

# JLP NEW WEBSITE

# TERMS OF BUSINESS

## PURPOSE OF DOCUMENT

The purpose of this document is to detail the terms of business between Lean Mean Digital Ltd and one or more other businesses. This includes the parties involved, legal ownerships, and definitions so that business can be conducted with all known entities discussed and agreed upfront prior to work commencing.

## PARTIES INVOLVED

Lean Mean Digital Ltd, having its place of business at:

13 Lawson Road

Parkstone

Poole

("LMD")

and

JLP, having their place of business at:

13 Lawson Road

Parkstone

Poole

("THE PARTNER")

Both parties agree (this "AGREEMENT") as follows:

## ACCEPTANCE OF TERMS

The action of the sending and receipt of this AGREEMENT via electronic method will hold both parties in acceptance of these terms. LMD as the sender and you THE PARTNER as recipient will acknowledge acceptance of these terms either through an email noting acceptance or acceptance is acknowledged when a project is submitted to LMD to commence work upon.

## DEFINITIONS

Statement of Work – The proposals/estimates supplied to THE PARTNER outlining the work that will be produced.

Content – All materials, information, photography, writings and other creative content provided by THE PARTNER for use in the preparation of and/or incorporation in the deliverables.

Third Party Materials – Works that are incorporated into the DELIVERABLES, but not created by LMD or owned by THE PARTNER. Third Party Materials includes, for example, stock photography or illustration.

The Project – Works produced for THE PARTNER based on an agreed upon STATEMENT OF WORK

Preliminary Design(s) – All artwork including, but not limited to, concepts, sketches, visual presentations, or other alternate or preliminary designs and documents developed by LMD and which may or may not be shown and or delivered to THE PARTNER for consideration but do not form part of the final artwork.

Revisions – Design revisions refer to changes to PRELIMINARY DESIGNS and/or new artwork, within THE PROJECT's original brief, and AFTER presentation of PRELIMINARY DESIGNS which will then go onto become the final artwork.

Final Artwork – The artwork that THE PARTNER has approved and signed off as completed artwork, and the artwork that CLIENT wishes to take delivery of as part of the deliverables, as well as obtain copyright transfer of (if applicable).

Deliverables – The services and work produced, specified in the STATEMENT OF WORK to be delivered by LMD to THE PARTNER, in the form and media specified in the STATEMENT OF WORK (for example this could be the form of the FINAL ARTWORK as HiRes pdf, printed literature, PR and marketing services or a website).

# TERMS AND CONDITIONS

## 1.0 Design Services

1.1 Professional Standard – LMD will provide the services identified in the STATEMENT OF WORK. LMD will provide these services in a professional manner, and in accordance with applicable professional standards.

1.1 Statement of Work – The fees and expenses shown are minimum estimates only and are based on our knowledge and understanding of THE PARTNER requirements. LMD do not have an hourly rate although it may be assumed from the price per BLOCK or RETAIN values. Our hourly rate is stated on the page title “Additional” on our estimates and will be invoiced or deducted in blocks of 15 minute increments. LMD shall keep THE PARTNER apprised of a tally of hours within a reasonable period of time.

If as a result of any scoping or specification change which LMD or its appointed agents may undertake or by any other means we become aware that THE PROJECT to be delivered varies significantly from the prevailing understanding, LMD will inform THE PARTNER at the earliest reasonable opportunity. Any such variations may affect the scope delivery schedule and or cost of THE PROJECT. In the event that a STATEMENT OF WORK is made and accepted but the briefing did not specify fully the type or level of work required LMD reserve the right to notify THE PARTNER accordingly and to charge for additional work done which was not indicated in the original briefing given.

1.2 Term of Statement of Works – The information contained within proposals/estimates is valid for 30 days. Proposal/quotes approved and signed by THE PARTNER are binding upon LMD and THE PARTNER beginning on the date of THE PARTNER'S signature or date of an e-mail noting acceptance.

