



## General terms and conditions of Spotta, juli 2023

### 1 Applicability

- 1.1 These terms and conditions apply to all quotations, offers, advice, contracts and commissions arising therefrom with Netwerk VSP B.V. (hereinafter referred to as “Spotta”), with regard to the services to be provided by it. Deviations from these terms and conditions shall only apply insofar as they have been expressly agreed by the parties in writing.
- 1.2 During the period of validity of an offer or quotation, or during the term of an agreement, Spotta is at all times entitled to amend these general terms and conditions. If Spotta does so, it shall notify clients at least 30 days before the aforementioned change comes into effect by means of a general notification on its website and/or by notifying clients accordingly.
- 1.3 The provisions under “I. General” of these general terms and conditions apply to all Spotta services. The provisions under “II. Service specific” apply to the specific services indicated below and are additional to the provisions under “I. General”. In the event of conflict between the general provisions under (“I. General”) and the service-specific provisions (“II Service specific”), the provisions set out under “II Service specific” shall prevail.
- 1.4 The applicability of the general terms and conditions used by the client is expressly rejected.

### I General

### 2 Offers and price lists

- 2.1 All Spotta’s quotations and offers are without obligation and based on the information provided by the client. For combined quotations, there is no obligation to deliver a part at the price quoted for the whole.
- 2.2 Every quotation and/or offer is, unless explicitly stated otherwise, based on the execution under normal circumstances. Should the quantities, formats, weights or otherwise stated in the quotation and/or offer be changed, or should any discrepancies be found during the execution of an order with the quotation and/or offer issued for this order, Spotta reserves the right – even if an order confirmation has already taken place – to charge the changed or deviating quantities at the price applicable at that time in accordance with Spotta’s pricing policy, without prior notification to or permission from the client, and the client undertakes to pay for this.
- 2.3 Each offer and/or quotation and/or price list has a validity of thirty days after dating.

### 3 Conclusion of the agreement

An agreement with Spotta shall only be concluded by written confirmation by Spotta or if Spotta carries out the order after the client has accepted an offer or quotation in writing during the period of validity of that offer or quotation. If Spotta sends an order confirmation to the client, the contents of the order confirmation shall be considered complete and correct, unless the client protests against the order confirmation in writing, including by e-mail, immediately but no later than four working days or as much earlier as agreed (i.e. Mondays up to and including Fridays). Changes to the agreement only apply if they have been confirmed in writing by Spotta.

### 4 Scope of the agreement

- 4.1 The content of the agreement is limited to what has been agreed or to what has been delivered or performed by Spotta.
- 4.2 Spotta may suspend the commencement of its services (whether or not in respect of a specific order) for as long as it has not received the correct information and/or data from the client for the execution of the order, or has a suspicion thereof.
- 4.3 If Spotta is forced, whether or not at the client’s request, to carry out additional work (not previously agreed by the parties) than originally included in the instruction, Spotta shall carry out such additional work with due observance of reasonableness and fairness in order to avoid any unnecessary delay in the execution of the instruction. The aforementioned work shall then be charged to the client separately from that which Spotta has already charged to the client by virtue of the original order.
- 4.4 Situations in which Spotta is forced to perform additional work (not agreed upon in advance by the parties), as referred to in the above paragraph, shall in any case – not exhaustively – be understood to mean the circumstance that the information provided to Spotta does not correspond with the information provided by the client, or does not comply with reasonable standards to be set in this

respect and/or does not correspond with the delivery specifications indicated by Spotta for the specific service (see [www.zakelijk.spotta.nl](http://www.zakelijk.spotta.nl)).

