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## **TERMS & CONDITIONS - ALTERNATIVE MEDIA SOUTH-AFRICA**

### GENERAL TERMS

Last Updated: June 2021

Please read these terms and conditions carefully before using *Our Service*.

## **INTERPRETATION AND DEFINITIONS**

### **Interpretation**

The words of which the initial letter is capitalized have meanings defined under the following conditions.

The following definitions shall have the same meaning regardless of whether they appear in singular or in plural.

### **Definitions**

For the purposes of these *Terms and Conditions*:

- **Affiliate** means an entity that controls, is controlled by or is under common control with a party, where "control" means ownership of 50% or more of the shares, equity interest or other securities entitled to vote for election of directors or other managing authority.
- **Company** (referred to as either "the Company", "We", "Us" or "Our" in this Agreement) refers to JUAN AND CO (PTY) LTD T/A ALTERNATIVE MEDIA SOUTH-AFRICA, 116 Dennis Road, Atholl-Gardens, Sandton, 2196.
- **Country** refers to: South Africa
- **Service** refers to the Website, the services offered by the Website.
- **Terms and Conditions** (also referred as "Terms") mean these Terms and Conditions that form the entire agreement between You and the Company regarding the use of the Service.
- **Third-party Social Media Service** means any services or content (including data, information, products, or services) provided by a third-party that may be displayed, included or made available by the Service.
- **Website** refers to ALTERNATIVE MEDIA SOUTH-AFRICA, accessible from <https://alternativemedia.co.za/>
- **You** mean the individual accessing or using the Service, or the company, or other legal entity on behalf of which such individual is accessing or using the Service, as applicable.

## **ACKNOWLEDGEMENT**

These are the Terms and Conditions governing the use of this Service and the agreement that operates between You and the Company. These Terms and Conditions set out the rights and obligations of all users regarding the use of the Service.



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Your access to and use of the Service is conditioned on Your acceptance of and compliance with these Terms and Conditions. These Terms and Conditions apply to all visitors, users and others who access or use the Service.

By accessing or using the Service You agree to be bound by these Terms and Conditions. If You disagree with any part of these Terms and Conditions, then You may not access the Service.

Your access to and use of the Service is also conditioned on Your acceptance of and compliance with the Privacy Policy of the Company. Our Privacy Policy describes Our policies and procedures on the collection, use and disclosure of Your personal information when You use the Application or the Website and tells You about Your privacy rights and how the law protects You. Please read Our Privacy Policy carefully before using Our Service.

## **LINKS TO OTHER WEBSITES**

Our Service may contain links to third-party web sites or services that are not owned or controlled by the Company.

The Company has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third-party web sites or services. You further acknowledge and agree that the Company shall not be responsible or liable, directly, or indirectly, for any damage or loss caused or alleged to be caused by or in connection with the use of or reliance on any such content, goods, or services available on or through any such web sites or services.

We strongly advise You to read the terms and conditions and privacy policies of any third-party web sites or services that You visit.

## **TERMINATION**

We may terminate or suspend Your access immediately, without prior notice or liability, for any reason whatsoever, including without limitation if You breach these Terms and Conditions.

Upon termination, Your right to use the Service will cease immediately.

## **LIMITATION OF LIABILITY**

Notwithstanding any damages that You might incur, the entire liability of the Company and any of its suppliers under any provision of this Terms and Your exclusive remedy for all the foregoing shall be limited to the amount actually paid by You through the Service or 1000 ZAR if You haven't purchased anything through the Service.



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To the maximum extent permitted by applicable law, in no event shall the Company or its suppliers be liable for any special, incidental, indirect, or consequential damages whatsoever (including, but not limited to, damages for loss of profits, loss of data or other information, for business interruption, for personal injury, loss of privacy arising out of or in any way related to the use of or inability to use the Service, third-party software and/or third-party hardware used with the Service, or otherwise in connection with any provision of this Terms), even if the Company or any supplier has been advised of the possibility of such damages and even if the remedy fails of its essential purpose.

