

ZA-TCits06

## **Website terms and conditions template: software or app download site**

## Terms and Conditions

These terms and conditions are the contract between you and [Our Name] (“us”, “we”, etc). By visiting or using Our Website,

We are [trade name], a company registered in [ ], [ ].

Our address is [address]

VAT Registration Number: [Number]

You are: Anyone who uses Our Website

Please read this agreement carefully and save it. If you do not agree with it, you should leave

**These are the agreed terms:**

### 1. Definitions

“Content”	means the textual, visual or aural content that is encountered as part of your experience on Our Website. It may include, among other things: text,
“Intellectual Property”	means intellectual property owned by us, of every sort, whether or not registered or registrable in any country, including intellectual property of all kinds coming into existence after today; and including, among others, patents, trade marks, unregistered marks,
“Licence”	means a licence granted by us to you in the terms of
“Our Website”	means any website or service designed for electronic access by mobile or fixed devices which is owned or operated by us [or any member of the [ ]].

"Post"	means place on or into Our Website any Content or material
"Product"	means any software or other product sold or offered for
"Services"	means all of the services available from Our Website,

## 2. Interpretation

In this agreement unless the context otherwise requires:

- 2.1. a reference to a person includes a human individual, a corporate entity and any organisation
- 2.2. a reference to a person includes reference to that person's successors, legal representatives, permitted assigns and any person to whom rights and obligations are transferred or pass as a
- 2.3. in the context of permission, "may not" in connection with an
- 2.4. the headings to the paragraphs and schedules (if any) to this agreement are inserted
- 2.5. any agreement by either party not to do or omit to do something includes an obligation not to allow some
- 2.6. a reference to an act or regulation includes new law of substantially the same
- 2.7. these terms and conditions apply to all supplies of Products by us. They
- 2.8. this agreement is made only in the English language. If there is any conflict in meaning between the English language version of this agreement and any version or

### 3. Basis of Contract

- 3.1. When you buy a Product, you are in fact buying a Licence to use that Product for [one / ],
  - 3.2. Any continuation of your Licence by us or by you after the expiry of one year is a new contract under the terms then Posted on Our Website. Your continued use of our Product
  - 3.3. [Unfortunately, we cannot guarantee that every Product advertised on Our Website is available. If at any time a Product ],
  - 3.4. In entering into this contract you have not relied on any representation or information from any source except the
  - 3.5. You acknowledge that you understand exactly what is included in a Product and you are satisfied that the Product
  - 3.6. The contract between us comes into existence when we receive
- OR*
- 3.7. The contract between us comes into existence only when we write to you to confirm that we agree to provide to you the Product you want. Your payment does not create a contract.
  - 3.8. We may change this agreement and / or the way we provide a Product,
    - 3.8.1 The change will take effect when we Post
    - 3.8.2 We will give you notice of the change. If you do not accept the change, we will refund

3.8.3 If you make any payment for Products or Services in the future, you will do so under

## 4. The Licence

- 4.1. Subject to the terms of this agreement, we grant to you a limited Licence to use a Product for your personal or business use.
- 4.2. The Licence is for the specific period for which you have bought it. The Licence expires at the end of that period if not renewed. Expiry cannot remove or reduce
- 4.3. If you have bought a single-user Licence, you may install and use it on not more [ ]
- 4.4. If you have bought a multi-user Licence, you may install and use it on the number of
- 4.5. You may not copy a Product except for the purpose of system maintenance, nor may you transfer

## 5. Your account and personal information

- 5.1. When you visit Our Website, you accept responsibility for any action done by any person using your name, account or password. You should take all necessary steps to ensure that the password is kept confidential and secure and should inform us immediately if you have any reason to believe that
- 5.2. You agree that you have provided accurate, up to date, and complete information about yourself. We are not responsible

5.3. You agree to notify us of any changes in your information immediately it occurs. If you do

## 6. The price

6.1. The price payable for a Product is clearly

6.2. The price charged for any Product may differ from one country to another. You may not be entitled to

6.3. The price of a Product may be changed by us at any time. We will never change a price so as to affect

6.4. Prices are inclusive of any applicable value added

6.5. All monies paid by you to us are non-refundable and cancellation and/or termination of this agreement by you or us at any

## 7. If you buy as a consumer

This paragraph applies if and only if, you are a consumer as defined 2002 .