## **5 Prices**

- 5.1 The prices quoted by Spotta are exclusive of value added tax and other government levies.
- 5.2 The prices confirmed by Spotta are only valid with regard to the information and formats, numbers, weights, etc. of the goods supplied as indicated by the client. In the event that Spotta discovers discrepancies in the actual formats, numbers, weights and/or otherwise during the performance of its services, Spotta shall charge the client for the additional costs involved.
- 5.3 Spotta is gerechtigd de overeengekomen prijzen te verhogen in geval van onder meer tussentijdse verhogingen en/of toeslagen op vrachten, douanetarieven, goederen en/of grondstofprijzen, belastingen, lonen of sociale lasten, waardedaling van de Nederlandse en/of stijging van buitenlandse valuta en al die overheidsmaatregelen welke prijsverhogend werken. 5.4 Spotta heeft, tenzij uitdrukkelijk anders overeengekomen, bij langer lopende overeenkomsten (duurovereenkomsten) het recht om alle prijzen met ingang van ieder kalenderjaar aan te passen overeenkomstig het consumentenprijsindexcijfer alle huishoudens van het Centraal Bureau voor de Statistiek (2006 = 100).
- 5.4 Spotta has the right, unless explicitly agreed otherwise, in the case of longer-term agreements (long-term contracts), to adjust all prices with effect from each calendar year in accordance with the consumer price index for all households of Statistics Netherlands (2006 = 100).
- 5.5 Without prejudice to the provisions of Article 5.4, in the event of a continuing performance agreement (as referred to in Article 12) Spotta shall at all times be entitled to make general rate changes after the initial (agreed specific) term, of which it shall inform the client in good time. If the client does not agree with this change, the client has the right to terminate the agreement by the date on which the change takes effect.

## **6 Refusal of delivery**

Spotta reserves the right not to carry out an order or not to carry it out any further without being liable to pay any compensation, if:

- The material provided by the client, either physically or digitally, samples or object by content, form or purpose appears to be contrary to any statutory provision, the guidelines as expressed in the codes of the Stichting Reclame Code, public order, morality or the due care befitting in society, including unfair competition.
- The material provided by the client, either physically or digitally, sample or object cannot be processed by machine or in any other way threatens to slow down the service through the actions of the client or third parties, in all cases in which the client is obliged to compensate Spotta for the damage and loss of interest and to pay any costs to Spotta.
- The material provided by the client, either physically or digitally, is directly contrary to Spotta's business interests.
- Spotta has any other reasons for not providing the service in respect of the material provided, either physically or digitally, such as in the event that Spotta considers the material provided, either physically or digital, unsuitable for a certain target group, offensive, etc.

## **7 Delivery of materials**

- 7.1 Delivery of the material, either physically or digitally, can only take place if the client has instructed Spotta to perform services as referred to in Article 3. Delivery must take place in accordance with the instructions given by Spotta as stated in the delivery specifications applicable to the specific service as published on [www.zakelijk.spotta.nl](http://www.zakelijk.spotta.nl).
- 7.2 If the client does not comply with the provisions of the relevant delivery specifications, Spotta is entitled to charge additional costs, without prejudice to Spotta's right to refuse to carry out the order in question.
- 7.3 If applicable, the information provided by or on behalf of the client at the time of delivery of the materials (such as indicated quantities, indicated impressions, weights, shapes, dimensions and otherwise) shall be assumed by Spotta to be correct. Spotta is not liable for the consequences of differences between the delivered and agreed quantities, impressions, weights, shapes and dimensions. If applicable, Spotta shall only sign for receipt upon delivery. Signature does not affect the accuracy of the information provided by the client. Spotta reserves the right at all times to check the materials supplied in terms of quality,

impressions and quality. After this inspection, Spotta can report any deviations to the client. Spotta shall charge the client for any costs resulting from deviations from the information provided by the client.

- 7.4 In the event of late delivery of the materials, the client is obliged to set a new distribution and/or publication period, with due observance of the options available at that time for Spotta to carry out the order, which is at Spotta's discretion. Spotta has the right to pass on all costs incurred due to late delivery to the client.

## **8 Cancellation of an order**

- 8.1 In the event of cancellation of an order, or adjustment of the agreed term within which the order is to be carried out (both situations hereinafter also referred to as "cancellation"), Spotta is entitled to charge the client at least 30% of the invoice value of the cancelled order.
- 8.2 In the event of termination of a continuing performance agreement, or limitation of an agreed scope in an agreement, a fee shall be charged to the client in accordance with the methodology described above.

