
General Terms and Conditions for Services

Section 1 – Subject matter and scope

1.1. These general terms and conditions for services shall apply to all services delivered to you by Black Point Agency Digital NV as specified in a proposal and/or an agreement between the Client and Black Point Agency in which reference is made to these general terms and conditions for services.

1.2. Nothing in these Terms and Conditions shall be deemed or construed to create or imply any agency, venture, partnership, representative or employment relationship between the parties for any purpose and the employees of one party shall not be deemed the employees of the other party. Neither party shall have any right to act on behalf of the other, nor represent that it has such right or authority.

1.3. Should any services be carried out by Black Point Agency, pending the conclusion of an agreement in writing, these Terms and Conditions, shall govern the contractual relationship between the parties with regard to these services.

1.4. The Client expressly waives its own general terms and conditions even in case reference is made thereto in purchase orders, invoices and/or any other document.

Section 2 – Price, invoicing and payment

The Agreement shall detail the prices for the services, payment and invoicing conditions and any possible modifications thereto.

In case of late or non-payment by the Client of past due invoices, Black Point Agency shall be entitled to suspend the performance of its services until full payment of such invoices.

If Client does not pay due and recoverable invoices within 10 working days after a written notice has been sent to Client regarding such late payment, Black Point Agency shall be entitled to charge to and collect from the Client a late payment interest on the undisputed amount of any such invoice at the rate of 10% per annum commencing on the date upon which such undisputed amounts have become overdue in accordance with the agreed invoicing and payment conditions and continuing in respect of all such overdue amounts until full payment thereof. Black Point Agency shall in addition to the foregoing, be allowed to charge an administrative collection charge equal to 10 % of the overdue amounts.

Section 3 - Responsibilities of Black Point Agency

3.1. Black Point Agency warrants that all services shall be performed in a professional manner and that all Black Point Agency consultants have the necessary expertise, training and skill to provide the services.

3.2. Any replacement of a Black Point Agency consultant shall be of equal expertise, training and skill as the replaced consultant.

3.3. Black Point Agency shall use all possible and reasonable efforts to provide the Services within the time limits determined in the Agreement.

Section 4 - Responsibilities of the Client

To perform the Services under the Agreement, the Client shall:

- (a) provide Black Point Agency all pertinent data and information as shall be reasonable required by Black Point Agency;
- (b) make available to Black Point Agency, the equipment and facilities necessary; and
- (c) grant to Black Point Agency unobstructed access to all sites and locations, insofar necessary for the delivery of the services.

Section 5 - Liability

5.1. Black Point Agency's liability, which has to be proven by Client, shall be limited to the direct damages resulting from errors, omissions, mistakes or faults of Black Point Agency in the delivery of the services (on the basis of an Agreement), to the lowest of the following amounts: either the amounts paid by the Client to Black Point Agency on the basis of the Agreement or 25.000 EURO for any one claim (i.e. an event or series of connected events) and in the aggregate during each 12 month period.

5.2. Black Point Agency's liability for material damage as a consequence of defects of the Website (i.e. the collection of Hyper Text Mark-Up Language (HTML) pages, Server Pages (ASP, PHP, JSP, ASPX, ...), files, images, dynamic information, and machine readable object code as the same exists on the date hereof together with any future changes and additions thereto of the above agreed in writing by the parties) is limited to the higher of 5.000 EURO or 15 % of the amounts paid by the Client to Black Point Agency on the basis of the Agreement..

5.3. Black Point Agency will hold the Client harmless for direct damage because of death or personal injuries caused during the delivery, installation or implementation of the Agreement deliverables and which is due to Black Point Agency's wrongful behavior up to a maximum amount as covered by Black Point Agency's insurance.

5.4. Black Point Agency will not be liable for any indirect or consequential loss, damage, cost or expense of any kind whatever and however caused, whether arising under contract, tort or

otherwise, including, but not limited to, loss of production, loss of or corruption to data, loss of profits or of contracts, loss of operation time and loss of goodwill or anticipated savings arising out of or in connection with the Agreement deliverables.

5.5. Black Point Agency is not liable for damages suffered by the Client as a result of modifications to the Agreement deliverables effected by the Client or by an Internet user.