## "AS IS" AND "AS AVAILABLE" DISCLAIMER

The Service is provided to You "AS IS" and "AS AVAILABLE" and with all faults and defects without warranty of any kind. To the maximum extent permitted under applicable law, the Company, on its own behalf and on behalf of its Affiliates and its and their respective licensors and service providers, expressly disclaims all warranties, whether express, implied, statutory or otherwise, with respect to the Service, including all implied warranties of merchantability, fitness for a particular purpose, title and non-infringement, and warranties that may arise out of course of dealing, course of performance, usage or trade practice.

Without limitation to the foregoing, the Company provides no warranty or undertaking, and makes no representation of any kind that the Service will meet Your requirements, achieve any intended results, be compatible or work with any other software, applications, systems, or services, operate without interruption, meet any performance or reliability standards or be error free or that any errors or defects can or will be corrected.

Without limiting the foregoing, neither the Company nor any of the company's provider makes any representation or warranty of any kind, express or implied: (i) as to the operation or availability of the Service, or the information, content, and materials or products included thereon; (ii) that the Service will be uninterrupted or error-free; (iii) as to the accuracy, reliability, or currency of any information or content provided through the Service; or (iv) that the Service, its servers, the content, or e-mails sent from or on behalf of the Company are free of viruses, scripts, trojan horses, worms, malware, timebombs or other harmful components.

Some jurisdictions do not allow the exclusion of certain types of warranties or limitations on applicable statutory rights of a consumer, so some or all the above exclusions and limitations may not apply to You. But in such a case the exclusions and limitations set forth in this section shall be applied to the greatest extent enforceable under applicable law.

## GOVERNING LAW

The laws of the Country, excluding its conflicts of law rules, shall govern this Terms and Your use of the Service. Your use of the Application may also be subject to other local, state, national, or international laws.



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## DISPUTES RESOLUTION

If You have any concern or dispute about the Service, You agree to first try to resolve the dispute informally by contacting the Company. Contact can be made via e-mail: [info@alternativemedia.co.za](mailto:info@alternativemedia.co.za) or cellphone WhatsApp: +27 83 565 5289.

## SEVERABILITY AND WAIVER

### Severability

If any provision of these Terms is held to be unenforceable or invalid, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable laws and the remaining provisions will continue in full force and effect.

### Waiver

Except as provided herein, the failure to exercise a right or to require performance of an obligation under this Terms shall not effect a party's ability to exercise such right or require such performance at any time thereafter nor shall be the waiver of a breach constitute a waiver of any subsequent breach.

## TRANSLATION INTERPRETATION

These Terms and Conditions may have been translated if We have made them available to You on our Service. You agree that the original English text shall prevail in the case of a dispute.

## CHANGES TO THESE TERMS AND CONDITIONS

We reserve the right, at Our sole discretion, to modify or replace these Terms at any time. If a revision is material, We will make reasonable efforts to provide at least 30 days' notice prior to any new terms taking effect. What constitutes a material change will be determined at Our sole discretion.

By continuing to access or use Our Service after those revisions become effective, You agree to be bound by the revised terms. If You do not agree to the new terms, in whole or in part, please stop using the website and the Service.



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## CONTACT US

If you have any questions about these Terms and Conditions, You can contact us by email: [info@alternativemedia.co.za](mailto:info@alternativemedia.co.za) / +27 83 565 5289 (Cell and WhatsApp)