1.3 Originating Documents – Fees quoted in the STATEMENT OF WORK for THE PROJECT do not include the raw digital files (For example to include but not limited to: Adobe Photoshop .psd files, Adobe Illustrator .ai files, and Adobe Indesign .indd files) unless specifically stated in the STATEMENT OF WORK that they will be included.

1.4 Amendments – All STATEMENT OF WORKS include two rounds of amends to the artwork/prototype per DELIVERABLE. All additional rounds of amendments will be chargeable and invoiceable at discretion of LMD.

1.5 Revisions – Revisions to FINAL ARTWORK/PROTOTYPE for THE PROJECT, once signed off, will be provided at an additional cost, based on the extent and complexity of the changes.

1.6 Change Request – A “Change Request” is any request for work outside the scope of the STATEMENT OF WORK. If such a request is made, LMD will notify THE PARTNER that it is a Change Request. If THE PARTNER still wants to proceed with the Change Request, LMD will bill the work on a time and materials basis. LMD may also extend its delivery schedule. If the Change Request alters the scope of the project

by more than 20%, LMD may submit a new STATEMENT OF WORK to THE PARTNER.

1.7 Deliverables – Fee quoted for THE PROJECT includes one set of FINAL ARTWORK/PROTOTYPE. If THE PARTNER would like its DELIVERABLES in a specific file format, THE PARTNER must request to have the format included in the STATEMENT OF WORK. THE PARTNER understands that it may need particular software and expertise to utilise these file formats.

1.8 Overtime – Fees quoted for THE PROJECT are based upon work performed during the course of regular working hours (based on a 35 hour week). Overtime, rush, holiday, and weekend work necessitated by THE PARTNER is perfectly acceptable in extreme cases but must be agreed upfront. LMD may choose to work outside of regular working hours if they so wish, which may or may not be advised to THE PARTNER upfront.

1.9 Billable Items – In addition to the fees and costs estimated for THE PROJECT, costs incurred for outside services, shipping, messengers, and couriers services are billable.

1.10 Purchasing – All purchases made on THE PARTNER behalf will be billed to THE PARTNER. Charges for VAT, insurance, storage, and shipping and handling are additional to the price of each purchase. In the event that THE PARTNER purchases materials, services, or any items other than those specified by LMD, LMD is not liable for the cost, quality, workmanship, condition, or appearance of such items.

1.11 Project communication – In the course of THE PROJECT, LMD will remain in contact with THE PARTNER regarding edits, revisions and scheduling. If THE PARTNER fails to provide necessary feedback to LMD regarding any edits and/or revisions within 28 days, THE PROJECT may be subject to termination. Any work produced by LMD for THE PROJECT will be billable at this time and all artwork, designs, edits, revisions and work product created in THE PROJECT remain the exclusive copyright and intellectual property of LMD.

## 2.0 Delivery of Statement of Work

2.1 Acceptance of Price – By placing an order, THE PARTNER accepts the price quoted by LMD on the PROPOSAL (or the QUOTE).

2.2 Authorisation – THE PARTNER agrees that it authorises its representatives whether employees, agencies or others to place orders on its behalf. LMD is entitled to believe that employees and/or agencies acting on behalf of THE PARTNER from whom it has previously accepted orders shall be deemed an authorised representative of THE PARTNER whether notified in writing or otherwise. In the event that such persons are no longer authorised THE PARTNER agrees to notify LMD in writing at least 4 weeks before authorisation ceases and takes over any authorisations made by such person. For clarity all persons and agencies from whom LMD have previously accepted orders are regarded as authorised persons unless otherwise informed as outlined above.

2.3 Timeframe – LMD will use commercially reasonable efforts to perform the

Services within the schedule outlined in the STATEMENT OF WORK. LMD's delivery time frame depends upon THE PARTNER prompt response to any questions or requests for THE PARTNER CONTENT. Prompt is expected to mean within 48hrs.

