



Jell's Marketing Services - Terms and Conditions

1. Introduction

- 1.1 These terms and conditions (and any updates, amendments and/or supplements thereto) (the "**Marketing Terms**") govern the use of the Marketing Services (as defined below) operated or provided by Jell (as defined below). These Marketing Terms constitute a binding agreement between you and Jell.
- 1.2 Your use of the Marketing Services is conditional on you complying with these Marketing Terms and in using and/or accessing the Marketing Services, you signify your agreement to:
 - (a) these Marketing Terms (and any updates and supplements thereto);
 - (b) any additional terms and conditions that are agreed to in relation to the Marketing Services; and
 - (c) all other operating rules, policies and procedures that may be published from time to time by us, and the additional terms and policies set out in Clause 18, each of which is incorporated herein by reference and each of which may be updated by us from time to time without notice to you.
- 1.3 If you do not agree to any provision in these Marketing Terms, you are not permitted to, and must immediately discontinue, any use of the Marketing Services or any part thereof.
- 1.4 Submission of registration information by you to us will constitute an offer by you to become an Account Holder (as defined below) and to use Marketing Services, subject to these Marketing Terms and any other applicable terms. You will not become an Account Holder nor have access to Marketing Services unless and until we notify you of our acceptance of such offer, by providing you with a [user name and password] (or such other notification in accordance with our registration process).
- 1.5 If you have any questions regarding these Marketing Terms, please contact us at support@jell.com.sg.

2. Definitions

- 2.1 "**you/your**" means (as appropriate) the Visitor and/or Account Holder, including their respective Agents.
- 2.2 "**Jell**" or "**we/us/our**" means Jell Pte Ltd (UEN No. 201938916K), a company incorporated in Singapore.
- 2.3 "**Account**" means your account with us as an Account Holder.
- 2.4 "**Account Holder**" means a user of our Sites and/or Marketing Services whose registration has been approved by us in order to access such Site and/or Marketing Services.
- 2.5 "**Agent**" means an employee, partner, director, contractor, agent or representative of any party.
- 2.6 "**Business Applications**" means the applications and/or software (if any) and associated Intellectual Property (if any) that is made available for download for use in administering your Account and/or access to the Marketing Services.
- 2.7 "**End User**" means users who receive and/or participate in the Marketing Content as delivered by Jell on behalf of Account Holders.

- 2.8 **"Fees"** means the fees paid by you to access Marketing Services as charged in accordance with your Marketing Plan and/or any other applicable agreement between you and Jell.
- 2.9 **"Infectious Disease"** means any disease specified in the Infectious Diseases Act (Cap. 137) and includes any other disease that is caused or suspected to be caused by a micro-organism or any agent of disease; and that is capable or is suspected to be capable of transmission by any means to human beings.
- 2.10 **"Intellectual Property"** means all intellectual property rights whether registered or not, including patent rights, registered designs, design rights, copyrights, trademarks, database rights and all other intellectual rights of whatever nature in any relevant jurisdiction.
- 2.11 **"Jell Marketing Pay Per Engagement Module"** means the module(s) within our Business Applications that specifically relate to administering your access and/or use of our Marketing Services.
- 2.12 **"Jell Marketing Pay Per Engagement Policy"** refers to our policy setting out various aspects as to how Marketing Content will be served to End Users, including such aspects as pricing and/or operating mechanics.
- 2.13 **"Marketing Content"** has the meaning as set out in Clause 3.2.
- 2.14 **"Marketing Credit"** means such proportion of Fees as are to be distributed to End Users as already paid for by an Account Holder.
- 2.15 **"Marketing Plan"** means the type of Marketing Services with the corresponding pricing and commission rates as agreed between you and Jell.
- 2.16 **"Marketing Services"** means our services to you relating to the serving of Marketing Content to End Users.
- 2.17 **"Privacy Policy"** means our relevant privacy policy relating to personal data and/or information.
- 2.18 **"Sites"** means all websites owned, operated or provided by Jell, whether under the name "Jell" or otherwise.
- 2.19 **"Third Party Partners"** means third party companies and/or entities which are connected with the provision of Marketing Services.
- 2.20 **"Utilisation Report"** has the meaning as given to it under Clause 3.3.
- 2.21 **"Variations"** has the meaning as given to it under Clause 14.1.
- 2.22 **"Visitor"** means a user who accesses our Sites without registration and/or a user who has applied but not yet been approved by us to be registered as an Account Holder.