Section 6 - Warranty

6.1. Black Point Agency warrants and undertakes that at the time of the final delivery, Black Point Agency will use its best efforts to provide the Website free from viruses, worms, Trojan horses, cancelbots and other contamination including but not limited to any codes or instructions that may be or will be used to access, modify, delete or damage any data files or other computer programs used by Client and generally known at the time of the final delivery.

6.2. Black Point Agency warrants and undertakes that, to the best of its knowledge, the Background Rights Developer and Foreground Rights (as defined in Section 11 hereunder), do not infringe any third party copyright or other intellectual property rights. If all or any part of the Background Rights Developer or Foreground Rights are, or in the opinion of Black Point Agency may become, the subject of any claim, suit or proceeding for infringement, Black Point Agency may, at its own expenses, take one of the following actions :

(a) procure for Client the right under such intellectual property right to use, as appropriate, the Background Right Developer, Foreground Right or the affected part thereof; or

(b) replace the Background Right Developer, Foreground Right or affected part thereof with other suitable or portions of it; or General Terms and Conditions for Services

(c) suitably modify the Background Right Developer, Foreground Right or affected part thereof to make it noninfringing; or

(d) if the use of the Background Right Developer, Foreground Right or a part thereof shall be prevented by injunction, or if none of the foregoing remedies are commercially feasible, refund the aggregate payments paid by the Client for the license of the Background Right Developer, Foreground Right or the affected part thereof, less reasonable depreciation for use.

6.3. The Client warrants and represents that any Background Rights Client (as defined in Section 11 hereunder) provided to the Developer for inclusion in the Website or used for the development of the Website are owned by the Client, or that the Client has permission from the rightful owner to use each of these elements.

6.4. The Client shall hold Black Point Agency harmless against all claims by any third party alleging that any Background Rights Client violates any applicable law, regulation, contract or generally accepted code of conduct, or infringes upon a third party's intellectual property rights or any other legitimate interest of said third party.

6.5. Black Point Agency will use its best efforts to develop the website to comply with the standards of the latest browser version available, at the start of development, and the one previous version. This applies to: Internet Explorer and FireFox, on PC and Mac. Black Point Agency will use reasonable efforts to ensure proper functioning of the latest browser version

available, at the start of the development, and one previous version of the following browsers: Safari, Opera and Chrome on PC.

Section 7 - Illicit or prejudicial content

7.1. The Client is solely responsible for providing the informational contents of the Website i.e. the entirety of the information which it wishes to be reproduced on the Website, be it hidden or visible through the consultation of the Website by an user. The Client expressly warrants that such informational content does not violate any applicable law, regulation, contract or generally accepted code of conduct, and does not violate, in any manner, any third-party rights. The Client undertakes to observe all applicable law, regulation, contract or generally accepted code of conduct which prevents, limits or regulates the diffusion of any information, e.g. provisions relating to advertising, to the protection of privacy rights, to the protection of intellectual property rights, to the prohibition of child pornography, etc. The Client shall hold Black Point Agency harmless against all claims by any third party alleging that the Website's informational content violates any applicable law, regulation, contract or generally accepted code of conduct, or infringes upon a third party's intellectual property rights, privacy rights or any other legitimate interest of said third party.

7.2. Either of its own initiative, or on the initiative of a thirdparty, Black Point Agency may decide to temporarily or definitively suspend the final delivery or the access to all or part of the Website, if it has the reasonable conviction that a legal or regulatory provision, or a contractual provision is or was violated. The Client expressly waives its right to claim any damages in the event of an error of appreciation of Black Point Agency, except in case of fraud or the serious fault of Black Point Agency. The suspension of any provision of service by Black Point Agency in application of the present paragraph does not suspend the Client's payments obligations.

Section 8 - Protection of personal data

Black Point Agency will use the Client's personal data only for the purpose of Client administration. Upon request in writing the Client can have access to its personal data. Information with respect to credit card numbers and bank data will be used only in relation to the payment of the agreed price.

Section 9 - Excused performance – Force majeure

9.1. Black Point Agency shall not be responsible for a failure to meet any of its contractual obligations under this Agreement, to the extent that such failure is directly attributable to Client or Client's representatives or any third party's (including third parties contracted by Client) act, error, omission or breach of this Agreement.

