

Design Bureau.

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Terms of Engagement

TERMS AND CONDITIONS OF DESIGN BUREAU

This document sets out the terms and conditions upon which Design Bureau Creative Agency Proprietary Limited trading under the name and style of Design Bureau (“**Design Bureau**”) has agreed to provide design, web/software development and/or marketing-related services to you, as the Client. Your acceptance of any Design Bureau quotation indicates your explicit and/or tacit acceptance of the terms of engagement listed below.

1. THE SERVICES

Design Bureau will provide the Client with a variety of digital content creation and online distribution Services, comprising of, amongst other things, online content for websites, blog posts, video footage, social media posts, photographs, brand development and online distribution related services according to the brief provided by the Client verbally and in written correspondence (“**the Services**”).

2. PAYMENT TERMS

- 2.1. Design Bureau will charge a fee for the Services. This fee (“**Service Fee**”), including any necessary disbursements, is detailed in the quotation (“**the quotation**”). Design Bureau reserves the right to add a surcharge to the Service Fee for any Services rendered to the Client on an urgent basis.
- 2.2. The Service Fee is subject to change, should the brief be altered in any way.
- 2.3. The Client agrees to make payment as follows:
 - 2.3.1. 50% (fifty percent) of the Service Fee will be paid within 7 days of the Client’s acceptance of the quotation; and
 - 2.3.2. If the Service Fee:
 - 2.3.2.1. Does not exceed R 50,000 (fifty thousand Rand), the remaining 50% (fifty percent) of the Service Fee shall be paid upon completion of the Services;
 - 2.3.2.2. Exceeds R 50,000 (fifty thousand Rand), 25% (twenty-five percent) of the Service Fee shall be paid at a time pre-determined by Design Bureau in writing, and the remaining 25% of the Service Fee shall be paid within 7 days of completion of the Services.
 - 2.3.3. any additional costs or disbursements necessary for provision of the Services may be required to be paid upon acceptance of the quotation or on presentation of an invoice.

- 2.4. Invoices will reflect the Service Fee and disbursements, exclusive of Value Added Tax where applicable. Invoices are due and payable on receipt.
- 2.5. Interest may be charged on any outstanding amounts owed by the Client to Design Bureau at a rate equal to the South African published prime overdraft rate, compounded monthly in arrears.

3. PRESENTATION OF THE CONTENT

- 3.1. Once a quote has been accepted, Design Bureau will begin providing the Services.
- 3.2. Any initial content provided by Design Bureau to the Client as part of the Services (“**the Content**”) will be presented according to the following procedure:
 - 3.2.1. Design Bureau will present the Client with the initial Content proposed in the quote. The Client can give feedback to Design Bureau on the Content (“**the first presentation**”);
 - 3.2.2. Design Bureau will alter the Content based on the Client’s feedback during the first presentation and present the updated Content to the Client (“**revision**”);
 - 3.2.3. The Client shall be entitled to the number of revisions specified by Design Bureau in the quotation and shall be liable for a fee in addition to the Service Fee for any subsequent revisions;
 - 3.2.4. Design Bureau will finalise the Content and present it back to the Client for approval (“**final presentation**”);
- 3.3. Should the Client require further amendments to the final presentation, Design Bureau will charge a fee in addition to the Service Fee.
- 3.4. The final presentation of the Content created by Design Bureau will be considered accepted and completed if the Client has not requested any additional revisions within 10 (ten) business days upon receipt of the Content from Design Bureau.
- 3.5. The Client understands that Design Bureau requires certain information, equipment or action from the Client in order to properly render the Services. Failure or delay in providing such information, equipment or action will lead to delays in provision of the Services.
- 3.6. Notwithstanding the contents of clause 3.5 above, the Client understands and agrees that where the Client, in Design Bureau’s sole and unfettered discretion (which shall not be reasonably exercised), unreasonably delays the provision of the Services by Design Bureau, in such circumstances Design Bureau shall be entitled to cancel the Services as contemplated in clause 4.4 below.

4. CANCELLATION

Should the Client wish to cancel the Services:

- 4.1. it must give Design Bureau 1 (one) month’s written notice of its intention to cancel the Services;
- 4.2. Any deposit paid by the Client to Design Bureau shall be forfeited; and
- 4.3. In the event that the deposit is insufficient to cover all expenses, disbursements or Services already incurred or provided by Design Bureau prior to date of termination, Design Bureau shall be entitled to provide the Client

with a final invoice which will cover all such expenses, disbursements or Services. Such final invoice shall be payable within 7 (seven) days of presentation.

- 4.4. In the circumstances contemplated in clause 3.6 above:
- 4.4.1. Design Bureau shall be entitled to provide the Client with 7 (seven) calendar days' notice of its intention to cancel the Services;
 - 4.4.2. Any deposit paid by the Client to Design Bureau shall be forfeited; and
 - 4.4.3. In the event that the deposit is insufficient to cover all expenses, disbursements or Services already incurred or provided by Design Bureau prior to date of termination, Design Bureau shall be entitled to provide the Client with a final invoice which will cover all such expenses, disbursements or Services. Such final invoice shall be payable within 7 (seven) days of presentation.

