicable law and Competent Court

1. These general terms and all contracts between ACS and the Client and all acts by and obligations of ACS are governed by the laws of the Netherlands.

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2. All disputes arising from these general terms or relating to the fulfilment of contracts between ACS and the Client and the providing of Services and Equipment by ACS to the Client will be adjudicated exclusively by the competent court in Amsterdam, notwithstanding the right of ACS to elect the jurisdiction of the competent court of the Clients residence or the court of the location where the Services are (to be) performed.

Amsterdam, January 2013