## PAYMENT TERMS

1. Payments, unless otherwise stipulated within the quote and/or related invoice, must be made within 3 days from the date of invoice being issued.
2. When applicable, payments, such as but not limited to final payments, are due at the end of the Project Time Line / detailed within quote / e-mail / activation email / balance invoice. A final payment cannot be delayed if a project or service is incomplete or delayed for reasons related to Client.
3. All quotes / invoices paid by the Client, confirms the understanding and acceptance of these terms and conditions.
4. Any project, work, digital assets, design quoted on, or invoiced will be done, with an approximate time frame. Should the project exceed this timeframe, based on the Client's requirements, additional charges will apply at R575 per hour there-after.
5. Travel cost may/may not be included in the original quote/invoice. If travel cost and kilometres are not reflected on the quote / invoice, the Client understands that any additional travel and kilometre's, for the approved project, work, scope etc will be charged at an additional approved SARS reimbursed rate of R3,82 per kilometre, should travel to/from sites for any whatsoever reason requested by the client is conducted.
6. If a preferred third party or external supplier is used, Alternative Media South-Africa reserves the right to request payment in full for related services. There are no refunds or cancelation of such services under any circumstances.
7. A Client can request 1 payment extension (of 1 week or 5 working days), subject to written request of such made to Alternative Media South-Africa. Alternative Media South-Africa reserves the right to decline a payment extension. Further payment delays will allow Alternative Media South-Africa to charge a penalty fee of no less than R575 per day on balance outstanding and/or fees for Project Timeline extensions per week delayed.
8. Payments must be made via EFT. If a Client elects to make payment via Alternative Media South-Africa's online payment gateway with their debit / credit card, they accept the extra fee of 4.5% above the total quoted/invoice amount. If a Client makes a direct cash deposit, it is the responsibility of the Client to settle the banks cash handling fee to ensure Alternative Media South-Africa does not suffer the deposit costs. *Cheque, SnapScan, MasterPass, ApplePay* or *Zapper* payments are not accepted.
9. All payment references must include the invoice reference number (displayed on invoice). Proof of Payments must be sent to [info@alternativemedia.co.za](mailto:info@alternativemedia.co.za) | Alternative Media South-Africa will not accept remittance advices, purchase orders, or good will payment emails as proof or surety of payment. A Client's funds must clear in Alternative Media South-Africa's account before they are credited.
10. In general Alternative Media South-Africa will issue a deposit invoice (70%) and a balance invoice (30%) for website design or standard services. However, and at its own discretion, reserves the right to issue a full (100%) single invoice or multiple invoices which quantify the service fee, for products such as but not limited to: custom products or add-ons.



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11. A website / project will only 'go live' once all accounts are settled. Alternative Media South-Africa may allow a client to review a project using a preview link. No project / content will be transferred / shared with an external provider if payment is not settled.

## **REVIEW, CANCELLATION AND BREACH TERMS:**

1. Should either Client or Alternative Media South-Africa dispute a projects progress / status / deliverables or if there is any evidence of any variety of factor effecting service delivery, either party can declare a Project Dispute, which will then be handed over for review by Alternative Media South-Africa.
2. At such a time all work will be suspended until the review has been concluded. | b.) Alternative Media South-Africa will review the project as well as a written submission which must be presented by both parties in concise and factual points. Determination will be based on the scope of the original agreement and merits of subsequent evidence. A Project Dispute review by Alternative Media South-Africa must be finalized within 21 working days from date of Review Notices being issued by Alternative Media South-Africa.
3. Alternative Media South-Africa reserves the right to cancel a Service Agreement / Project / Service if a Client breaches one (1) or more terms or conditions, subject to Alternative Media South-Africa offering written notice including the reason for the cancellation. In this instance a full cancellation fee as well as all related costs will be due by the Client.
2. A Client can cancel a service at any time, subject to written notice being issued to Alternative Media South-Africa. A cancellation fee will apply in this instance at either: 50% of the full fee if the quote / service agreement has already been accepted, or 75% of the full fee if the project / service has already been activated (activation email) or assigned to a developer / designer, or 100% of the fee if the project is completed in line of scope (per quote / service agreement) or is a 3rd Party or Preferred Supplier service.
3. A Client accepts that their project / website / content needs to be compliant will all relevant laws and legislation, and if they instruct Alternative Media South-Africa to use or publish content or material that contravenes law or legislation they will accept full liability and costs.
4. A Client accepts that publicly publishing or sharing their experience or personal opinions about Alternative Media South-Africa / Alternative Media South-Africa, notwithstanding actual facts or points that are legally correct, is prohibited. This is a specific condition of this agreement.
5. If a Client elects to accept a project that makes use of an external / 3rd party provider sourced or secured by the Client, and this supplier delays or jeopardizes a project, the Client will not delay payment due to Alternative Media South-Africa.
6. Domains, website, content, projects, apps, code, as well as e-mail service, are only transferred to a Client's name or care on full settlement of all accounts due to Alternative Media South-Africa, and until such time remains under the management or ownership of Alternative Media South-Africa. Alternative Media South-Africa reserves the right to suspend, retain or cancel



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services or property if payment is late for any account due to Alternative Media South-Africa or if there is any instance of Client breach.