9.2. Neither party shall be liable for any delay or failure in performance hereunder arising out of causes beyond its control, including but not limited to delays caused by the other party's failure to perform or delay in performing its obligations under the Agreement, third party

delay or nonperformance, Acts of God, war, insurrection, riot, civil disturbance, rebellion, government regulations, embargoes, explosions, fires, floods, tempest, strikes, lock-outs, labor disputes, failures in public supply of electrical power. A party, in the event of such a cause, shall notify the other party immediately in writing of its delay or failure in performance, describing the cause and its effect upon the party's performance and the anticipated duration of the inability to perform.

Section 10 - Dispute resolution procedure

10.1. If any controversy should arise between the parties relating to the performance of the Services, either party may resort to the escalation procedure as set forth hereafter, by giving notice in writing to the other party.

10.2. Within seven (7) days of receipt of such notice, or within any other period agreed upon by the parties, the parties shall meet and attempt to resolve the controversy.

10.3. If the controversy is not resolved by the parties within fifteen (15) days of such meeting, Section 16 of these Terms and Conditions shall apply.

Section 11 - Intellectual Property

11.1. In this Section 11, the "Background Rights Client" shall mean any elements of text, graphic, photos, designs, logo, multimedia, audio-visual material, "look and feel" of the website or other artwork, documentation, flowcharts, drawings, specification, manuals and other data, codes, know-how, copyright, trademark or other intellectual property rights which have been developed, used, written or are owned by the Client before the date of signature of the Agreement. The "Background Rights Black Point Agency" shall mean any elements of text, graphic, photos, designs, logo, multimedia, audio-visual material, "look and feel" of the web-site or other artwork, documentation, flowcharts, drawings, specification, manuals and other data, codes, know-how, computer programs including without limitation source code listings in human readable and machine readable form, program files, data files, program and system logic, interfaces, algorithms, system design and concepts, together with the methods and processes associated with such programs, copyright, trademark or other intellectual property rights which have General Terms and Conditions for Services been developed, used, written or are owned by Black Point Agency before the date of signature of the Agreement. The "Foreground Rights" shall mean any elements of text, graphic, photos, designs, logo, multimedia, audio-visual material, "look and feel" of the web-site or other artwork, documentation, flowcharts, drawings, specification, manuals and other data, codes, know-how, copyright, trademark or other intellectual property rights which have been developed or written within the scope of the Agreement for the Consumer and any software program(s), manuals and other documentation, to be written by Black Point Agency for the Client within the scope of the Agreement.

11.2. The "Background Rights Client" remain the property of the Client.

11.3. The Client gives to Black Point Agency a nonexclusive and nontransferable right to use the Background Rights Client to the extent and time necessary for the performance of the Agreement.

11.4. The Background Rights Black Point Agency and Foreground Rights remain the property of Black Point Agency. In particular Black Point Agency will remain the owner of, and shall retain free of use all concepts, techniques, specific skills or preprogrammed routines or procedures, technologies or codes which have been developed, used or written for the purpose of the Agreement and/or which form part of Black Point Agency's know-how. Upon final delivery and provided that the price is entirely paid, the Client will be granted a nonexclusive and nontransferable right to use the Background Rights Black Point Agency and the Foreground Rights to the extent necessary for the functioning of the Agreement's deliverables and the consultation thereof by the intended users.

11.5. Without prejudice to Section 12, nothing contained in the Agreement shall restrict Black Point Agency from the use of any ideas, concepts, know-how, methodologies, processes, technologies, algorithms or techniques relating to the scope of the Agreement, which Black Point Agency develops under the Agreement, or develops or obtains independently of Client during the term of the Agreement.

11.6. The Client shall furthermore defend, indemnify and hold Black Point Agency harmless from and against any costs, expenses, losses, damages or liability incurred due to actual or alleged infringement of any patent, copyright, trade secret, trademark, arising out of Black Point Agency's use of the Client's software or Intellectual Property Rights.

11.7. The Client undertakes:

(a) to protect the Background Rights Black Point Agency against any copying, adapting, varying, modifying, in any other way changing the Background Rights Black Point Agency or the Foreground Rights and against any other unauthorized use by third parties, including Internet users; and

(b) to keep confidential codes, know-how, computer programs including without limitation source code listings in human-readable and machine-readable form, program files, data files, program and system logic, interfaces, algorithms, system design and concepts, together with the methods and processes associated with such programs.

