

## **GENERAL TERMS AND CONDITIONS FOR DELIVERY OF ISPOT INTERACTIV SRL**

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### **1. ISpot Interactiv**

These Terms and Conditions apply to all offers issued by and on behalf of ISpot Interactiv SRL, having its office and maintaining business premises at Baia Mare, Romania (RO32270479) (“iSpot Interactiv”) and all agreements to be concluded between iSpot Interactiv and another party (“the Buyer”), serving to allow iSpot Interactiv to provide products and services (“the Delivery”), and to the juristic acts underlying such agreements.

1.2 Any terms and conditions used by the Buyer do not apply. These are expressly rejected.

### **2. Creation of the Agreement**

2.1 Oral offers and undertakings will bind iSpot Interactiv only after and to the extent that iSpot Interactiv has confirmed such in writing. Any and all offers issued by iSpot Interactiv will be without obligation, unless expressly stated otherwise in writing. In the event that the Buyer has sent iSpot Interactiv a statement containing an offer or acceptance electronically, an agreement will be deemed to have been brought about in the event that iSpot Interactiv has confirmed the Buyer’s statement electronically.

### **3. Prices**

3.1 Prices are based on the type and scope of the Delivery, as stated in iSpot Interactiv’s price lists (“Price Lists”). Prices are Ex Works (Incoterms 2010) and exclusive of VAT.

3.2 iSpot Interactiv has the right to change the agreed-upon prices after conclusion of the agreement or prior to delivery in the event of any increases in the prices of cost-price factors, such as fluctuations in exchange rates, raw materials and/or wage costs, or, in case of any Government measures, when such situations have occurred after the agreement was brought about, but prior to delivery.

### **4. Delivery**

4.1 Unless expressly agreed otherwise in writing, delivery will be effected Ex Works iSpot Interactiv (Incoterms 2010). Notwithstanding the provisions laid down in Article 3,

a surcharge will be charged for the delivery of small quantities of Products, which deliveries of small quantities and surcharges have been specified in the Price Lists.

4.2 The Buyer is required to accept the Delivery when it is delivered to it and to provide iSpot Interactiv with ample opportunity to do so and render its co-operation to iSpot Interactiv in this respect.

4.3 In the event that the Buyer refuses to take delivery or fails to provide information or instructions, or otherwise fails to render the co-operation required to take delivery of the Delivery, iSpot Interactiv will be entitled to take any and all measures deemed desirable by iSpot Interactiv in this respect (such as storage with third parties) for the Buyer's account and risk, without prejudice to iSpot Interactiv's right to claim the purchase price or stipulated fee, or to deliver to a third party. The additional costs and/or any damage arising for iSpot Interactiv in this case may be recovered from the Buyer.

4.4 Any delivery dates or other terms stated by iSpot Interactiv are only an indication and shall not be considered deadlines.

If the Delivery is not provided on time, regardless of whether iSpot Interactiv has so notified the Buyer ahead of time, iSpot Interactiv must be declared to be in default and be granted a term which, according to it, is reasonable to fulfil its obligations. Should iSpot Interactiv fail to comply with the extended term, the Buyer will be authorised to dissolve the agreement only if no Delivery has taken place.

iSpot Interactiv will not at any time be liable for any consequential damage, including but not limited to the loss of profits and/or incidental damage, as a consequence of delays.

4.5 iSpot Interactiv may execute any placed orders in parts. In the event that orders are executed in parts, iSpot Interactiv will be entitled to invoice each part separately.

4.6 iSpot Interactiv will be entitled to charge the costs of any packaging separately. Packaging will not be taken back. Should iSpot Interactiv be required to take back packaging on the grounds of laws and/or regulations, the costs associated with taking back or processing such packaging will be borne by the Buyer.

## **5. Print Products**

5.1 In the event that ISpot Interactiv receives orders for products to be printed for the Buyer ("Print Products"), the Buyer will be obliged to supply directly reproducible material of a quality that is, in ISpot Interactiv's reasonable opinion, good.

5.2 ISpot Interactiv will be required to submit a proof of Print Products ("Proof") prior to producing such Products only in the event and to the extent that such has expressly been agreed upon in writing upon the conclusion of the agreement. In such cases, ISpot Interactiv will be required to send the Buyer a Proof for approval. The Buyer will be required to notify ISpot Interactiv of its approval or disapproval within 24 hours of receipt of the Proof.

5.3 Minor departures of the Print Products from the Proof, including but not limited to shades, logos and/or dimensions, will not qualify as a defect on the part of ISpot Interactiv.