## **9 Payment**

- 9.1 Payment shall be made within fourteen days of the invoice date.
- 9.2 If the invoice amount has not been received within the agreed term of payment, the client shall be in default without prior notice of default and shall owe statutory interest as referred to in Section 6:119 a of the Dutch Civil Code. Spotta is also entitled to suspend its further services for the duration that payment is not made.
- 9.3 Spotta is entitled, among other things, but not limited to the cases mentioned below in subparagraphs a, b and c, to demand advance payment from the client for any services (still to be) performed:
- If the amount due for services to be provided exceeds the fixed deposit amount referred to in Article 10.
  - If the client is in default or fails to fulfil its obligations to supplement the deposit amount as referred to in Article 10.
  - In the event of a request for or granting of a client debt rescheduling, suspension of payments or bankruptcy, in the event of impending bankruptcy or if the client has otherwise lost the free disposal of his assets.
- 9.4 Spotta is entitled at any time to demand full payment of the price in advance or any other security for payment of the price before commencing or continuing the performance of the agreement. In case Spotta uses the services of third parties (as agreed upon), the related costs and/or rates shall always be paid in advance.
- 9.5 If the client remains in default in the fulfilment of any obligation arising from the agreement, the client shall also be obliged to fully reimburse all costs, including but not limited to extrajudicial and judicial costs, lawyer's fees and costs of internal and external advice, the amount of which shall be set to at least 15% of the total invoice amount due with a minimum of € 250.
- 9.6 Payments made by the client shall always serve to repay all interest and costs due and subsequently the longest outstanding invoices, even if the client states that the payment relates to a later invoice.
- 9.7 The client is not authorised to suspend or set off its payment obligation.
- 9.8 If the client does not agree with the invoice amount or a part thereof, it must inform Spotta of this within 14 days of the invoice date. Without evidence to the contrary from the client, the records kept by Spotta constitute full proof of the correctness of the invoice amount.
- 9.9 Spotta works with credit risk insurance. This means that Spotta is covered against losses incurred as a result of the client's bankruptcy. A credit limit is known to Spotta for each client. If that limit is not sufficient to pay all outstanding claims of Spotta, the client will receive a pro forma invoice from Spotta, which must be paid by the client no later than ten days before the start of the distribution. After the assignment has been carried out, the client receives the final invoice and a credit note for the pro forma invoice from Spotta. Any difference will be paid by the client or repaid by Spotta to the client or set off against any amounts owed by the client to Spotta.

## **10 Deposit amount**

- 10.1 Spotta may require the client to deposit an amount in an account specified by Spotta before commencing the performance of an order (hereinafter: "deposit amount").
- 10.2 The amount of the deposit shall correspond to the amount that the client is expected to owe Spotta on

average per invoice period for the services to be provided. The deposit amount shall be charged to the client by means of an initial invoice.

- 10.3 Spotta has the right to set off a due and payable invoice amount, and possibly the interest thereon and the extrajudicial costs, against the deposit amount or to invoke a deposit amount in the event of default, application for or granting of a debt rescheduling arrangement, suspension of payments or bankruptcy, or in the event that the client has otherwise lost the free disposal of its assets. If Spotta has exercised this right of set-off, the client shall immediately proceed to supplement the deposit amount, before Spotta shall again carry out orders on behalf of the client. The foregoing is without prejudice to Spotta's right to demand prior (cash) payment as ensuing from Article 9.
- 10.4 If Spotta finds that the amount of the deposit differs from the average invoice amount due in the period since it was established, it shall be entitled to adjust the amount of the deposit amount to that difference. After written notification of the reduction or increase of the deposit amount, the adjustment shall be settled or charged by means of the next invoice.

## **11 Right of suspension and lien**

- 11.1 In the event of non-fulfilment by the client of a claim due and payable, Spotta shall be entitled to suspend further fulfilment of its obligations arising from all agreements in force between Spotta and the client until performance takes place, without prejudice to its other rights of suspension arising from the law. In addition, in the event of non-performance by the client of a claim due and payable, all Spotta's claims against the client shall become immediately due and payable in full.
- 11.2 Spotta shall also be entitled to the right of suspension referred to above if it has good grounds to assume that the client will fail imputably in the fulfilment of a payment obligation, unless sufficient security is provided by the client. This assumption may be based on information from third parties, for example an assessment by a credit insurance company.

