

TERMS AND CONDITIONS
FOR DESIGN AND PRODUCTION
OF MARKETING MATERIALS
BETWEEN
JO MENHINICK DESIGN LTD
AND
THEIR CUSTOMERS

15 .04.14

1. Conditions of Service

1.1 THE CUSTOMER will pay invoices within terms agreed stated on the particular invoice.

1.2 JMD reserves the right to charge 2.5% interest per month on late payment of invoices.

1.3 JMD does not hold any responsibility for the accuracy of technical information provided by THE CUSTOMER. A standard process of proofing and checking , the purpose of which is to eliminate and production errors for each print run will proceed as follows:

Stage 1; After initial artwork production by JMD, emailed pdfs will be supplied to THE CUSTOMER for checking, adding, deleting and information and amending or highlighting any queries of the publication. JMD will then update accordingly.

Stage 2; JMD will supply revised pdfs to THE CUSTOMER. THE CUSTOMER will check and make any minor amendments.

Stage3; JMD will submit final pdfs and/or laser proofs to THE CUSTOMER. THE CUSTOMER will sign off these in approval for printing.

After stage 3, JMD will not accept any responsibility for errors.

1.4 The original data for printed material will be archived by JMD.

1.5 The design and layouts provided for all printed material is created and provided exclusively for THE CUSTOMER.

1.6 Artwork for printing is supplied as high resolution Adobe pdf in the correct format for printing, as specified for the specific project ordered. No other file formats are supplied for publishing or editing documents. Logo design artwork is supplied in .eps, .jpeg, .pdf . JMD does not supply InDesign files and/or fonts under any circumstances.

2. Termination of Agreement

2.1 THE CUSTOMER shall have the right to terminate this Agreement forthwith by giving a month's notice in writing to JMD. In the event of termination by THE CUSTOMER, THE CUSTOMER will settle all outstanding invoices with JMD together with any un invoiced work in progress.

2.2 In the event that JMD is unable to fulfill the requirements of THE CUSTOMER, all material and design work completed will be handed to THE CUSTOMER. A settlement invoice will be agreed between both parties at time.

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DATA PROTECTION

3.1 If JMD Ltd processes any personal data (as defined in the Data Protection Act 1998) on the Customer's behalf when performing its obligations under any Contract, the parties record their intention that the Customer shall be the data controller and JMD Ltd shall be a data processor and in any such case:

3.1.1 the Customer shall ensure that the Customer is entitled to transfer the relevant personal data to JMD Ltd so that JMD Ltd may lawfully process the personal data in accordance with this agreement on the Customer's behalf;

3.1.2 each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

3.2 Unless indicated otherwise on within the relevant Order, the Customer hereby agrees to allow JMD Ltd to collect and process data and information regarding the Customer's use of the Services and to provide this to: (i) sub-contractors and/or companies affiliated with JMD Ltd for the purposes of marketing JMD Ltd' (or JMD Ltd' affiliated companies) services, or other related services; (ii) for any other purpose connected with the Agreement; or (iii) any governmental or regulatory body for the purpose of JMD Ltd' compliance with any applicable laws and regulations. JMD Ltd will provide the Customer on request with details of all such information held by JMD Ltd, and will modify any information that the Customer advises is incorrect.

3.3 JMD Ltd may, from time to time, send the Customer information relating to the services of JMD Ltd and/or those of other companies that JMD Ltd feels may be of interest to the Customer. If the Customer does not want to receive such information, it should inform JMD Ltd in writing.

CONFIDENTIALITY

A party ("**Receiving Party**") shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party ("**Disclosing Party**"), its employees, agents or

subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party.

LIMITATION OF LIABILITY & INDEMNITIES: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION

4.1 Nothing in these Conditions shall limit or exclude JMD Ltd' liability for:

4.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

4.1.2 fraud or fraudulent misrepresentation; or

4.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

4.2 Subject to condition 4.1:

4.2.1 JMD Ltd shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for:

4.2.1.1 any loss of data (including any Customer Data) as this should be backed-up/archived by the Customer;

4.2.1.2 any loss of Customer Materials, as these should be backed-up/archived by the Customer;

4.2.1.3 any breach of security (provided JMD Ltd has used its reasonable endeavours to avoid the same);

4.2.1.4 any loss of profit;

4.2.1.5 any loss of business; or

4.2.1.6 any indirect or consequential loss; arising under or in connection with the Contract;

4.2.3 JMD Ltd' total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the value of the Services provided under the applicable Contract in a 12 month period.