5. OWNERSHIP OF THE WORKS

- 5.1. All ownership and copyright in the final presentation of the Content will vest in Design Bureau until date of final payment. Design Bureau reserves the right to revoke any permission given to the Client to use the Content, if payment is not made in full.
- 5.2. Once final payment has been made, ownership of the Content shall transfer to the Client.
- 5.3. The Client will only own the Content which it has accepted as part of the final product. As a result:
 - 5.3.1. the Client will have no ownership or claim of any rights of any nature over any Content created for but not used by the Client, including but not limited to any video footage or photographs taken or created in provision of the Services; and
 - 5.3.2. Design Bureau shall retain ownership of the source files in respect of the Services including all design files (.indd, .ai, .psd, .tiff, .png) unless otherwise agreed between the parties and subject to an agreed fee. The Client may utilize the services of other digital marketing companies, but Design Bureau shall not be obliged to hand over any of the source files for the Content.
- 5.4. For clarity, Design Bureau will retain ownership of all Content not accepted by the Client as part of the Content as well as all source files in respect of the Services.

6. STORAGE OF CONTENT FILES

- 6.1. Design Bureau shall retain and store any Content files for a period of 6 (six) months from the completion of the Services. Should the Client require Design Bureau to retain the files for a longer period, it must be agreed upon subject to a storage fee.
- 6.2. The Client stores any files with Design Bureau completely at their own risk. The Client understands that Design Bureau shall not be held responsible for any stolen, leaked, corrupted or damaged files, and shall further not be held responsible for any actions (unlawful or otherwise) taken by unauthorised third parties in respect of the storage of the files relating to the Services.

7. CREDIT FOR THE SERVICES

- 7.1. When specifically agreed upon, Design Bureau must be credited in any use of the Content in public spaces, including but not limited to the Client's website, any social media platform, blog posts and brochures.
- 7.2. Design Bureau retains the right to use the Content for its own promotion in any medium or public space in perpetuity, unless otherwise agreed upon with the Client in writing.

8. LIABILITY AND INDEMNIFICATION

- 8.1. Each party warrants to the other that any information, including but not limited to, images, online content, documents or designs provided to a party in connection with the Services is free from any copyright and does not infringe upon any rights of any third party to which the information belongs.
- 8.2. Apart from instances of dishonesty or gross negligence, Design Bureau will not be liable for loss, damage or delay, including loss of profits, suffered by the Client as a result of Design Bureau's provision of the Services or negligence in respect thereof, including but not limited to spelling, design or grammatical errors after the Client has accepted the final product.
- 8.3. The Client agrees to hold harmless and indemnify Design Bureau against any losses, expenses, claims, damage or delay, including loss of profits, suffered by the Client as a result of the utilisation by Design Bureau of the services of any third party suppliers, intellectual property rights or in the course of providing the Services.
- 8.4. The Client agrees to hold harmless and indemnify Design Bureau against losses, expenses, claims, damage or delay, including loss of profits, suffered by the Client as a result any unforeseen, missing or omitted requirements not specified in the quotation and further not specified by the Client to Design Bureau in writing.

9. FORCE MAJEURE

It is agreed that neither party shall be liable for delay or failure to perform any obligations contained herein if such delay is due to acts of god, fire, earthquake, labour, dispute, war, martial law, government order, riot, revolution, outbreak of epidemic diseases or any other cause (besides bad weather) beyond the reasonable control of the parties.

10. CONFIDENTIALITY

Neither party shall during or after the provision of the Services use to the prejudice or detriment of the other party, or divulge to any person any material, trade secret or any other confidential information concerning the business affairs of the other party which may have come into its possession or knowledge during the course of this agreement or pursuant to the booking or provision of the Services.

11. DISPUTE RESOLUTION

- 11.1. Should any dispute, disagreement or claim arise between the parties concerning the Services, the parties shall endeavour to resolve the dispute amicably, by negotiation, and with the best interests of both parties in mind.
- 11.2. Should the parties fail to resolve such dispute in the aforesaid manner or within such further period as the parties may agree to in their negotiation, the parties will approach an independent industry expert who shall mediate the discussion on their behalf.

11.3. The parties both agree that in no circumstance will either party publicize the dispute on any media platform, including social media. The parties understand that any publicity of this nature can cause serious damage to the other party, which damage may result in a financial claim.

12. DOMICILIUM CITANDI ET EXECUTANDI

Each of the parties choose as their service address for the purposes of the giving of any notice, the payment of any sum, the serving of any process and for any other purposes arising from this Agreement at the following addresses:

Design Bureau:

Physical Address: E106 Empire, 82 Beach Rd, Muizenberg, Cape Town, 7945

Email Address: hello@designbureau.agency

Client:

Physical Address: _____

Email Address: _____

13. GENERAL

13.1. **Survival of Rights, Duties and Obligations:** Termination of this agreement for any cause whatsoever shall not release either party from any liability which at the time of termination has already accrued to the other or which thereafter may accrue in respect of any act or omission prior to such termination.

13.2. **Variation of this Agreement:** No alteration, consensual cancellation, variation of, or addition to this agreement shall be of any force or effect unless reduced to writing and signed by both parties.

13.3. **Governing law:** This agreement shall be governed by and interpreted in accordance with the law of the Republic of South Africa. All disputes, actions and other matters in connection with this agreement shall be determined in accordance with such law.

13.4. **Cumulative Rights and Remedies:** The rights and remedies of the parties under this agreement are cumulative and in addition to any rights and remedies provided by law.

Signed at _____

Date _____

Client's Name: _____

Capacity: _____

warranting that s/he is duly authorised hereto.