2.4 Purchase Order Numbers – Where THE PARTNER operates a specified ordering system it agrees to notify LMD of the relevant details at the time orders are placed. It agrees to provide LMD with all the relevant details to enable LMD to comply with the system. Similarly if THE PARTNER subsequently introduces a new or revised ordering system it agrees to notify LMD in writing immediately. In the event that THE PARTNER does not notify LMD of any such new system, LMD is entitled to regard orders placed or in the system as being subject to the same ordering system previously in operation. THE PARTNER may not use a failure by LMD to comply with an ordering system for work that LMD has undertaken in good faith as a reason for withholding payment.

2.5 LMD Agents – LMD may hire third party service provider as independent contractors. LMD is responsible for the independent contractors' compliance with this AGREEMENT.

2.6 Content – All copy and HiRes imagery is to be supplied by THE PARTNER, unless otherwise stated in the STATEMENT OF WORK. If THE PARTNER supplies their own copy/text, THE PARTNER is responsible for any errors contained within it. All THE PARTNER supplied copy/text should be supplied in a digital format, if supplied in paper format additional fees will be incurred to convert it into a digital format. Any photo sourcing, photography and copywriting services provided by LMD will incur an additional fee.

2.7 Approval – LMD will proof all work in house and THE PARTNER will be also required to proof all work produced by LMD and give approval in writing for it to be supplied to THE PARTNER as the DELIVERABLES outlined in the STATEMENT OF WORK.

2.8 Acceptance – LMD shall use commercially reasonable efforts to test DELIVERABLES before providing them to THE PARTNER. THE PARTNER shall promptly review all DELIVERABLES, and must notify LMD of any failure to conform to the STATEMENT OF WORK within 5 business days of receipt. If LMD does not receive a timely notification, the DELIVERABLES will be deemed accepted. THE PARTNER notification must be in writing setting out clearly the problems with the DELIVERABLES. THE PARTNER agrees not to use work it has deemed unacceptable but to return it immediately to LMD and to destroy all copies except those needed for the purpose of pointing out what is unsuitable.

2.9 Cure – In the event of THE PARTNER deeming the work provided by LMD as unacceptable, LMD, if in agreement, reserve the right to be given 28 days to repair or correct any work that does not conform to the STATEMENT OF WORK in order to make it acceptable to THE PARTNER.

3.0 No Solicitation

3.1 Six-Month Non-Solicit – During the term of this AGREEMENT, and for a period of

6 months after its expiration, THE PARTNER shall not Solicit any of LMD's employees or independent contractors. "Solicit" is defined to include: recruit, engage, or otherwise employ or retain, on a full-time, part-time, consulting, work-for-hire, or any other basis.

3.2 Agency Commission – In the event of such Solicitation, THE PARTNER shall pay LMD an agency commission of 25% of the independent contractors' starting salary with THE PARTNER, or if hired as a contractor, 25% of the total contract fees paid to the independent contractor during the first year following the Solicitation.

#### 4.0 Rights in Deliverables

4.1 Preliminary Designs/prototypes – LMD retains the rights to all PRELIMINARY DESIGNS/PROTOTYPES that are not incorporated into DELIVERABLES.

4.2 Designer Tools – LMD or its independent contractors may incorporate certain Designer Tools into the DELIVERABLES. "Designer Tools" means all design tools developed or utilised by LMD or its independent contractors in performing the Services, including without limitation: pre-existing and newly developed software, Web authoring tools, type fonts, and application tools. In the event Designer Tools are incorporated into any DELIVERABLES, then LMD grants THE PARTNER a royalty-free, perpetual, worldwide, non-exclusive license to use the Designer Tools to the extent necessary to use the DELIVERABLES. LMD or its DESIGN AGENTS retains all other rights in the Designer Tools.