7.1. As required by the law, details of our after-sales service and guarantees, if any, are

7.2. Most of our Products are “delivered” either by allowing you to download them or by our sending as email attachments. As a result

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7.3. To comply with the law, we require you to instruct us to deliver a Product to you immediately. If you do this

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7.4. By accepting [\[Ourname\]](#) terms and conditions, you now do

7.5. You have no right to a refund of

7.6. This paragraph does not affect your rights

## 8. Renewal payments

8.1. At least [four] weeks before expiry of the period for which you have paid, we shall

8.2. You may cancel ongoing provision of a Product at any time on giving us 21 clear days notice,  
[  
].  
[  
].

8.3. At expiry of your [Our Name] Licence we shall automatically take payment from

[ ]

OR

8.4. You agree to pay the [monthly / yearly] licence fee for a Product, from the credit card, information for which you have already,

[ / ].

8.5. If you have made payment in some way other than

8.6. If we change the nature or provision of ,

8.7. If a change we make in the provision of a Product,

## 9. Foreign taxes, duties and import restrictions

9.1. If you are not in the South ,

9.2. You are responsible for purchasing a Product which you

## 10. Security of your [\[credit card\]](#)

We take care

10.1. [Card payments are not processed through pages controlled by us.](#)

10.2. [If you have asked us to remember your credit card details in readiness for your next purchase](#)



## 11. Dissatisfaction with a Product

These provisions apply in the event ( ) :

11.1. If for any reason you are not completely satisfied, you may return the Product within 30 days of the date of purchase.

OR

11.2. Our most important task is to ensure your absolute satisfaction. We will always strive to reach your satisfaction.

11.3. So far as possible, we will ensure that the Product is delivered to you in the following manner:

11.3.1 with both Product and packaging in the original sealed container; and

11.3.2 securely wrapped;

11.3.3 including our delivery slip;

11.3.4 at your risk and cost.

11.4. If you do not follow the procedure for complaints set out in our Terms and Conditions, we will not be bound by the above provisions.

## 12. How we handle your Content

12.1. Our privacy policy is available at [www.nl.com/privacy-policy](#).

12.2. If you Post Content to any public area of Our Site, you agree that we may use, display, reproduce, distribute, transmit, sell, license, and otherwise make available that Content to other users of the Site.

12.3. Even if access to your text is behind a user registration it will be made available to other users of the Site.

12.4. We need the freedom to be able to publicise our Services and your own use of them. You therefore now irrevocably grant

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12.5. We will use that licence only for commercial

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12.6. You agree to waive your right to be identified

1978 .

12.7. [You now irrevocably authorise us to publish

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12.8. Posting content of any sort does not change your

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12.9. You understand that you are personally responsible for your breach of

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12.10. You accept all risk and

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12.11. Please notify us

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12.12. [We do not solicit ideas or text for improvement of our Service, but if you

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[ / ] ].

## 13. Restrictions on what you may Post to Our Website

We invite you to Post Content to Our Website in several ways and for different purposes. We

We do not undertake to moderate or check every item Posted, but we

You agree that you will not use or

13.1. be unlawful,

13.2. consist in

13.3. be obscene,

13.4. be sexually explicit or pornographic;

13.5. be likely to deceive any person or be

13.6. request or collect passwords or other personal

13.7. be used to sell any goods or services or for any other commercial use not intended by

13.8. include anything other than words (i.e.

13.9. facilitate the provision

13.10. link to ;

13.11. Post excessive or - ;

13.12. sending age-inappropriate 18 .

## 14. Your Posting: restricted content

In connection with the restrictions set out ,

In addition to the ,

14.1. hyperlinks, ;

14.2. keywords or words ,

14.3. the name, logo or .

14.4. inaccurate, false, or misleading information.

## 15. Removal of offensive Content

15.1. For the avoidance of doubt,

15.2. We are under no obligation to monitor or record the activity of any customer for ,

15.3. If you are ,

15.3.1 your claim or complaint must be submitted to us in the form ,

15.3.2 we shall remove

;

15.3.3 after we receive notice of

;

15.3.4 we may re-

15.4. In respect of any complaint made by you or any person on your behalf,

15.5. You now agree that if any complaint is made

## 16. Security of Our Website

If you violate

You now agree that

16.1. modify, copy, or cause damage

16.2. link to Our Website in any way that would cause the appearance

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16.6.2

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## 17. Interruption to our Service

17.1.

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17.2.

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17.3.

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## 18. Intellectual Property

18.1.

18.2.

18.3.

**You agree that at all times you will:**

18.4.

18.5.

18.6.

18.7.

18.8.

18.9.

18.9.1

18.9.2

18.9.3

## 19. Disclaimers and limitation of liability

19.1.

19.2.

19.3.

19.4.

19.5.

[ “ ” ] [ ]  
[ ] :

19.5.1 useful to you;

19.5.2 of satisfactory quality;

19.5.3 fit for a particular purpose;

19.5.4 , , ;

19.6.