3. Your use of the Marketing Services

- 3.1 Your use of the Marketing Services is subject to us approving your registration as an Account Holder, and subsequently, your creation and our approval of a Jell Marketing Pay Per Engagement Module. We reserve the right to refuse or limit your access to our Marketing Services. In order to verify your Account, we may from time to time ask for additional information from you, including, but not limited to, verification of your name, address, and other identifying information. In submitting any application to us, you represent and warrant that you have the requisite legal capacity and authority (including being 18 years old or older if you are an individual). You may only have one Account. If you (including those under your direction or control) assign other entities or persons to manage your Account, you remain solely responsible and liable for such obligations and liabilities as you may assume under these Marketing Terms and/or any other applicable terms and conditions.
- 3.2 By enrolling in the Jell Marketing Pay Per Engagement Module, you permit us to serve on your behalf, as applicable, advertisements and other content (not limited to surveys, spot-the-difference, impression pictures, logos and videos submitted by you), mobile content, and/or other content as may be approved by us (collectively, "**Marketing Content**") to End Users. In addition, you grant us the right to access, index and cache such Marketing Content, or any portion thereof, including by automated means.
- 3.3 We shall use commercially reasonable endeavours in providing you with monthly utilisation reports in respect of the service of Marketing Content served on your behalf to end users ("**Utilisation Reports**").

4. Payment

- 4.1 Provided that your access to Marketing Services has not been terminated, your Fees payment shall automatically be debited on a monthly basis from the credit card you have registered with us as part of your Account. This debit shall generally be performed prior to the end of current month for Marketing Services provided in the next calendar month. The quantum of Fees shall be based on the Marketing Plan you have chosen and/or any other applicable agreement between you and us and calculated by us in our sole discretion. You acknowledge and agree that you are only entitled to Marketing Services for which payment has been made in advance.
- 4.2 You further acknowledge and agree that we may apportion the Fees between our Third Party Partners, the End Users and Jell in such proportions as we in our sole discretion deem fit. Provided that we have not terminated your access to Marketing Services, Marketing Credit which has not been utilised in the current calendar month shall be carried forward to the next calendar month.
- 4.3 Jell further reserves the right to adjust Fees via written notice to you during the month preceding the month in which such adjustment of Fees is to occur. If, for any reason whatsoever, payment is not received by us when due, we may withdraw and/or suspend your access to Marketing Services.

5. Change of Marketing Plan

- 5.1 You may adjust your Marketing Plan via written notice to us, and we shall use commercially reasonable efforts to adjust your Marketing Plan in the month following in the month in which such written notice is received. Your Fees may be adjusted in accordance with such adjustment to your Marketing Plan, with such adjustment to Fees to take effect at the same time adjustments to your Marketing Plan are effected.



6. Upgrading, testing and maintenance

6.1 You acknowledge and agree that your use of and/or access to the Marketing Services may from time to time be denied, interrupted and/or otherwise degraded in relation to Jell and/or its Third Party Partners conducting upgrading work, maintenance work and/or testing work on Jell's systems. Whilst Jell will use commercially reasonable efforts to notify you of any such work, you further acknowledge and agree that Jell and/or its Third Party Partners may carry out such work without any notice whatsoever. Jell and/or its Third Party Partners shall not in any way be liable for any denial, interruption and/or degradation of the Marketing Services related to the above work.

7. Intellectual property and brand features

7.1 If Jell provides you with Business Applications, we grant you a non-exclusive, non-sublicensable license for use of such Business Applications. This license is for the sole purpose of enabling you to use and enjoy the benefit of the Marketing Services as provided by Jell, in the manner permitted by these Marketing Terms and any other applicable terms. You acknowledge you will not copy, modify, distribute, sell, or lease any part of such Business Applications, or reverse engineer or attempt to extract the source code thereof. Any Business Applications and associated Intellectual Property shall remain the exclusive property of Jell.

8. Promotions

8.1 Jell reserves the right to initiate, suspend and/or terminate the offer of any promotions in respect of Marketing Services, with or without prior notice, and subject to such terms and conditions as Jell may in its sole discretion decide. Further details as to such promotional offers may be set out in additional documentation.

9. Protection of personal data

9.1 Jell treats the protection of personal data with utmost seriousness and our treatment of personal data is set out in our Privacy Policy. In accessing our Marketing Services, you are deemed to have agreed to abide by the provisions of the Personal Data Protection Act 2012 of Singapore, and its associated subsidiary legislation, regulations and/or guidelines.