5.4 If a delivery period was agreed between ISpot Interactiv and the Buyer, this period will be extended with the period between the request of the Buyer to produce a Proof, and the time that the Proof was approved by the Buyer. A Proof will be deemed to have been approved by the Buyer in the event that the Buyer has not stated its disapproval within five working days of receipt of the Proof.

5.5 Any and all costs in connection with the work to be carried out by ISpot Interactiv for the Print Products will be invoiced separately to the Buyer, unless expressly agreed otherwise in writing.

5.6 ISpot Interactiv will be entitled to deliver to the Buyer 5% more or less of the number of Print Products stated by the Buyer in the order and to invoice such to the Buyer.

## **6. Textile Products**

6.1 In the event that ISpot Interactiv receives orders for textile products whose colour, type and size, among other things, are determined by the Buyer ("Textile Products"), the Buyer may order a sample ("Sample") of such Products. The ordering of a Sample must be expressly agreed upon by the Buyer and ISpot Interactiv in writing before or upon the conclusion of the agreement. The Buyer will be required

to notify ISpot Interactiv of its approval or disapproval within 24 hours of receipt of the Sample.

6.2 Minor departures of the Textile Products from the Sample, including but not limited to colour, size and/or logos, will not qualify as a defect on the part of ISpot Interactiv.

6.3 A Sample will be deemed to have been approved by the Buyer in the event that the Buyer has not stated its disapproval within five working days of receipt of the Sample.

6.4 Notwithstanding the provisions laid down in Article 11, any and all possible claims to the effect that the Products delivered to the Buyer do not conform to the agreement will lapse in case the Buyer ordered a Sample and approved it in accordance with Articles 6.2 and 6.3.

6.5 Any and all costs in connection with the work to be carried out by ISpot Interactiv for the Textile Products will be invoiced separately to the Buyer, unless expressly agreed otherwise in writing.

## **7. Payment**

7.1 The Buyer shall make payment at the date of the invoice. The Buyer shall not be entitled to deduction, suspension or settlement.

7.2 Without prejudice to the rights accruing to ISpot Interactiv as ensuing from the law or agreement, the Buyer will be in default and all of ISpot Interactiv's claims will be immediately payable in the event that the Buyer has failed to pay any amount owed within the payment term stipulated in Article 7.1. In that event, ISpot Interactiv will also be entitled to interest at the statutory rate (as applicable to trade agreements), plus two per cent, on the outstanding amount until the moment of full payment.

7.3 Should the Buyer not have made a well-founded comment on the amount of the invoice in writing within seven days after the date of the invoice, it will be deemed to have approved such amount.

7.4 If the Buyer fails to make timely payment, any and all reasonable (collection) costs to seek satisfaction out of court, including, in any case, the costs of debt-collection agencies, bailiffs and lawyers, amounting to at least 15%

of the total amount owed, with a minimum of EUR 500, exclusive of VAT, will be borne by the Buyer. This without prejudice to the other rights accruing to ISpot Interactiv under the law or these General Terms and Conditions.

7.5 The Buyer will be obliged to pay any and all costs incurred by ISpot Interactiv as related to legal proceedings in which judgment was fully or to a considerable extent rendered against the Buyer. Such costs will in any case include the costs of external experts, bailiffs and lawyers and such.

## **8. Conformity**

8.1 In terms of weight, size, number, colour, concentration, composition, specific gravity, the Delivery may depart 5% from that which has been agreed upon.

8.2 Samples and models will be provided to serve as indications only. The Buyer cannot derive any rights from illustrations in ISpot Interactiv's catalogues and/or other advertising or promotional material.

## **9. Permits, etc.**

9.1 The Buyer will bear responsibility at its own expense and risk for obtaining, on time and in the proper form, all permits, concessions, licences and/or permissions, etc., as required for delivery by ISpot Interactiv of the Delivery and otherwise for the fulfilment by ISpot Interactiv of its obligations.

## **10. Retention of Title**

10.1 The title to the Delivery will be transferred to the Buyer after full payment has been received. The risk of the Delivery is transferred at the moment of the Delivery.

10.2 As long as title to the Delivery has not passed to the Buyer, the Buyer may not pledge the Products or grant any third party any right in their respect.

10.3 The Buyer will be obliged to store the Products delivered subject to the retention of title carefully and as ISpot Interactiv's recognisable property. It will also be obliged to insure such Products adequately. The Buyer shall pledge any of its claims on the basis of this insurance to ISpot Interactiv on ISpot Interactiv's first demand, as additional security for ISpot Interactiv's claims in respect of the Buyer.