4.3 IP Assignment – Our estimates do not allow for IP Assignment within the price. If this is something that THE PARTNER requires please let LMD know in writing before the commencement of any STATEMENT OF WORKS. Unless specified otherwise, LMD retain the ownership of copyright. If specified otherwise, upon completion of the Services and full payment of all invoices, LMD shall assign IP rights to THE PARTNER. These IP rights include all ownership rights, including any copyrights, in any artwork, designs and software created by LMD and incorporated into the DELIVERABLES, except as otherwise noted in this AGREEMENT.

4.4 LMD Portfolio – LMD may display the DELIVERABLES in LMD's portfolios and websites, and in galleries, design periodicals and other exhibits for the purposes of professional recognition. Likewise, LMD may publicly describe its role in the Project.

4.5 Credit – If LMD incorporates credits into the DELIVERABLES (with prior authorisation by THE PARTNER), any use of the DELIVERABLES shall continue to bear the credits in the same form, size and location.

#### 5.0 Risk Allocation

5.1 THE PARTNER Representations – THE PARTNER represents and warrants to LMD that:

- THE PARTNER owns sufficient right, title, and interest in THE PARTNER CONTENT to permit LMD's use of THE PARTNER CONTENT in performing the STATEMENT OF WORK,



- To the best of THE PARTNER knowledge, LMD's use of THE PARTNER CONTENT will not infringe the rights of any third party,
- THE PARTNER shall comply with the terms and conditions of any licensing agreements which govern the use of Third Party Materials.
- THE PARTNER shall comply with all laws and regulations governing the DELIVERABLES.

#### 5.2 LMD Representations – LMD represents and warrants to THE PARTNER that:

- The DELIVERABLES will be the LMD's original design work, except that LMD may incorporate THE PARTNER CONTENT, work from its independent contractors and third party material (for example, stock photos, or Software as a Service).
- For any DELIVERABLES that includes the work of independent contractors or third party material, LMD shall secure sufficient rights for THE PARTNER to use the DELIVERABLES for their intended purpose.
- To the best of LMD's knowledge, the DELIVERABLES will not infringe upon the IP rights of any third party. However, LMD will not be conducting any type of IP clearance search (for example, LMD will not be conducting a copyright, trademark or design clearance search).

#### 6.0 Limitation of Liability

6.1 The services and the work product of LMD are sold "as is." In all circumstances, LMD's maximum liability to THE PARTNER for damages for any and all causes whatsoever, and THE PARTNER maximum remedy, regardless of the form of action, whether in contract, tort or otherwise, shall be limited to LMD's net profit or the STATEMENT OF WORK.

6.2 In no event shall LMD be liable for any lost data or content, lost profits, business interruption or for any indirect, incidental, special, consequential, exemplary or punitive damages arising out of or relating to the materials or the services provided by LMD, even if LMD has been advised of the possibility of such damages.

#### 7.0 Limited Warranty

7.1 Except for the express representations and warranties stated in this AGREEMENT, LMD makes no warranties whatsoever. LMD explicitly disclaims any other warranties of any kind, either expressed or implied, including but not limited to warranties of merchantability or fitness for a particular purpose or compliance with laws or government rules or regulations applicable to the project.

#### 8.0 LMD and THE PARTNER Relationship

8.1 Non-Exclusive. This AGREEMENT does not create an exclusive relationship. The DELIVERABLES are not a "work for hire" under Copyright Law.

8.2 No Assignment. Neither party may assign its rights or obligations under this AGREEMENT without the prior written consent of the other party. Any such attempted assignment will be void ab initio. Consent is not required for a



disposition of substantially all assets of the assigning party's business.