10. Representations; Warranties; Disclaimers

10.1 You represent and warrant that, (i) you have full power and authority to enter into and be bound by these Marketing Terms; (ii) Jell has never previously terminated or otherwise disabled an Account created by you or any of your Agents due to your breach or your Agent's breach of the Marketing Terms, including due to invalid activity; (iii) entering into or performing your obligations under the Marketing Terms will not violate any agreement you have with a third party; and (iv) all of the information provided by you to Jell is correct and current.

10.2 We represent and warrant that we will use commercially reasonable efforts in ensuring that Marketing Content receives a certain level and/or quantum of events, clicks and/or impressions.

10.3 Save for Clause 10.2 above and other than as expressly set out in these Marketing Terms, we do not make any representations and/or warranties about the Marketing Services and/or the Marketing Content. We also do not represent and/or warrant that the Marketing Services and/or the Marketing Content are fit for any particular purpose. For example, we may refuse to serve, as applicable, advertisements and/or other content which we, in our sole discretion, deem inappropriate. In addition, we do not make any commitments about the Marketing Services and/or the Marketing Content, the specific function of the Marketing Services and/or the Marketing Content, or their profitability, reliability, availability, or ability to meet your needs. We provide the Marketing Service "as is".

10.4 To the extent permitted by law, we exclude all warranties, express, statutory, or implied. we expressly disclaim the warranties or conditions of noninfringement, merchantability, and fitness for a particular purpose.

11. Limitation of liability

11.1 Without prejudice to the remaining provisions of this Clause, you acknowledge and agree that your use and access of the Marketing Services is entirely at your own risk and you acknowledge that all Sites, Marketing Content, Marketing Services and/or Utilisation Reports are provided on an "as is" and "as available" basis. The Sites, Marketing Content, Marketing Services and/or Utilisation Reports are not intended to address your particular requirements.

11.2 The Sites, Marketing Content, Marketing Services and/or Utilisation Reports may include inaccuracies and/or typographical errors. Changes are periodically made to the Sites, Marketing Content and Marketing Services. Save as provided for in these Marketing Terms, neither we nor our Agents make any representations and/or warranties, and to the fullest extent permitted by law, exclude all implied warranties (including but not limited to, warranties of satisfactory quality, title and fitness for a particular purpose) in respect of, but not limited to:

- (a) the suitability of the information relating to the Sites, Marketing Content, Marketing Services and/or Utilisation Reports;
- (b) the accuracy, availability, reliability, completeness or timeliness of the Sites, Marketing Content, Marketing Services and/or Utilisation Reports;
- (c) the results obtained from accessing and using the Sites, Marketing Content, Marketing Services and/or Utilisation Reports.

11.3 Furthermore, we do not represent or warrant that:

- (a) the functions contained in the Sites, Marketing Content, Marketing Services and/or Utilisation Reports will be uninterrupted or error-free;
- (b) defects (if any) will be corrected;
- (c) the Sites, Marketing Content, Marketing Services and/or Utilisation Reports or the servers that make them available are free of viruses or other harmful components; nor
- (d) the use of any of the Sites, Marketing Content, Marketing Services and/or Utilisation Reports will not infringe the intellectual property rights of any third party.

11.4 Neither we, nor any our Agents will be liable to you for:

- (a) any incidental, punitive, indirect, special or consequential damage, loss or expenses, including but not limited to any loss of business, contracts, revenue, or profits, any business interruption, security breach, loss of data, loss of goodwill or reputation or other pecuniary loss suffered by you, even if we or any of our Agents have been advised of their possible existence; nor

