

## ThisPlays2 NV General Terms And Conditions

### **1. The parties**

Any contract for the supply of services, hereinafter referred to as the “contract”, is concluded between ThisPlays2 NV, Wijtschotbaan 9 box 5, 2900 Schoten, company number BE0894.318.620, hereinafter referred to as the “service provider”, on the one hand, and a customer as stated as the addressee in the offer, hereinafter referred to as the “customer”.

### **2. Object and contractual documents**

The object of this contract is all the equipment and services stated in the description of the offer and in Articles 4, 5, 6 and 7 below.

The contractual documents of any contract are the following: the offer, the description of the services to be provided and the present general terms and conditions, which may also be consulted on the website ([https://thisplays2.com/general terms and conditions](https://thisplays2.com/general-terms-and-conditions)). These documents as a whole form the contract for the supply of services.

### **3. Term, performance and termination of the contract**

The contract will apply for the period stated in the “contract term” box at the bottom of the offer.

The contract will be concluded at the point of digital signature on the supplier’s platform. If, however, the equipment is supplied in advance, the contract will be concluded on signature of the acknowledgement of receipt on delivery of the equipment. The service provider will only accept the order by written acceptance or by starting on the execution of an order placed by the customer.

The provisions contained in the offer apply as performance time for the start, processing time and completion of the services. If the service provider finds it impossible to execute the order, because of force majeure or for any other reason, it has the right to extend the performance time without this fact giving a right to any form of compensation.

Notice to terminate by the customer must be given by registered letter three (3) months before expiry of the contract term, otherwise the contract will be regarded as tacitly renewed for a period of 12 months at a time.

The service provider has the right to terminate the contract by registered letter, without further formalities and notice of default, in the following cases: non-payment on the due date of more than two monthly instalments of the subscription and in general any non-fulfilment by the customer of its obligations assumed in this contract; application for a judicial order or postponement of payment within the scope of the Belgian Continuity of Companies Act (WCO), attachment, merger, dissolution, suspension of payment, liquidation or insolvency, placement in receivership, transfer of assets, the whole or partial loss of assets, cessation of activities, closure of the place of business, transfer of goods, relocation abroad, alteration of the structure, compositions with creditors and unpaid due and payable debts to third parties.

In the event of a unilateral termination of the contract by the customer, it will pay the service provider a fixed compensation equal to 12 months' rent, plus damages attributable to the customer.

#### **4. Audiovisual content creation**

The service provider will create audiovisual images and animations on the customer's behalf.

The service provider is not responsible for complaints and damage caused by these programmed images accepted by the customer .

The copyright in these content creations passes to the customer if they consist of elements over which the customer also possesses the full copyright, also assuming that the service provider's invoices have been paid.

The service provider cannot be held responsible for breaches of the copyright in images supplied by the customer.

#### **5. Software**

The service provider will provide the customer with software licences for displaying and programming audiovisual content on screens.

The customer must pay an annual fee for the licences to the software, in the amount of the sum stated in the contract.

The software licence will remain the property of the service provider and its suppliers.

Copying or modifying the software is prohibited.

The software licence runs from delivery of the equipment and is billed annually.

The right of use is limited to having the software run on the number of workstations or computers stated in the order. Any right of use is in any event limited to the term of the contract or the licence agreement that the service provider has concluded with a third party licensor, and the fulfilment by the customer of all its obligations (including the prompt fulfilment of payment obligations) under the contract.

#### **6. Background music**

Subscription fees are payable by the customer for the period for which the service provider provides music files.

The subscription includes a percentage for the copyright and the duplication of the music files by the service provider and a percentage for the payment of personality rights of performing artists and phonograms and film producers. This amount is stated and billed separately. The service provider undertakes to transfer this amount in full to a music rights organisation and/or other interested organisation.

The customer guarantees that it has concluded or will conclude an agreement with both SABAM and Fair Remuneration in Belgium in relation to the playing of background music. The customer also guarantees, if there are also video files on the equipment, that it has concluded an agreement with

SABAM for Belgium for showing the files provided by the service provider. Payment of these fees falls outside this contract.

The service provider can only pay the above fees if the record company owning these rights to the music track or video clip is affiliated to the IFPI or one of its subsidiary organisations.

The customer will only use the equipment for the playback of music files supplied by the service provider.

The service provider will supply and replace the music files at its own discretion. New titles will be offered at regular intervals. The customer can only exert influence on the music collection by the means provided in the service provider's programme. The customer is not permitted to remove or add software, music and/or video files beyond the capabilities of the service provider.