10.4 In the event that the Buyer fails to fulfil any obligation in respect of ISpot Interactiv or gives ISpot Interactiv good grounds to fear that it may fail to fulfil such obligations in the future, ISpot Interactiv will be authorised to repossess the Products delivered subject to the retention of title, without prejudice to its right to claim further damages. The Buyer undertakes to co-operate. Any and all costs related to the repossession will be borne by the Buyer.

## **11. Complaints**

11.1 Upon delivery, the Buyer must check if the Delivery complies with the agreement. In the event that any defects and/or shortages are noted, the Buyer shall promptly inform ISpot Interactiv thereof in writing, stating good reasons.

The Buyer must notify ISpot Interactiv of any invisible defects within two days of their discovery and in any case within two days of the moment at which the Buyer should, in reasonableness, have discovered such.

11.2 Having filed the complaint referred to above with ISpot Interactiv, the Buyer will be required to render any and all co-operation to ISpot Interactiv in investigating whether the complaint is sound. In the event that the Buyer's complaint turns out to be unfounded, the costs of the investigation will be borne by the Buyer.

11.3 In the event that ISpot Interactiv establishes that a defect or shortage is concerned of which it was notified by the Buyer on time, ISpot Interactiv will exclusively be required, at its option, to replace the defective Products, to deliver the missing Products, or to credit or pay back, in whole or in part, the amount charged in connection with the defective item. Should ISpot Interactiv decide to refund - part of - the purchase price, the Buyer will first have to return the defective Products to ISpot Interactiv.

11.4 The Buyer will not in any case be able to assert a claim against ISpot Interactiv in the event that the Products have, upon delivery, in whole or in part, been consumed, treated or processed, or merged with other Products.

11.5 Any right to dissolve the agreement will lapse: a) if notification is not effected on time, in accordance with Article 11.1 or b) 12 months after delivery (6 months in case

of products without an electronic component).

## **12. Force Majeure**

12.1 In the event that the Delivery is not possible in whole or in part due to force majeure, ISpot Interactiv will be entitled to suspend the Delivery. If this period lasts or is expected to last more than three months, ISpot Interactiv will be authorised to suspend or dissolve the agreement without there being an obligation to pay damages in that event.

12.3 "Force majeure" on the part of ISpot Interactiv is in any case, but not exclusively, defined as all circumstances as a consequence of which compliance with the agreement can no longer in reasonableness be required of ISpot Interactiv, which circumstances will in any case include transport problems, any default, in whole or in part, of ISpot Interactiv's suppliers, any default, in whole or in part, of third parties engaged by ISpot Interactiv to execute the agreement, restrictive Government measures, including the failure to obtain a required permit, of any nature whatsoever, a breakdown or interruption of the functioning of any public utility company, a breakdown, interruption or termination of the supply of raw materials, semi-finished products and/or end-products, as well as any circumstance that ISpot Interactiv could not in reasonableness have foreseen and which ISpot Interactiv cannot influence.

## **13. Liability**

13.1 ISpot Interactiv is only liable for damage that is attributable to intention or gross negligence on its part, or that is covered by Article 11.3.

13.2 ISpot Interactiv is not liable for any consequential damage or the loss of profits of the Buyer.

13.3 The Buyer shall fully indemnify ISpot Interactiv in respect of any and all claims related to any Products delivered or Services provided to the Buyer asserted by third parties against ISpot Interactiv on any basis whatsoever.

## **14. Provision of Services**

14.1 In the event that ISpot Interactiv is to provide Services in connection with the agreement, it shall exercise the

diligence of a prudent contractor. However, ISpot Interactiv will not at any time guarantee the result of the Services to be provided.

14.2 If a - timely filed - complaint in connection with the Services provided or to be provided is justified, ISpot Interactiv will only be required, at its option, to repair the defect, to provide the Service again, or to credit the amount charged in connection with the Service in whole or in part, in its reasonable opinion, or pay such back in whole or in part.

14.3 Any and all claims in connection with any Services provided will lapse five working days, at the latest, after the Services in question were provided or should have been provided, or as much earlier as ensues from the agreement.

14.4 The provisions laid down in Article 13 will apply equally to any liability in connection with the Services to be provided by ISpot Interactiv or in connection with any Services already provided by it. Within this framework, the reference in Article 13.1 to Article 11.3 is to be considered a reference to Article 14.2.