4.3 Indemnities: The Customer shall indemnify JMD Ltd from and against any and all damages, losses, costs and expenses incurred by JMD Ltd

arising as a result of:

4.3.1 any claims relating the use and/or operation of any Deliverable (save for any claim that any Deliverable infringes the Intellectual Property Rights of any third party), including by way of example, any claims resulting from any product or services which the Customer may sell through any Deliverable;

4.3.2 any claim that any of the Customer Materials or Customer Data infringes the Intellectual Property Rights of any third party;

4.3.3 any claim that any of the Customer Materials or Customer Data constitutes Inappropriate Content; and

4.3.4 any Virus which is uploaded to JMD Ltd from the Customer as a result of the provision of the Services.

4.4 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

TERMINATION

5.1 Without limiting its other rights or remedies, JMD Ltd may terminate the Contract with immediate effect by giving written notice to the Customer if:

5.1.1 if the Customer fails to pay any amount due under this Contract on the due date for payment

5.1.2 the Customer commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 days of that party being notified in writing of the breach;

5.1.3 the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

5.1.4 the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;

5.1.5 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies

or the solvent reconstruction of the Customer;

5.1.6 the Customer (being an individual) is the subject of a bankruptcy petition or order;

5.1.7 a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;

5.1.8 an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer (being a company);

5.1.9 a floating charge holder over the assets of the Customer (being a company) has become entitled to appoint or has appointed an administrative receiver;

5.1.10 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the Customer;

5.1.11 any event occurs or proceeding is taken with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in condition 12.1.3 to condition 12.1.10 (inclusive);

5.1.12 the Customer suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or

5.1.13 the Customer (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

5.2 Without limiting its other rights or remedies, JMD Ltd may terminate the Contract with immediate effect (and shall, where permitted to do so under all applicable laws and regulations, provide notice to the Customer as soon as reasonably practicable thereafter) if:

5.2.1 JMD Ltd is required by an appropriate authority or other third party to cease to provide the JMD Services to the Customer, for example, where JMD Ltd has received an order from the Police;

5.2.2 any content which JMD Ltd is hosting as part of the Services (which shall include any website hosted by JMD Ltd) is the subject of a denial of service attack or a distributed denial of service attack (or any event having a similar effect to the aforementioned); or

5.2.3 the Customer or any of its agents or representatives behaves towards JMD Ltd in a manner which JMD Ltd considers to be abusive or threatening in any manner.

5.3 Without limiting its other rights or remedies, each party shall have the

right to terminate for convenience in the following circumstances only:

5.3.1 a Contract for the provision of JMD Standard Services by giving the other party no less than 7 days' notice (in writing or by contacting our customer services team over the phone) before the next billing date;

5.3.2 a Contract for the provision of JMD Bespoke Services prior to the completion/release of a Deliverable provided that:

5.3.2.1 where JMD Ltd initiates such termination, JMD Ltd agrees to reimburse the Customer in full either by cheque within 30 days of termination, or by cancelling/refunding any payment card transaction(s) and JMD Ltd shall have no further obligations to the Customer;

5.3.2.2 where the Customer initiates such termination (which must be done by calling JMD Ltd cancellation team or in writing to the office address. Email cancellation requests will not be accepted): (a) if the Customer terminates the Contract within 48 hours after acceptance by JMD Ltd, JMD Ltd shall refund twenty five (25%) percent of the total down payment received and JMD Ltd shall have no further obligations to the Customer; (b) if the Customer terminates the Contract 48 hours or more after acceptance by JMD Ltd, JMD Ltd may charge the Customer for design work performed prior to the date of notice of cancellation based, in JMD Ltd' sole discretion upon either (i) the number of hours of work undertaken at JMD Ltd' standard hourly rates; or (ii) for all accepted milestones and a pro-rated amount for partially completed deliverables.

