


SALES TERMS & CONDITIONS OF SPIL GAMES B.V.


1. These Sales Terms and Conditions of SPIL GAMES B.V. and the Sales Insertion Order jointly form the agreement (hereinafter: the “**Agreement**”) between Client and SPIL GAMES B.V. (hereinafter “SPIL”). In case of a conflict between these Sales Terms and Conditions of SPIL GAMES B.V. and the Sales Insertion Order, the provisions of the Sales Insertion Order shall prevail.
2. These Sales Terms and Conditions supersede any and all prior oral and written quotations, communications, agreements and understandings of the parties in respect of the sale of ad space and shall apply in preference to and supersede any and all terms and conditions of any order placed by Client and any other terms and conditions submitted by Client
3. Any electronic communication between SPIL and Client shall be considered to be a “writing” and/or “in writing”. The electronic communication system used by SPIL will serve as sole proof for the content and the time of delivery and receipt of such electronic communication.
4. SPIL shall provide ad space at the Total Fee as specified in the Sales Insertion Order. The Start Date of the Advertisement as set out in the Sales Insertion Order is a target date. SPIL reserves the right in case of sudden, unexpected circumstances (e.g. of technical nature) to postpone the delivery of the ad space. In that event SPIL will only be obliged to compensate Client by delivering the advertising space for the agreed Advertisement period at the earliest date available or – if such delivery is reasonably not possible for SPIL or reasonably not acceptable for Client - SPIL shall compensate Client by restituting the Total Fee for the Advertisement in case such Total Fee shall have been paid by Client to SPIL. Client shall submit the Advertisement at least one week before the agreed Advertisement period. The Advertisements must comply with the technical requirements set out on <http://www.spilgames.com/advertising/en/index.php>.
5. Non-compliance of the Advertisements with such technical requirements shall be deemed a non-timely submittal by Client of the Advertisement. SPIL shall inform Client as soon as reasonably possible of any such non-compliance.
6. SPIL shall place the Advertisement as provided by Client on the agreed Spil Site(s). Parties acknowledge and agree that SPIL cannot be held liable for the Advertisement and its contents and/or for any links in the Advertisements to external websites and/or for the content of such external websites. To the extent necessary Client provides SPIL a non-exclusive, royalty free, non-transferable, worldwide license to publish the Advertisements on the agreed SPIL Sites.
7. Client may at any time and for any reason change the Advertisement, provided Client pays SPIL a change fee of fifteen percent (15%) of the Total Fee. Client is obliged to fulfill all payment obligations in relation to the Advertisement as set out in the Agreement.
8. Notwithstanding SPIL’s other rights and remedies under this Agreement, in the event of a cancellation in whole or in part prior to the Start Date Client shall pay SPIL the following cancellation fee:
 - (i) one (1) month prior to the Start Date – fifteen percent (15%) of the Total Fee;
 - (ii) two (2) weeks prior to the Start Date – fifty percent (50%) of the Total Fee; or
 - (iii) two (2) days prior to the Start Date – one hundred percent (100%) of the Total Fee.



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9. Client hereby represents and warrants to SPIL that:
- i) it is authorized to enter into this Agreement;
 - ii) the Advertisement is accurate and in accordance with SPIL's Advertising Restrictions that may be updated by SPIL from time to time;
 - iii) the Advertisement in accordance with this Agreement will not infringe any right (e.g. an intellectual property right) of any entity or person, and will not breach any applicable law (e.g. data protection/privacy law, advertisement law or code), regulation, rule or relevant industry codes;
 - iv) the availability and support for the Advertisement will be at all times of a high quality and nature, and shall meet the service level criteria and their descriptions in the Agreement as the case may be;
 - v) SPIL nor the users of the SPIL Sites will be exposed to any computer virus (or any similar or other damaging components) from the Advertisements;
 - vi) each website represented by any hyperlink shown or embedded in the Advertisement is suitable in all respects including its subject matter to be linked to from the SPIL Sites and upon SPIL's first request, Client will immediately remove all hyperlinks which in SPIL's reasonable opinion fail to comply with any of the above requirements at any time;
 - vii) it will comply with SPIL's Privacy Policy which is published at http://www.spilgames.com/privacy_policy.php and may be updated from time to time by SPIL and Client shall comply with all current legal obligations and regulations related to privacy of users of the SPIL Sites.

In case of breach of Client of its representations and warranties in this Section 9, SPIL shall be entitled to remove the Advertisement and/or to cancel the Advertisement without any right of Client to claim damages or restitution of any paid fees for the Advertisement or the Advertisement. Removal and/or cancellation by SPIL as a result of Client's breach of its representations and warranties in this Section 9 shall not free Client of its obligation to pay the Total Fee for the Advertisement.