## **12 Continuing performance agreement**

- 12.1 In the event that the parties have entered into a (continuing performance) agreement, this agreement between the parties shall be valid for the specified period of time, unless otherwise agreed in writing. At the end of this fixed period, the agreement shall be tacitly renewed for a fixed period of one year each time, unless one of the parties terminates it by registered letter with three months' notice by the end of the fixed period.
- 12.2 Each of the parties shall have the right to dissolve the continuing performance agreement, in whole or in part, without judicial intervention, with immediate effect, if:
- (I) The other party fails imputably in the performance of an obligation under the continuing performance agreement, justifies such failure to perform and fails to perform after that party has been declared in default setting a reasonable term for performance.
  - (II) The other party has applied for suspension of payment or has been granted such suspension
  - (III) The other party has been declared bankrupt or has filed a petition for bankruptcy in respect of this party.
  - (IV) The other party's business is being wound up or terminated other than for the purpose of reconstruction or merger of businesses.
  - (V) The other party is acting in violation of laws and regulations, common decency and/or public policy.

## **13 Force majeure**

- 13.1 Neither party shall be obliged to comply with any obligation if it is prevented from doing so as a result of a circumstance for which it is not to blame, nor for which it is responsible by virtue of law, legal act or generally accepted views.
- 13.2 The following circumstances are deemed not to be Spotta's responsibility: extremely bad weather conditions, strikes, severe frost, abnormal water levels, flooding, power failures, the temporary unavailability or insufficient availability of hardware, software and/or internet or other telecommunication connections necessary for the execution of the order, the cancellation or unavailability of a web page managed by a third party, as well as any other situation over which Spotta cannot exercise (decisive) control, and as well as any circumstance of any nature whatsoever which makes the execution of the order impossible for Spotta or causes more objections than Spotta could reasonably have expected when concluding the agreement.

#### **14 Complaints**

Complaints shall be reported to Spotta in writing and properly substantiated within 5 working days after the last day of the planned performance of the order. The client is not entitled to suspend the fulfilment of its obligations on the basis of a complaint.

#### **15 Liability**

The scope of any liability of Spotta in the event of attributable failure to perform the agreement shall always be limited per event or coherent series of events to the invoice value of (that part of) the order (excluding VAT), as a result of which or in connection with which the liability arose. The liability as referred to in this article does not apply in the event of Spotta's intent or deliberate recklessness. Liability for indirect damage, including but not limited to consequential damage, loss or alteration of data, loss of profit, damage from third parties, government claims, damage as a result of business stagnation, damage to the IT infrastructure and/or software of the client that has arisen as a result of the use, application or operation of the IT infrastructure and/or software or as a result of (computer) viruses, replicating computer programmes and unwanted installations, missed savings and damage to the client's image, is explicitly excluded.

#### **16 Advice**

Any advice given by Spotta is only indicative. The client cannot derive any rights from the advice given by Spotta.

#### **17 Privacy**

- 17.1 The client guarantees that, with regard to the personal data it provides to Spotta, it complies with all applicable laws and regulations regarding the protection of personal data, and that these laws and regulations permit the provision of such personal data to Spotta and the processing of such data by Spotta.
- 17.2 The client shall indemnify Spotta against all claims of third parties arising from the client's failure to comply with these laws and regulations.
- 17.3 Spotta shall ensure that its employees and the third parties involved in the performance of the order shall comply with the provisions of this article.
- 17.4 Spotta shall take adequate technical and organisational measures to protect the personal data against loss or any form of unlawful processing. These measures shall ensure a level of security appropriate to the risks represented by the processing and the nature of the data to be protected, taking into account the state of the art and the cost of their implementation.

#### **18 Intellectual property rights**

- 18.1 Any intellectual property rights that may arise at the instruction of the client or otherwise during the performance of the order shall remain Spotta's property, unless explicitly agreed otherwise.
- 18.2 If Spotta is provided with any intellectual property rights by the client for the performance of the order, the ownership thereof shall remain vested in the client. The client guarantees that Spotta is entitled to use the intellectual property rights for the execution of the order, which may include sharing them with or having them shared by third parties. The client indemnifies Spotta against any claims by third parties in respect of an infringement of a third party's intellectual property right.
- 18.3 Spotta has the right, and in so far as necessary the client gives its explicit permission, to adapt and alter the materials supplied by the client for the publication and execution of the order as referred to in Article 18.2.