## **15. Intellectual Property Rights**

15.1 ISpot Interactiv declares that, to the extent that it can reasonably know, the Delivery does not infringe the intellectual property rights of third parties.

The intellectual property rights and copyrights in all software, drawings, specifications, know-how and other information (in the broadest meaning of the words) provided by or on behalf of ISpot Interactiv rest with ISpot Interactiv.

The Buyer may not copy any such software, drawings, specifications, know-how and other information of ISpot Interactiv without ISpot Interactiv's written permission.

The Buyer shall observe strict confidentiality with respect to all of the information and know-how received from ISpot Interactiv and the Buyer may not disclose any such information and know-how to third parties without ISpot Interactiv's prior written permission. Neither may the Buyer use such information and know-how in cases other than those expressly provided for in writing pursuant to an agreement to which these General Terms and Conditions apply.

15.2 The Buyer may not copy any drawings, software, stereotypes, templates, tools, etc., even if these were manufactured in collaboration with or for the account of the Buyer, and the goods produced with these, without ISpot Interactiv's prior written permission, or use such in a way other than expressly provided for in writing pursuant to an agreement to which these General Terms and Conditions apply. Any templates and/or tools, etc., will remain the property of ISpot Interactiv, even if these were manufactured pursuant to an order placed by the Buyer and/or the manufacturing costs were charged to the Buyer. In the event that any intellectual property rights arise and/or may be created in executing an agreement to which these General Terms and Conditions apply, any such rights will accrue to ISpot Interactiv and will be transferred to ISpot Interactiv by the Buyer to the extent necessary.

15.3 The Buyer shall indemnify ISpot Interactiv against any and all claims of third parties as ensuing from the infringement of an intellectual property right with respect to the manufacture, delivery or use of a Product or Service made or provided as per the Buyer's specifications. Such indemnification will also apply if ISpot Interactiv is to change an existing item or work on the Buyer's instructions.

## **16. Recall**

16.1 The Buyer guarantees that it will render any and all co-operation to ISpot Interactiv should ISpot Interactiv decide, for any reason, to remove any Deliveries sold from the market or communicate warnings to buyers and/or end-users in connection with Deliveries ("Recall").

16.2 On ISpot Interactiv's first demand, the Buyer shall sell and deliver back to ISpot Interactiv any and all delivered Products it has in stock in exchange for compensation of the price charged to the Buyer if ISpot Interactiv so decides within the framework of a Recall.

16.3 The Buyer shall provide ISpot Interactiv with any and all information on time, in order to enable ISpot Interactiv to notify buyers and/or end-users of a Recall on time.

16.4 The Buyer shall organise its business operations in such a way that the information referred to in the preceding

paragraphs can be provided. The provisions laid down in Directive 2001/95/EC on General Product Safety will be taken as a basis in this respect.

## **17. Suspension and Dissolution**

17.1 Without prejudice to ISpot Interactiv's rights on the grounds of the law, in the event that the Buyer fails to fulfil one of its obligations in respect of ISpot Interactiv or ISpot Interactiv fears that the Buyer may not fulfil its obligations in the future and the Buyer is unable to provide adequate security for the fulfilment of its obligations on ISpot Interactiv's first demand, ISpot Interactiv will have the right to suspend the - further - execution of the agreement or agreements concluded with the Buyer, or to dissolve any such agreement or agreements in whole or in part. Such rights and powers will in any case also accrue to ISpot Interactiv in one or more of the following events: The Buyer changes its business structure, control within the Buyer's business is changed, the Buyer's goods are attached, the Buyer applies for a suspension of payments, it is declared bankrupt or otherwise loses the free disposal of its assets, it winds up its business, dies or, if the Buyer is a company, is dissolved. Any right of the Buyer to suspend will be excluded.

## **18. Applicable Law and Disputes**

18.1 Romanian law will apply to all agreements between ISpot Interactiv and the Buyer. The applicability of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

18.2 Any and all disputes will be settled by the competent court in Baia Mare if the Buyer is located in a Member State of the European Union or in Norway, Switzerland or Iceland at the start of any proceedings. The foregoing will not affect ISpot Interactiv's right to submit a dispute to a court that would have jurisdiction absent this clause.

If the Buyer is not located in a Member State of the European Union or in Norway, Switzerland or Iceland at the start of any proceedings, disputes will be settled on the basis of arbitration in accordance with the

rules of the Romanian Arbitration Court . Arbitration proceedings will be conducted in the Romanian language, by three arbitrators.