The applicable subscription rates or one-off costs are applied to modifications of music and/or video files.

Price increases as a consequence of the rates for the music or video rights, and neighbouring rights of whatever kind, are passed on in the subscription costs to be collected monthly or annually and are stated separately on the invoice. These price increases do not give any right to terminate the contract.

## **7. Equipment and installation**

The customer chooses the equipment in full knowledge of the facts and entirely on its own responsibility. It hereby recognises that the service provider has informed it fully about the effect, scope and price of the services offered.

Any delivery date stated in the contract is subject to alteration. Later delivery gives no right to dissolve the contract or any kind of compensation.

The customer guarantees an Internet connection that works faultlessly. The customer will preferably take the steps necessary for the installation and the use of the equipment, more specifically with regard to the electricity, the network connection and the space required.

Unexpected works will always be notified by the service provider and approved by the customer in advance. Non-exhaustively, these additional works may be connected with preparing the spaces (such as alterations, the electronic power supply and the cabling) needed to install and enable the equipment to work. An additional charge is payable by the customer for this.

The finishing of walls, ceilings and infrastructure after the installations of the service provider is always for the customer's account.

By signing the delivery receipt, the customer or its authorised representative is confirming that the delivery has been made as per order.

The service provider is entitled to outsource the services to be provided to third parties or to let a third party provide them on a subcontract basis.

## **8. Warranty, service and liability**

The service provider guarantees that the services and installations to be provided by it or on its behalf under this contract will be carried out with the necessary care and specialist knowledge by competent, expert, trained and experienced employees of the service provider.

The equipment supplied has a warranty period of 36 months.

The customer is entitled to telephone support during normal office hours: from 9.00 a.m. to 5.30 p.m., Monday to Friday, except for public and other holidays. Outside these times and over the weekend, telephone support is only provided for urgent cases, when the customer can leave a voicemail message. The customer will then be called back as soon as possible.

During the term of the contract, the customer will have a full on-site warranty on the equipment and software. In this case, the response time is not more than 48 hours after the initial call, from 9.00 a.m. to 5.30 p.m., Monday to Friday, except for weekends and public holidays.

On-site interventions are billed at 75 euros per hour and 0.50 euros per km, even during the warranty period. Subject to the written conclusion of a separate service contract, these interventions can be included in a fixed monthly budget.

Any repairs resulting from wilful acts or use not in accordance with the intended use are always for the customer's account. If a service engineer on site finds that the fault has arisen through external factors, such as network problems, disassembly or misuse, the service provider is entitled to pass on the costs, travelling expenses and hourly pay incurred to the customer.

The customer guarantees that it will at all times assist with the resolution of a fault. If an employee of the service provider finds that the customer, with telephone support, could have rectified the fault itself, the costs incurred may be passed on to the customer.

The service provider is never responsible, if applicable, for the Internet or network connection provided by a third party working or not.

In the event of a defect outside the warranty period, the service provider will send, deliver or replace parts on behalf of the customer. The costs incurred will be passed on to the customer.

In accordance with the terms and conditions of this contract, the service provider is only liable for the direct damage (not indirect damage) due to an error or serious omission of the service provider or its employee.

The following provisions also apply: if the service provider is held liable for damage inflicted, the total compensation is limited to the amount for which the professional indemnity and civil liability insurance effectively gives entitlement to benefit and therefore recognises the claim as covered. If, for whatever reason, no insurance benefit as stated above is provided, any liability is limited to the amounts billed and paid in the 12 months preceding the occurrence of the damage or, at the service provider's discretion, replacement of the equipment, software or one of its parts.

## **9. Price and terms of payment**

The price of the services is stated in the offer.

The payment of the price is made as follows:

- 1) 30% advance on signature.
- 2) 70% balance on delivery.

The payment term is eight working days or as otherwise agreed in the offer.

To be valid, complaints or protests in relation to the invoices must be received by the service provider not later than ten working days after the invoice date.

No dispute of any kind can give rise to the suspension of the obligation to pay the instalments or reduction of the payments.

Taxes, penalties and costs arising from this contract are payable by the customer.

In the event of failure to pay within the agreed payment term, the amounts owed will be increased automatically and without notice of default by an interest rate of 1.5% per month, with a minimum of €250. In addition, the unpaid instalments will be increased by compensation, set at 10% of the amount owed, with a minimum of €250.