Section 12 - Confidentiality

12.1. For the purpose of the Agreement and these Terms and Conditions and subject to Section 12.3, Confidential Information will be deemed to be all information (whether written, oral or in electronic form) concerning the business and affairs of a party that the other party obtains or receives as a result of the discussions leading up to or the entering into or the performance of the Agreement and includes all data relating to the Client held by or on behalf of Black Point Agency.

12.2. Client and Black Point Agency hereby warrant to the other to:

(a) keep confidential all Confidential Information belonging to the other;

(b) treat Confidential Information belonging to the other with the same degree of care that it uses for its own confidential information;

(c) not, without the prior written consent of the other, disclose Confidential Information belonging to the other in whole or in part to any other person save those of its employees, agents and subcontractors involved in the provision or receipt of the Services and who need to know the Confidential Information in question; and

(d) use the Confidential Information belonging to the other solely in connection with the provision or receipt of the Services and not for its own benefit or the benefit of any third party.

12.3. Nothing in these Terms and Conditions shall prohibit or limit either party's use or disclosure of information (including, but not limited to, ideas, concepts, know-how, techniques, and methodologies) (i) previously known to it without obligation of confidence, (ii) independently developed by it, (iii) acquired by it from a third party which is not, to its knowledge, under an obligation of confidence with respect to such information, or (iv) which is or becomes publicly available through no breach of the Agreement.

Section 13 - Early termination of the Agreement

13.1. In addition to the rights of termination mentioned in the Agreement, if any, either party may terminate the entire Agreement or any part thereof, by giving notice to the other party; (a) if the other party materially defaults in the performance or observance of any of its obligations hereunder and fails to remedy the default within thirty (30) working days after receiving written notice thereof; or (b) in the event of bankruptcy, liquidation, cessation of payments or any kind of insolvency of the other party.

13.2. Early termination of the Agreement or any part thereof shall not imply the waiver of any other right or remedy available to the parties for default or wrongdoing by the other party.

13.3. In case of early termination, the Client shall pay all past due invoices and amounts yet to be invoiced, for work performed by Black Point Agency up to and including the effective date of termination.

Section 14 - Publicity

14.1. Following final delivery, Black Point Agency shall be permitted to list the Client and the work executed on the Black Point Agency's website and in any of its marketing and advertising materials as having been developed by Black Point Agency. The material included on Black Point Agency's website could include a hypertext link to the Website. The Client shall have full discretion as to the form and content of such acknowledgement and the appearance of any link.

Section 15 - Non-solicitation

As of the effective date of the Agreement up to one year after its termination, both Parties agree that they shall not allow that persons employed or contracted by the other Party, who are or have been involved in the delivery of services to the Client in the framework of this Agreement, General Terms and Conditions for Services shall in any way actively or passively, directly or indirectly, be solicited, employed or in any other way contracted, other than on the basis of a written agreement between the Parties. the parties shall refrain from soliciting or hiring, directly or indirectly, any personnel members from the other party. This clause is only applicable to members of personnel and independent contractors of a party who have worked within the scope of the Agreement.

Section 16 – Assignment and Subcontracting

The Client may not assign or otherwise transfer this Agreement, without the prior written consent of Black Point Agency. Any purported assignment in violation of this paragraph shall be null and void.

Section 17 - Severability

If any provision of this Agreement or the application of any such provision to any person or circumstance, will be declared judicially to be invalid, unenforceable or void, such decision will not have the effect of invalidating or voiding the remainder of this Agreement, and it is the intent and agreement of the parties that this Agreement will be deemed amended by modifying such provision to the extent necessary to render it valid, legal and enforceable while preserving its intent or, if such modification is not possible, by substituting another provision that is legal and enforceable and that achieves the same objective.

Section 18 - No waiver of rights

No failure or delay on the part of either party to exercise any right or remedy under the Agreement or these Terms and Conditions shall be construed or operated as a waiver thereof.

Section 19 - Applicable law and competent jurisdiction

19.1. The Agreement and these Terms and Conditions shall be governed by and interpreted in accordance with the laws of Romania.

1.2. In case of disputes between the parties, arising out of the performance, the validity or the interpretation of the Agreement and/or these Terms and Conditions, which have not been solved according to the escalation procedure of Section 10, the parties agree that these disputes shall be subject to the exclusive jurisdiction of the courts of Romania.