## **BRIEF, DESIGN, DEVELOPMENT, AND PROJECT TIME LINE TERMS**

1. Alternative Media South-Africa is in the position to offer very competitive prices and a variety of services due to a unique project management system. A Client accepts that slow / non-communication on their behalf delaying a Project Time Line and / or service detail/s will result in extra Project Timeline fees being added to final account. If there is no communication from a Client for more than 10 working days, Alternative Media South-Africa will consider a Client to have absconded and in this instance a project / service can be cancelled and no refunds will apply.
2. A "Project Time Line" is a period of dates a designer / developer / staff / supplier are reserved to work on a set task / project. This period of total days are detailed at point of sale or on quote. The project timeline starts on the date an activation e-mail is issued to a Client. Alternative Media South-Africa delay activating a project if a Clients payment has not been made, or a brief or content is incomplete or not of standard. Alternative Media South-Africa will not be held liable for delays in this instance and no refund will apply.
3. "Project Development hours" are periods of time, made up in increments of hours, or part thereof, that a designer / developer / staff / supplier are reserved for within a Project Time Line and details of this are shared at point of sale.
4. Should a Client require extra Project Timeline or Project Development hours, Alternative Media South-Africa will quote accordingly. If the quote is not accepted, Alternative Media South-Africa will not be held liable for service delivery errors. No refund will apply.
5. "Project Scope" refers to the functional, cosmetic, contextual components of a service. A Client cannot demand services that are not aligned with the scope of the original quote, and must ensure that they complete a brief or give instructions in line with the scope. A poor, inaccurate or ill detailed, fragmented or missing brief can lead to service delivery error and Alternative Media South-Africa will not be held liable. No refund will apply. Alternative Media South-Africa for most primary products will offer a Client a briefing document template to aid their briefing process and allow a client 3 working days to complete.
6. It is the Client's responsibility to present content or material at time of activation is in line with the scope of the project and in a ready to use state. Content and material must not infringe laws and legislation such as copyright. Alternative Media South-Africa does not include content within its products unless quoted and charged for.
7. A Client accepts that instructions cannot be offered telephonically and must be done in writing.
8. Cosmetic or artistic components (when applicable) are subject to creative interpretation of a designer and therefore a Client accepts that results may vary from their personal expectations.
9. A Client accepts that when they purchase a template driven website (EG: CMS) that there is a limit to the customization of the layout and functions. Alternative Media South-Africa can quote on advanced themes or custom builds.



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10. Consults or in person meetings with designers / developers / staff / suppliers are not included within standard quoted services and can be quoted on separately. If consults take place, a Client may be liable for extra costs and time used may be deducted from Development Time.
11. Alternative Media South-Africa, at its own discretion, reserves the right to extend a Project Time line if it is in the interest of service delivery and does not prejudice itself or the Client in the process.
12. Services are, unless otherwise stipulated, optimised for one primary browser and one device.
13. Alternative Media South-Africa is not responsible for launching a project / website on a hosting provider other than its own. In this instance the project will be zipped and a link shared with the Client for their provider to launch. This will remain available for 7 working days.
14. Alternative Media South-Africa prepares a job card / log for all its primary products, not including 3rd party or projects less than one project development hour. This log offers: summary of deliverables, progress status, time used and other pertinent notes. A copy of this log is available for a Client on demand, and a Client should review the log frequently during a Project Timeline.

## **E-COMMERCE, ONLINE STORES, CMS, CUSTOM**

1. Alternative Media South-Africa may request a Client to accept terms and conditions relating to services or products. Such terms will be detailed in an Addendum with the same reference as the quote / agreement or included within the thread related to the Sale.
2. Unless otherwise stipulated do not include the loading of hosting, content, training, consults, extra security or services and troubleshooting.
3. May have limitations such as but not limited: layout, function, cosmetics and period of use, annual renews, and devices.
4. Alternative Media South-Africa cannot accept any liability or costs relating to third party or external supplier/s and no refunds will apply.
5. May require an advance hosting solution.
6. May require extra security services.
7. May require annual renewals for the Clients management and care.



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