All costs incurred by the service provider, such as legal costs and extrajudicial and judicial costs, including the costs of legal assistance, bailiff companies and collection agencies, incurred in connection with overdue payments, are payable by the customer in full.

## **10. Transfer of ownership**

The equipment may be acquired in the following ways:

- a. Purchase. If the customer wishes to purchase the equipment, ownership passes to it following payment in full of the price stated in the contract.
- b. Purchase on credit. If the customer wishes to acquire the equipment by purchase on credit, ownership only passes to it once it has made all the payments stated in the contract.
- c. Rent. If the customer wishes to rent the equipment from the service provider, the service provider retains ownership. During the rental period, the customer is simply the user of the equipment.
- d. Lease. If the customer wishes to lease the equipment, the leasing company concerned retains ownership.

## **11. Specific provisions for renting equipment**

The service provider will place the equipment at the customer's disposal for the agreed period and at the place indicated.

The risk passes to the customer from the time of actual delivery on the basis of the delivery note of the equipment. The customer is liable for any damage or any loss of the equipment, irrespective of its cause.

The customer is obliged to insure these goods against theft with a reputable insurance company for the invoice amount until such time as the contract ends or the equipment is taken back. The customer shall submit a certificate from its insurance company at the supplier's request.

In the event of loss, theft or damage leading to partial or total loss, the customer will be charged the new value of the equipment.

The establishment of a pledge, transfer, giving on loan and transport or removal to a place other than the place of installation of the equipment or of a right of the customer arising from the contract is prohibited, subject to the prior express written consent of the service provider.

The customer must inform the service provider immediately (within 24 hours) of any attempt to seize the equipment and also to confirm this in writing.

The service provider has the right to examine the equipment on site or to arrange a technical inspection of it at any time.

If the equipment is installed in a space that the customer does not own, the customer will let the owner know in writing, by registered letter, that the equipment or licences and files are the property of the service provider. It hereby focuses the attention of the owner in particular on the impossibility of making the equipment immovable. In the event of a change of owner, the customer will give a new notification. The service provider must receive a copy of the acknowledgement of delivery of that registered letter within a week of it being sent.

The service provider will affix a notice on the equipment, giving notice of the right of ownership that the service provider has on its component parts. If this text is damaged or the seal fitted is broken, compensation of €5,000 will be payable to the service provider by the customer.

Following termination of the contract, for whatever reason, the customer will arrange for the return of all the equipment that is the property of the service provider, ready for use and in perfect condition, allowing for normal wear and tear, to the address in Belgium given by the service provider, within ten working days and at its own expense. If the service provider itself has to collect the equipment, the cost per system and per location for this intervention is €300.

If the equipment is not returned within the agreed time, the service provider has the right to enter the spaces where the equipment is located and to have the equipment removed at the customer's expense with no further prior formalities. For each day's delay, a usage fee is payable, equal to 1% of the annual subscription fee, with a minimum of €150, plus the costs incurred for recovery of the equipment.

## **12. Confidentiality and protection of personal data**

The parties will treat the information existing and transferred between them (as contained in all the documents) in confidence and not disclose it to third parties, except with the prior consent of the other party.

The service provider will carry out its services in accordance with the applicable GDPR (General Data Protection Regulation) legislation in pursuance of the protection of the customer's personal data.

## **13. General Terms And Conditions**

These general terms and conditions apply to all offers, activities, quotations and contracts between the service provider and the customer. Variations of these general terms and conditions and oral promises by the service provider are only valid if they have been expressly set down in writing.

The service provider reserves the right to amend the general terms and conditions unilaterally, in the broadest sense, at any time. If the general terms and conditions are amended, the customer will receive

them together with the next correspondence. If the customer does not agree to one or more changes in the general terms and conditions, it must make its objections known in writing within 14 days of receipt of the general terms and conditions. If it fails to do so, the new terms and conditions will replace the old ones in the legal relationship between the parties.

In the event of possible contradictions between the different documents, those provisions or conditions that make the performance of the contract possible will take precedence .

#### **14. Assignment of the contract**

The service provider may assign this contract wholly or partially to third parties. Where the service provider assigns the whole or parts of the contract, it will inform the customer accordingly. This can simply be done on the invoice that the service provider sends to the customer.

The customer is not permitted to assign the contract as a whole or in part to third parties without the prior written consent of the service provider.

#### **15. Governing law and competent court**

All contracts between the service provider and the customer that are governed by these general terms and conditions are governed by Belgian law. Any disputes between the service provider and the customer that may arise will be submitted exclusively to the competent courts of Antwerp.