#### **19. Other**

Spotta shall carry out the work to the best of its knowledge and ability and in accordance with the requirements of good workmanship, exercising the care that can be expected of Spotta. However, Spotta does not give any guarantees regarding the services and/or advice it provides. This obligation has the character of an obligation to perform to the best of one's ability. Spotta shall not be liable for any damage related to incorrect or unauthorised delivery of unaddressed printed advertising material, or any violation of local laws or regulations. The client indemnifies Spotta against claims from third parties, including municipal authorities, regarding incorrect or unauthorised delivery, or a violation of local laws or regulations.



## 20. Applicable law and service address

Disputes arising from agreements with Spotta are governed by Dutch law. The applicability of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 ("Vienna Sales Convention") is expressly excluded by the parties. All disputes shall in the first instance be adjudicated by the competent court in Utrecht, unless Spotta prefers the court in the place of establishment or domicile of the client or mandatory law dictates otherwise.

## II Service specific

### Distribution

## 21. Cancellation of an order

Cancellation, as referred to in article 8, of an order is free of charge until 12:00 on Wednesday 2 weeks prior to the week in which it is scheduled to be distributed. In the event of cancellation after the aforementioned time, the client is obliged to pay 30% of the invoice value of the cancelled order. In the event of cancellation of the order after Monday 09:00 in the week prior to distribution, the client shall pay 100% of the invoice value of the cancelled order.

## 22 Distribution (date)

- 22.1 Unless expressly agreed, no claim can be made for exclusive distribution of printed matter, objects or samples. For exclusive distributions, further conditions shall be determined for each order in addition to these general terms and conditions and special rates shall apply.
- 22.2 Agreed distribution dates are not strict deadlines. Spotta endeavours to adhere as much as possible to the distribution dates, but is not liable for the consequences of premature distribution or exceeding of the distribution date, or a shift as a result of national or local public holidays. Such premature distribution or exceeding of the distribution date does not oblige Spotta to pay any compensation, nor does it give the client the right to suspend payment of invoices or to declare the agreement dissolved. However, the client is entitled to summon Spotta in writing to distribute within a reasonable period of time after the distribution period has expired. If this period is exceeded, the client has the right to dissolve the agreement with a notice period of 30 days.
- 22.3 Distribution dates as referred to in the above paragraph shall only apply if the materials to be distributed have been delivered by the client to Spotta on the agreed day and location and at the agreed time.

## 23 Storage and transport of materials

- 23.1 The materials in storage at Spotta are insured against fire and water damage, explosion and damage caused by aircraft accidents. All transport of materials for the execution of an order by Spotta is at the client's risk and is therefore not insured. If requested, the material to be processed or delivered can be insured against theft, fraud, loss, loss and/or damage, at the expense of the client. If the client does not take out insurance, Spotta accepts no liability for the aforementioned risks. With regard to the storage and transport of samples and objects, further rules shall be laid down in consultation with Spotta. Without further instruction, Spotta is entitled to destroy remnants of printed matter, i.e. printed matter that remains after the order has been carried out and of which Spotta can reasonably assume that distribution of the printed matter in question shall no longer be required at another time, unless agreed otherwise with the client.
- 23.2 If remnants are returned at the client's request, these shall be transported to the location indicated by the client at the client's expense. For materials of the client, which are stored at Spotta for longer than two weeks, the client shall be charged an amount for storage. This amount is calculated per pallet place per week.
- 23.3 Spotta is authorised to suspend the fulfilment of an obligation to deliver materials and/or residual consignments until all its claims against the client have been paid, irrespective of whether these claims relate to the aforementioned or other goods of the client, unless the client has provided adequate security for these costs. Spotta also has the right of retention in the event that the client becomes bankrupt. One month after Spotta has invoked its right of retention, Spotta shall be entitled to have the client's materials or remnants destroyed at the client's expense.