19.7.

19.8. We accept no responsibility for:



19.8.1 malfunction in any hardware of yours;

19.8.2

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19.8.3 the provision or failure to provide any firewall.

19.9.

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19.9.1 indirect or consequential loss; or

19.9.2

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19.10.

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19.11.

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19.12.

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19.13.

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## 20. You indemnify us

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20.1.

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20.2. your breach of this agreement;

20.3. , ;

20.4. ;

[ ] .

## 21. Miscellaneous matters

21.1. , - ,

21.2. , ,

21.3. , , ,

21.4. .

21.5. [ ] ,

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21.6. , :

21.6.1

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21.6.2

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21.6.3 issue a claim in any court.

21.7.

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21.8.

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21.10.

It shall be deemed to have been delivered:

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21.11.

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21.12.

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21.13.

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21.14.

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## Explanatory Notes:

Website terms and conditions template: software or app download site

## Paragraph Specific Notes:

Drafting notes following the numbered paragraphs

### 1. Definitions

We know nothing about your business, so we cannot provide you with defined terms which precisely describe what you sell. Most people do not read your terms (even if they have to “tick the box”). The people who do take the trouble to read them are likely to be the sort of people who expect the same attention to detail from you as they themselves give to their purchase of your goods or services. It therefore helps you to obtain their business if your terms

We use	you decide
“Product”	“Games” / “ ” /
“Our Website”	“The Jones Site” / “ ”

But if you do change the defined word, **make sure it applies to every use**

Remember too, that when a word or phrase is defined, the defined meaning, capitalised, takes precedence over the

You should first decide on the contents of the document, then return to check what definitions are needed and whether they really

### 2. Interpretation

Leave these items in place unless there is a good reason to edit or remove. These items are not “lawyer’s blurb”. Every item has been carefully considered in the context of this agreement and has been included for

### 3. Basis of contract

Technically, you are both selling products and granting a licence for use of your product or

It is important to make clear when the contract comes into effect. Without specifying, your website will be regarded as an offer and payment by your customer as

#### **4. The Licence**

Although referred to as T&C, this document is a licence. You must tell the buyer of

#### **5. Your account and personal information**

Edit as required. We have no

#### **6. The price**

We have no comment.

#### **7. If you buy as a consumer**

These paragraphs ensure compliance with Electronic Communications and Transactions 2002 ( )

Under section 42(1)(g) of the ECT Act the cooling-off period set out in section 44

Under section 42(1) (d) of the ECT Act the cooling-off period set out in section 44 of the Act does not

44 ( 1 ).

Under section 42(1) (f) of the ECT Act the cooling-off period set out in section 44

a. are ;

b. are clearly personalised;

c. by reason of ;

d. are likely

#### **8. Renewal payments**

We have provided for auto renewal of the service provision. In law that provision is void. You cannot unilaterally renew a contract. However, if you continue a course of

The best way to deal with this issue is to provide a warning to a customer/member about four weeks before you take payment, with a copy of

## **9. Foreign taxes, duties and import restrictions**

If some customers may be from abroad, wash your hands

## **10. Security of your [credit card]**

This short paragraph is intended primarily to re-assure your customer that you are careful with his money.

For payment you may have various alternatives like

## **11. Dissatisfaction with a Product**

If you sell any product which could be returned to you, we advise you to have a written returns policy. This applies to software sent in a hard medium, such as a DVD as well as to goods such as hard copy books. You could

&

&

In this paragraph you may add more flexible terms regarding returns and refunds. The law allows

## **12. How we handle your Content**

It is a question of balance and maybe how your buyers will

This particular paragraph covers a sensitive issue. You should edit to suit the way you operate your business. You need to provide a balance between making precise promises which could trip you up

### **13. Restrictions on what you may Post to Our Website**

This and the following three paragraphs relate directly to aspects of the interface between you and your buyers.

This paragraph has two purposes: the first is the obvious and named purpose of

No matter what you put in this paragraph, there is no certainty that you may

Of course,

We suggest that you edit this paragraph in line

### **14. Your Posting: restricted content**

This paragraph continues in the vein

### **15. Removal of offensive Content**



This paragraph is targeted at anyone who is aggrieved at a posting. He may or may

**16. Security of Our Website**

Your need for this provision also depends

**17. Interruption to Service**

We have no comment

**18. Intellectual Property**

Few business managers appreciate just how much IP is owned

**19. Disclaimers and limitation of liability**

Some may be void in other jurisdictions.

You will see that we have also included in the provision for

**20. You indemnify us**

We suggest no edits.

**21. Miscellaneous matters**

A number of special points. We have identified each of these as

## Ends of Notes