8.3 Confidential Information. Each party shall maintain Confidential Information in strict confidence, and shall not use Confidential Information except (a) as necessary to perform its obligations under the AGREEMENT, or (b) as required by a court or governmental authority. Confidential Information includes proprietary technical and business information, PRELIMINARY DESIGNS, and any other information marked "Confidential." If required an NDA can be used to cover both parties. LMD agrees to comply and have adequate measures in place to ensure that its staff and any independent contractors comply at all times with the provisions and obligations contained in:

- The Data Protection Act 1998
- The Telecommunications Data Protection and Privacy Direct Marketing Regulations 1998
- The Consumer Protection Distance Selling Regulations 2000

8.4 Exception. Confidential Information does not include (a) any information that is in the public domain, (b) becomes publicly known through no fault of the receiving party, or (c) is otherwise known by the receiving party before obtaining access to it under this AGREEMENT or properly received from a third party without an obligation of confidentiality.

#### 9.0 Termination Policy

9.1 THE PARTNER may terminate the STATEMENT OF WORK based upon mutually agreeable terms to be determined in writing. Any work produced by LMD for the STATEMENT OF WORK will be billable at this time, THE PARTNER will be invoiced for this time spent or an termination fee equal to 25% of the total project fee, whichever is greater. If a deposit had been paid, then this will be used as payment against this invoice. If the invoice is less than the deposit a refund of the difference will be given. THE PARTNER shall pay LMD for all expenses incurred as of the date of notification to terminate. No IP rights will be transferred to THE PARTNER.

9.2 LMD may terminate the STATEMENT OF WORK if THE PARTNER fails to pay any sum due pursuant to the contract within 7 days of the final due date provided that written notice has been supplied. All artwork, designs, edits, revisions and work product created in the STATEMENT OF WORK remain the exclusive copyright and intellectual property of LMD.

9.3 Termination for Breach – If a material breach of this AGREEMENT is not cured within 10 business days after a party's receiving notice of the breach, then the non-breaching party may terminate this AGREEMENT immediately upon notice.

9.4 Termination Procedure. Upon expiration or termination of this AGREEMENT: (a) each party shall return (or, at the disclosing party's request, destroy) the Confidential Information of the other party, and (b) other than as expressly provided in this AGREEMENT, all rights and obligations of each party under this

AGREEMENT, exclusive of the Services, shall survive.

#### 10.0 Payment Terms

10.1 Invoice. For new partners, LMD will invoice THE PARTNER 25% before commencement of the STATEMENT OF WORK and will be payable within 30 days. A further 25% upon completion of the first phase of work, 25% upon completion of the second phase of work, and the remaining 25% will be invoiced upon completion of third and final phase of work.

10.2 Project Stall. If a project stalls, e.g. does not progress after 28 days of inactivity, then LMD will invoice for all work done-to-date. The balance will then be invoiced upon completion of implementation.

10.3 Expenses. In addition to LMD's fees, THE PARTNER will be invoiced for all of LMD's reasonable expenses. LMD's travel, lodging, and sustenance expenses will be invoiced to THE PARTNER. Other Expenses incurred by LMD in performing services to THE PARTNER will also be invoiced to THE PARTNER. Other Expenses include, without limitation, postage, shipping, presentation materials, photocopies, equipment rental, photographer's costs and fees, photography and/or artwork licenses, prototype production costs, talent fees, music licenses, software licenses, online access, Software as a Service, and hosting fees.

10.4 VAT. All prices quoted are exclusive of VAT as LMD are VAT exempt.

10.5 Credit Payment of our invoices by THE PARTNER is due within 14 days of the date shown on the invoice, unless agreed otherwise.

10.6 Default in Payment. If any sum payable to LMD in relation to STATEMENT OF WORK is in arrears for more than 14 days after the invoice due date then LMD reserves the right without prejudice to any other right or remedy to charge a fixed charge of £40 (if the debt is under £1,000), £70 (if the debt is under £10,000) or £100 (if the debt is over £10,000) plus interest at 8% over the base lending rate – as per Late Payment of Commercial Debts Regulations 2002 (SI 2002 No 1674). Interest charges will be applied and invoiced (either individually or added to subsequent invoices) on an ongoing basis until the original debt is cleared. THE PARTNER shall assume responsibility for cost outlays by LMD in all collections of unpaid fees and of legal fees necessitated by default in payment. Invoices in default will include but are not limited to fees for collection and legal costs.