5.4 Without limiting its other rights or remedies, JMD Ltd shall have the right to suspend provision of the Services under the Contract or any other contract between the Customer and JMD Ltd if the Customer becomes subject to any of the events listed in condition 5.1.1 to condition 5.1.13 or condition 5.2.1 or 5.2.2, or JMD Ltd reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

6.1 JMD Ltd shall be entitled to delete all data, files, or other information that is stored by JMD Ltd at that time (or within a reasonable time thereafter) which shall include all Deliverables, Customer Materials and Customer Data;

6.2 the Customer shall immediately pay to JMD Ltd all of JMD Ltd'

outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, JMD Ltd shall submit an invoice, which shall be payable by the Customer immediately on receipt;

6.3 the Customer shall return any Deliverables which have not been fully paid for. If the Customer fails to do so, then JMD Ltd may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;

6.4 the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

6.5 conditions which expressly or by implication have effect after termination shall continue in full force and effect.

CANCELLATION POLICY

The Customer may cancel their products and services with JMD Ltd by giving at least 7 days notice either by telephone to JMD Ltd Cancellation Department or via writing to JMD Ltd.

GENERAL

7.1 Marketing & Publicity: JMD Ltd reserves the right to refer to the Customer and/or feature the Customer's name, logos, product or service brand names, and/or any Deliverable in its own marketing, advertising and/or general promotion (including use on the JMD Websites).

7.2 Customer Feedback

7.2.1 JMD Ltd values Customer Feedback. This greatly assists JMD Ltd to continually improve the services for the Customer and other customers. Therefore, where the Customer provides Customer Feedback, it warrants and represents that it owns or otherwise controls the rights necessary to do so and it grants JMD Ltd and its affiliated companies permission to:

7.2.1.1 use, modify, copy, distribute, transmit, publicly display, publicly perform, reproduce, publish, sublicense, create derivative works from, transfer, or sell any such Customer Feedback; and

7.2.1.2 sublicense to third parties the unrestricted right to exercise any of the foregoing rights granted with respect to such Customer Feedback. No compensation will be paid with respect to JMD Ltd' use of the Customer Feedback. JMD Ltd is under no obligation to post or use any materials the Customer may provide and may remove such materials at any time at JMD

Ltd' sole discretion.

7.3 Force majeure:

7.3.1 For the purposes of this Contract, "**Force Majeure Event**" means an event beyond the reasonable control of JMD Ltd including strikes, lock-outs or other industrial disputes (whether involving the workforce of JMD Ltd or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors. For the avoidance of doubt, the Customer acknowledges that a failure on the part of JMD Ltd' internet connection providers shall constitute a Force Majeure Event.

7.3.2 JMD Ltd shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

7.3.3 If the Force Majeure Event prevents JMD Ltd from providing any of the Services for more than 4 weeks, JMD Ltd shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

7.4 Assignment and subcontracting:

7.4.1 JMD Ltd may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

7.4.2 The Customer shall not, without the prior written consent of JMD Ltd, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

7.5 Notices:

7.5.1 Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.

7.5.2 Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, on the next Business Day after transmission.

7.5.3 This condition 14.5 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this condition, "writing" shall not include e-mails and for the avoidance of doubt notice given under this Contract shall not be validly served if sent by e-mail.

7.6 Waiver:

7.6.1 A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

7.6.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

7.7 Severance:

7.7.1 If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

7.7.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

14.8 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

7.9 Third parties: A person who is not a party to the Contract shall not have any rights under or in connection with it.

7.10 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract, shall only be binding when agreed in writing and signed by JMD Ltd.

7.11 Governing law and jurisdiction: This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and

Wales.

IN WITNESS WHEREOF THE CUSTOMER AND JMD have caused this Agreement to be executed in two (2) copies by their duly authorised representative on the day and year stated below.

Signed By:DATE:
For and on behalf of THE CUSTOMER

Signed By:.....DATE:
For and on behalf of
JO MENHINICK DESIGN LIMITED