- (b) any direct damage, loss or expense arising from a loss of customers, loss of profits, loss of anticipated profits, loss of savings, a security breach or a loss of data.
- 11.5 Without prejudice to Clause 11.4, neither we nor any of our Agents shall be liable to you for any direct or indirect damage, loss or expense suffered by you as a result of:
- (a) any viruses, worms, "Trojan horses" or similar programs, denial of service attack, spamming or hacking, or consequential damages, or any claim against us by any other party; or
 - (b) any fault, inaccuracy, omission, delay or any other failure in a Site, Marketing Content and Marketing Services caused by your computer equipment or arising from your use of the Sites, Marketing Content and Marketing Services on such equipment; or
 - (c) any inaccuracies, errors in, and/or omissions from any Site, Marketing Content and Marketing Services; or
 - (d) any delays, interruptions or short-term or immaterial errors in the transmission or delivery of any Site, Marketing Content and Marketing Services; or
 - (e) any additions, deletions or changes made to the Sites, Marketing Content and Marketing Services at any time.
- 11.6 Without prejudice to Clauses 11.4 and 11.5 and except where you are an Account Holder who has paid the relevant Fees (but subject to these Marketing Terms), neither we nor any of our Agents shall be liable to you for any direct or indirect loss, damage or expenses arising by any reason of non-performance by us of these Marketing Terms or any other provision and/or term of our agreement with you.
- 11.7 Without prejudice to the limitation of liability provisions above, in the event that you, as an Account Holder, incur any loss, damage or expense arising out of your use of any Site, Marketing Content and/or Marketing Services, you agree that our liability to you shall be limited to the sum of the fees which we have collected and retained from you in the three (3) month period preceding the date on which the claim arose.
- 11.8 You acknowledge and agree that we are not responsible for the investigation, defence, settlement, and discharge of any third party claim for intellectual property infringement, breach of contract or otherwise that is occasioned or committed by you.
- 11.9 Nothing in these Marketing Terms shall limit or exclude our liability for any liability that cannot be excluded or limited by applicable laws.

12. Indemnity

- 12.1 You agree to indemnify and hold us, our Agents, licensors (if any) and sub-contractors (if any) harmless from and against all costs, claims, damages, loss, liability, demand and expenses (including economic loss, accounting fees, and court and legal costs assessed on a solicitor-client basis) which we might suffer or incur, arising whether directly or indirectly, by reason of:
- (a) your negligent act or omission, wilful default, misconduct or fraud;
 - (b) your use and/or access to the Marketing Services;
 - (c) your breach of any provision in these Marketing Terms; and/or
 - (d) your failure to comply with applicable laws.
- 12.2 For the avoidance of doubt, this indemnity shall extend (without limitation) to any damage and/or loss which we may suffer as a result of the use by third parties of your Account, except in circumstances where you can demonstrate to our satisfaction that such third party obtained the relevant details through no fault (including, without limitation, negligence) of your own.

13. Breach and termination

- 13.1 Notwithstanding any other provision in these Marketing Terms, failure to comply with any provision under these Marketing Terms constitutes a material breach. We will determine, in our sole discretion, whether any such breach has occurred. Where we suspect or determine that such a breach has occurred, or if there arise other issues which we consider, in our sole discretion, to be disruptive to our business and reputation, we may take such action as we deem appropriate at any time, with or without prior notice to you, including all or any of the following:
- (a) issuance of a warning to you;
 - (b) restricting, suspending or terminating your use and/or access as a Visitor and/or an Account Holder and/or your access to and/or use of the Sites, Marketing Services and/or Marketing Content, or any part thereof;
 - (c) taking legal steps against you and/or instituting legal proceedings against you for your breach; and/or
 - (d) the disclosure of such information related to your breach to law enforcement and/or other governmental authorities as we may feel is necessary.
- 13.2 For the avoidance of doubt, you shall not be entitled to any refund of any payment made by you, in the event of the restriction, suspension and/or termination of your use and/or access pursuant to Clause 13.1 (for any reason whatsoever), or in the event that we take any action pursuant to Clause 13.1 above.
- 13.3 Either Jell or the Account Holder shall be entitled to terminate these Marketing Terms upon giving 14 days' prior written notice to the other party provided that an Account Holder cannot give notice where there are any unpaid Fees and/or any other breach of these Marketing Terms. Where valid written notice of termination is served by an Account Holder, Marketing Credit shall continue to roll over to the next calendar month until utilised in full.
- 13.4 Upon a termination, pursuant to Clause 13.1 or 13.3 above, all rights granted to you hereunder shall immediately cease and terminate, and you must immediately cease your access to and/or use of the Sites, Marketing Services and/or Marketing Content, or any part thereof. Termination shall not affect Jell's rights which have accrued against you prior to termination.

14. Variations

- 14.1 We may modify, amend or revise these Marketing Terms at any time in the exercise of our sole discretion, with or without notice to you, and you agree to be bound by all such modifications, amendments and/or revisions ("**Variations**"). Such Variations will be notified to you by being posted on the Sites and Variations which are in our view, material, will be emailed to our Account Holders. You are responsible for checking the Sites regularly for any posted Variations. A Variation will come into effect immediately upon the Variation being posted on the relevant Site and/or having been emailed to Account Holders.
- 14.2 If you do not agree to any Variation to these Marketing Terms, you are to stop accessing and/or using the Sites, Marketing Services and/or Marketing Content immediately. Your continued access and/or use of the Sites, Marketing Services and/or Marketing Content after a Variation has come into effect will constitute your assent to and acceptance of the Variation and the modified, amended and/or revised Marketing Terms.
- 14.3 We may also update, change, remove or discontinue access to any of the Sites, Marketing Services and/or Marketing Content or change any aspect, features, component or content of the Sites, Marketing Services and/or Marketing Content at any time, for any reason, with or without notice to you, in the exercise of our sole discretion, without liability. We therefore do not guarantee that any specific aspect, content, component and/or feature will always be available for the Sites, Marketing Services and/or Marketing Content. You agree and acknowledge that such changes may result in you being unable to access the whole or any part of our Sites, and/or Marketing Services.