10. Notwithstanding SPIL's right pursuant to Section 9 hereof to remove the Advertisement and/or to cancel the Advertisement in case of breach of Client of its warranties, Client shall defend, indemnify, and hold SPIL harmless from and against any and all liabilities, losses, damages, costs and expenses (including legal fees and expenses) associated with any claim or action brought against SPIL or its third party as the case may be for breach of Client's warranties as set forth in Section 9 hereof.
11. Notwithstanding SPIL's obligations as set out in Section 4, SPIL's liability towards Client under the Agreement shall never exceed the Total Fee set out in the Sales Insertion Order, including any discounts as the case may be.
12. Except for Clients' indemnification obligations set forth in Section 9, neither party hereto will be liable for any lost profits, or any form of special, incidental, indirect, consequential or punitive damages arising out of or related to this, however caused and under any theory of liability (including negligence), even if such Party has been advised of the possibility of such damages.
13. All intellectual property rights which already existed at the time of entering into the Agreement remain the property of the Party to which it belonged at that time.
14. Both Parties will comply with all material aspects of the laws and regulations applicable to the Agreement.
15. The Agreement ends after fulfillment by Client of all its payment obligations thereunder, except for those provisions that by their nature are deemed to survive.
16. Payments hereunder must be made in accordance with the agreed payment term as well as other payment instructions on the invoice issued by SPIL. In case payment of any amounts due hereunder shall not be received by SPIL within the agreed payment term, SPIL shall be entitled to cancel or to




suspend the Advertisement without incurring any liability. Cancellation of the Advertisement by SPIL due to late payment by Client shall not free Client of its obligation to pay the Total Fee and/or any change and/or cancellation fees for the Advertisement. Notwithstanding SPIL's right to cancel the Advertisement as set out in Section 16 of this Agreement, SPIL shall - in case Client is overdue with any amount payable under this Agreement - be entitled, without any notice of default being required, to charge interest on any overdue payment at the higher rate of either twelve percent (12%) per annum or one and a half times the prevailing rate under applicable law per annum, but not to exceed the maximum permitted interest rate under the applicable law, from the due date computed on a daily basis until all amounts outstanding are paid in full and furthermore charge collection costs of fifteen percent (15 %) of the outstanding amount with a minimum of 250.- Euro. All costs and expenses incurred by SPIL with respect to collection of overdue payments (including, without limitation, reasonable attorney's fees, expert fees, court costs and other expenses of litigation) shall be for Client's account.

17. Any amendment, supplement or modification of or to any provision of the Agreement and any waiver of any provision hereof shall be effective only if made or given in writing and signed by both parties hereto.
18. Unless otherwise agreed in writing, SPIL shall be entitled to terminate the Agreement with immediate effect if:
 - i) Client is put into liquidation or has ceased to conduct its business;
 - ii) Client requests or obtains (provisional) suspension of payment or is declared bankrupt;
 - iii) Client loses command over its assets or part thereof due to seizure, by being placed under trusteeship or in any other way;
 - iv) it should be reasonably accepted that Client can no longer meet its obligations under this Agreement.

In case of such termination of the Agreement by SPIL, SPIL shall not be held liable for the payment of any damages to Client.

- 19 Unless specified in this Agreement, all express or implied conditions, representations and warranties, including any implied warranty of merchantability or fitness for a particular purpose, are disclaimed, except to the extent such disclaimers are held to be legally invalid.
- 20 Client may not assign, sublicense, transfer, encumber or otherwise dispose of the Agreement without the prior written approval of SPIL. Any attempted assignment, sublicense, transfer, encumbrance or other disposal of the Agreement by Client in violation of this provision will constitute a material default and breach of this Agreement. Except as otherwise provided, this Agreement will be binding upon and inure to the benefit of the Parties' successors and lawful assigns.
- 21 Neither Party will issue any press releases or make public statements relating to the Agreement or the relationship between the Parties without the other Party's review of and written consent to such press release or public statement. Such consent also applies to any subsequent press releases with respect to the same subject matter.
- 22 No Party shall be deemed in default hereunder for any cessation, interruption or delay in the performance of its obligations due to causes beyond its reasonable control, including but not limited to: earthquake, flood, or other natural disaster, act of God, labor controversy, civil disturbance, war (whether or not officially declared) or the inability to obtain sufficient supplies, transportation, or other essential commodity or service required in the conduct of its business, or any change in or the adoption of any law, regulation, judgment or decree (each a "Force Majeure Event"). Each Party shall



have the right to terminate the Agreement immediately by written notice if any Force Majeure Event of the Party continues for more than seven (7) days.

- 23 Parties are independent contractors. Neither Party will be deemed to be an employee, agent, company or legal representative of the other Party for any purpose and neither will have any right, power or authority to create any obligation or responsibility on behalf of the other Party.
- 24 Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the minimum extent necessary without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provisions in any other jurisdiction and Parties shall in good faith negotiate to replace the invalid / unenforceable provisions with valid / enforceable provisions.
- 25 This Agreement shall be governed by the laws of the Netherlands and submitted to the exclusive jurisdiction of the court in Amsterdam, the Netherlands.