10.7 Ownership of Goods / Seller's lien. All goods material and equipment provided by LMD under this STATEMENT OF WORK shall remain the property of LMD until paid for in full by THE PARTNER.

10.8 Payment by Non-UK Based Companies. Any bank charges associated with payment is to be met by THE PARTNER and not LMD.

#### 11.0 General Terms

11.1 Notices. All notices shall be sent by email. Permissible addresses for notice include those stated at the end of this AGREEMENT and any other address

reasonably communicated.

A notice that is sent by email but is not read by the addressee is nevertheless effective if, but only if, it has been (a) sent from an email account that has been designated for notice and (b) delivered to an email account that has been designated for notice. Email accounts designated for notice are identified at the end of this AGREEMENT, and may be amended only by written notice.

11.2 Design Terminology. Any design terminology in the STATEMENT OF WORK is defined according to standard design industry usage. Any dispute as to the meaning or scope of design terminology will be determined in good faith by LMD.

11.3 Agreement Expiration. This AGREEMENT will be valid from the date of effect (page 1) until LMD or THE PARTNER terminates this AGREEMENT in writing, at which point our termination policy (See 9.0) will come into effect.

11.4 Modification & Waiver. Any modification of this AGREEMENT must be in writing. Failure by either party to enforce any right or seek to remedy any breach under this AGREEMENT shall not be construed as a waiver of such rights nor shall a waiver by either party of default in one or more instances be construed as constituting a continuing waiver or as a waiver of any other breach.

11.5 Severability. If any provision of this AGREEMENT is held invalid or unenforceable, the remainder of this AGREEMENT will remain in full force and effect.

11.6 Integration. This AGREEMENT comprises the entire understanding of the parties and supersedes all prior agreement and understandings.

11.7 Force Majeure. LMD shall not be deemed in breach of this AGREEMENT if LMD is unable to complete the STATEMENT OF WORK or any portion thereof by reason of fire, earthquake, labour dispute, act of God or public enemy, death, illness or incapacity of LMD or any local, national or international law, governmental order or regulation or any other event beyond LMD's control (collectively, "Force Majeure Event"). Upon occurrence of any Force Majeure Event, LMD shall give notice to THE PARTNER of its inability to perform or of delay in completing the STATEMENT OF WORK and shall propose revisions to the schedule for completion of the STATEMENT OF WORK.

## 12.0 Governing Laws

12.1 These TERMS AND CONDITIONS shall be governed by and construed in accordance with the laws of England and Wales and the parties hereby submit to the exclusive jurisdiction of the English courts.

## 13.0 Signatures

As signatures are not practical to action within an electrically passed document such as this, a simple return email to LMD's "Designated Email address" below within covering note to the effect of acceptance will confirm THE PARTNER's agreement to action.

Each 'signatory' below represents that it has the full authority to enter into this AGREEMENT and to bind her or his respective party to all of the terms and conditions of this AGREEMENT. These terms and conditions are applied to all future work carried out by LMD for THE PARTNER until either party terminates this AGREEMENT or it is superseded by a new agreement.

#### 14.0 Contact details

##### 14.1 Postal Addresses

LMD: Lean Mean Digital Ltd, 13 Lawson Road, Parkstone, Poole. BH12 3EH

THE PARTNER: JLP, 13 Lawson Road, Parkstone, Poole. BH12 3EH

##### 14.2 Main telephone number

LMD: 07527091120

THE PARTNER: 07527091120

##### 14.2 Designated Email address

LMD: [contact@leanmeandigital.uk](mailto:contact@leanmeandigital.uk)

THE PARTNER: [contact@jlp.uk](mailto:contact@jlp.uk)

##### 14.3 Invoices made payable to 'Lean Mean Digital Ltd'.