15. Non-exhaustive list of Sites and their domains

15.1 Our Sites are located on the internet under, but not limited to, the following domains:

Jell.com.sg

15.2 The domain names for our Sites may change from time to time.

16. Notices

16.1 Any notice which is required to be given pursuant to these Marketing Terms shall be made by email, in the case of you, to the email address provided on your registration form and, in the case of us, to the relevant contact as given in these Marketing Terms, to the address posted on the relevant Site or otherwise notified to you in relation to any relevant Marketing Service.

16.2 Any such notice as sent by email shall be deemed to have been received by the recipient on the day of transmission (and if on a day on which businesses in the recipient's jurisdiction are not open for business, on the next business day).

17. General

17.1 These Marketing Terms (including any terms incorporated by reference in these Marketing Terms) constitute the entire agreement between us in relation to your access to and use of the Sites and/or Marketing Services and/or Content and supersedes all prior agreements, negotiations and discussions between you and us relating to the same.

17.2 Headings in these Marketing Terms are solely for convenience, and shall have no legal meaning or effect.

17.3 An entity who is not a party to these Marketing Terms has no right under the Contracts (Rights of Third Parties) Act (Chapter 53B) of Singapore to enforce and/or enjoy the benefit of any provision and/or term of these Marketing Terms.

17.4 These Marketing Terms are governed by and construed in accordance with the laws of the Republic of Singapore. Any dispute concerning these Marketing Terms shall be subject to the exclusive jurisdiction of the Courts of Singapore.

17.5 If any provision of these Marketing Terms is found to be invalid by any court having competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Marketing Terms, which shall remain in full force and effect.

17.6 We shall not be liable for any non-performance, error, interruption or delay in the performance of our obligations, the provision of the Sites, Marketing Services and/or Marketing Content (or any part thereof) or in the operation of the Sites, Marketing Services and/or Marketing Content, or any unavailability of the Sites, Marketing Services and/or Marketing Content, that is due, in whole or in part, directly or indirectly to an event or failure which is beyond our reasonable control including without limitation:

- (a) acts of God, nature, explosions, floods, fire or accident, war or threat of war, terrorism or threat of terrorism, sabotage, civil disturbance, epidemics and/or Infectious Disease, prohibitions or measures of any kind on the part of any governmental, judicial, parliamentary or local authority, import or export regulations or embargoes, or industrial actions or trade disputes (whether involving our employees or of third parties);

- (b) a failure or interruption in public or private telecommunication networks, communications channels or information systems;
- (c) acts or omissions of any third-party service provider or any other party for whom we are not responsible;
- (d) delay, failure or interruption in, or unavailability of, third-party services; and
- (e) viruses, other malicious computer codes or the hacking by any party of us or third-party services.

- 17.7 We may assign, sub-license and/or transfer our rights and obligations under these Marketing Terms to another party without notice to you. This includes (but is not limited to) sub-contracting delivery of a Marketing Service to any third-party service provider who operates the business relating to the relevant information, publication or data product forming part of that Marketing Service. You may not transfer, assign, sub-license and/or transfer any of your rights or obligations under these Marketing Terms to another party, save with our prior written consent.
- 17.8 Failure or neglect by us to enforce at any time any of the provisions in these Marketing Terms shall not be construed or deemed to be a waiver of our rights hereunder, nor in any way affect the validity of the whole or any part of these Marketing Terms or prejudice our right to take subsequent action.

18. Additional Terms

- 18.1 The following terms and policies are hereby incorporated into these Marketing Terms by reference and provide additional terms and conditions related to specific aspects or features of your use of the Sites and/or Marketing Services:
- (a) Privacy Policy in relation to use of your personal data and/or information;
 - (b) Jell Marketing Pay Per Engagement Policy;
- 18.2 You acknowledge and agree that you have read and understand the Marketing Terms and all the above terms and policies and agree to be bound thereby.