## 24 Inserts

It is not permitted without Spotta's prior written consent to insert so-called inserts, also known as package leaflets in the form of written communication or goods, etc. in the printed matter to be distributed. Special rates are also available on request.

## **25 Liability**

- 25.1 If Spotta and the client have agreed that the distribution of certain consignments from the client shall be controlled by the client's database or by the database of a third party engaged by or on behalf of the client, the following applies in addition to the provisions of Article 15 under I. General. The responsibility for the choice of and the content of the database and the responsibility for the quality of the consumer data used and their integration into the Network Digital Delivery Districts system rests entirely with the client, and Spotta accepts no liability whatsoever in this respect, not even if Spotta has advised the client in this respect.
- 25.2 Without prejudice to the other provisions of these general terms and conditions concerning Spotta's liability, Spotta shall only be liable for replacement compensation, i.e. compensation for the value of the omitted performance, in the event of attributable failure to perform the agreement, which only occurs if at least 40% of the total print run of at least 3,000 copies has not been distributed or has been distributed late, and after distribution in those places or parts where omissions have been demonstrated is no longer possible.
- 25.3 In the event of incomplete execution of the distribution order, the client is not entitled to restitution and/or the value of the non-distributed materials. Furthermore, Spotta is under no circumstances liable for damage caused by delay, for damage due to exceeding distribution periods as a result of changed circumstances and/or public holidays and for damage due to the provision of inadequate cooperation, information or materials.
- 25.4 Spotta shall make every effort to advise the client with the utmost care about and help with the determination of distribution areas. The final decision and responsibility for the areas to be distributed lies with the client. Spotta is not responsible and liable for the distribution areas that the client selects, or that are selected by order of the client. On request the client shall receive a specification of the areas to be distributed at location and/or four positional postcode level.
- 25.5 Spotta strives for an optimal distribution of the client's materials. Spotta does not give any guarantees with regard to the complete execution of the distribution order and the distribution density of the materials.

## **26 Complaints**

- 26.1 Complaints shall be reported within the period stipulated in Article 14. Any complaints must at least state the postcodes and house numbers to which the complaint relates.
- 26.2 In the event of repeated complaints or multiple complaints relating to one delivery district within the distribution period of one week, Spotta shall investigate the origin of the complaints and take action if necessary. In addition, the distribution quality is measured and regularly checked on the basis of reports from an independent research agency called in by Spotta.
  - a) Houses without a letterbox or with a letterbox that is difficult to reach, or houses where there is only one letterbox for several families.
  - b) Residential buildings or shopping centres, where access to the letter box is locked.
  - c) Caravans or houseboats.
  - d) Guesthouses.
  - e) Hotels.
  - f) Sanatoriums.
  - g) Hospitals and industrial sites.
  - h) Retirement and nursing homes.
  - i) Neighbourhoods or streets in which houses are situated where printed matter is freely available to everyone.
  - j) Where it appears that a resident is the complaining party and the main resident has received the printed material.
  - k) Where animals are kept in the yard or elsewhere, or where garden gates are locked or where it is otherwise difficult and/or dangerous for a deliveryman to enter for any reason.
  - l) Delays in distribution due to force majeure as referred to in Article 13 (I. General), which should also be understood to mean extremely bad weather conditions.

m) Addresses who have indicated by means of a sticker that they do not wish to receive printed matter.

26.4 If the correctness of a complaint has to be established, this can only be done on the basis of the method of complaint investigation used by Spotta.

## **27 Quality control**

27.1 Spotta makes every effort to ensure optimal distribution of the printed matter. Spotta checks the quality of the distribution by means of its own quality control system. This system stores all complaints about distribution. In the event of repeated complaints or multiple complaints relating to one delivery district within the distribution period of one week, Spotta shall investigate the origin of the complaints and take action if necessary. In addition, the distribution quality is measured and regularly checked on the basis of reports from an independent research agency called in by Spotta.

27.2 Despite the fact that Spotta does not guarantee the quality of the distribution of the printed matter, Spotta appreciates that complaints about the distribution are reported to it. Complaints about the distribution shall be reported to Spotta in writing within the period referred to in Article 14 and with due observance of the other provisions of those articles. A complaint about the distribution is always registered by Spotta in the quality control system.