

USER TERMS AND CONDITIONS

IT IS IMPORTANT TO NOTE THAT THE USE OF THE WEBSITE AND APPLICATION IS SUBJECT TO THE TERMS AND CONDITIONS OF USE SET OUT BELOW. BY USING THIS WEBSITE OR APPLICATION THE USER AGREES AND IS DEEMED TO HAVE AGREED TO OBSERVE ALL TERMS AND CONDITIONS OF USE, INCLUDING ANY PRIVACY OR OTHER POLICIES WHICH MAY APPEAR ELSEWHERE ON THIS WEBSITE OR APPLICATION. IF YOU DO NOT WISH TO BE BOUND BY THESE TERMS AND CONDITIONS THEN FURTHER USE OF THE WEBSITE OR APPLICATION IS PROHIBITED.

1. DEFINITIONS

- 1.1 "Agency" means an advertising agency authorised to act on behalf of a Brand Owner.
- 1.2 "Application" means the Brandmoji application relating to the use of Icons, as authorised.
- 1.3 "Brandmoji" means Brand Moji Media (Proprietary) Limited, the owner of the Website, Application and all related Intellectual Property.
- 1.4 "Brand Owner" means the owner of an Icon.
- 1.5 "Click Fraud" means a natural person, an automated script, or computer program clicking or selecting a hyperlink in an advertisement in a Website or Application in order to imitate a legitimate user of a web browser clicking on an advertisement, for the purpose of generating a charge per click, without having an actual interest in the target of the advertisement's hyperlink.
- 1.6 "Data Message" has the meaning stipulated in the ECT Act and includes an Icon, message, email, device or logo;
- 1.7 "ECT Act" means the Electronic Communications and Transactions Act no. 25 of 2002 as amended from time to time.
- 1.8 "Icon" means a brand logo, image or device, authorised for use.
- 1.9 "System" means the Website, Application and all other aspects, parts and components of the Brandmoji service and system.
- 1.10 "User" and/or "you" means any natural person accessing any part of the Website or Application of Application.
- 1.11 "Website" means www.brandmojimedia.com website and all subsidiary pages thereof but specifically excluding links to external sites operated by third parties.

2. USE OF BRANDMOJI WEBSITE AND APPLICATION

- 2.1 The Brandmoji service and System is comprised of, but is not limited to:-
 - 2.1.1 use, promotion, exposure and advertising of Icon brand logos and devices in the Application,
 - 2.1.2 social interaction between Users;
 - 2.1.3 communication services; and
 - 2.1.4 feedback services.
- 2.2 Use of the Website and Application is strictly at the sole risk of the User.

- 2.3 Any and all illegal, unlawful or fraudulent conduct, including Click Fraud, directed towards the Website, the Application or any of the services offered through it, is strictly prohibited.

3. AMENDMENTS TO CONTENT AND INFORMATION

- 3.1 Brandmoji expressly reserves the right in its sole discretion to effect any amendment or alteration to the System, content and information.
- 3.2 Users acknowledge that it is their responsibility to familiarise themselves with any amendment or alteration effected to the Website, Application of System.

4. OWNER INFORMATION & REQUIRED DISCLOSURES UNDER SECTION 43 OF THE ECT ACT

- 4.1 Please submit any query in respect of these Terms & Conditions or the use of the Website or Application to us in any of the following ways:

Website or Application and Application owner: Brandmoji Media (Pty) Ltd
Registered Number: 2015/203416/07
VAT Number: N/A
Tel. + 27 82 407 8627
E-mail: info@brandmojimedia.com
Website or Applications: www.brandmojimedia.com
Registered Address and *Domicilium Citandi et Executandi*:

22 The Drive
Westdene
BENONI
1501
South Africa

- 4.2 The content of the Website or Application does not constitute any offer to Users to register an account. Rather, the content must be construed as an invitation to obtain an account.

5. DISCLAIMERS

- 5.1 **THIS ENTIRE WEBSITE, APPLICATION OR SYSTEM, INCLUDING TEXT, IMAGES, LINKS, DOWNLOADS, ICONS AND CODING, IS PROVIDED "AS IS" AND "AS AVAILABLE". BRANDMOJI MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES AS TO THE CORRECTNESS OR SUITABILITY OF EITHER THE WEBSITE, THE APPLICATION, THE SYSTEM, THE ICONS OR THE INFORMATION CONTAINED IN IT.**
- 5.2 Subject to Chapter 7 of the ECT Act, Brandmoji, its officers, employees, suppliers, Internet Service Providers, Agencies, partners, affiliates and agents, shall not be liable for any direct damage, loss or liability, howsoever arising, incurred by Users or any other persons and resulting from the use or inability to use the Website or Application, unless such damage was caused by the gross negligence of Brandmoji or any combination of the foregoing persons.
- 5.3 Subject to Chapter 7 of the ECT Act and to the fullest extent possible under the applicable law, Brandmoji disclaims all responsibility or liability for any indirect damages, economic, consequential loss or loss of profits, resulting from the use of or inability to use (including but not limited to non-receipt of services) the Website, Application or Icons in any manner or the use of the Icons in any manner.

- 5.4 Brandmoji, its officers, employees, suppliers, Internet Service Providers, Agencies, partners, affiliates and agents, shall not be liable for any direct damage, loss or liability, howsoever arising, incurred by Users, Brand Owners or any other persons as a result of the services advertised or rendered by the Website or Application.

6. INDEMNITY

USERS AND BRAND OWNERS AGREE TO INDEMNIFY AND HOLD HARMLESS BRANDMOJI, ITS OFFICERS, EMPLOYEES, INTERNET SERVICE PROVIDERS, SERVANTS, SUBCONTRACTORS, PARTNERS, SUBSIDIARIES AND AFFILIATES FROM ANY DEMAND, ACTION OR APPLICATION OR OTHER PROCEEDINGS, INCLUDING FOR ATTORNEYS FEES AND RELATED COSTS SUCH AS TRACING FEES, MADE BY ANY THIRD PARTY AND ARISING OUT OF OR IN CONNECTION WITH THE USER'S USE OF THIS WEBSITE, THE APPLICATION AND ICONS, THIRD PARTY WEBSITES, OR ANY OF THE SERVICES OFFERED THROUGH SUCH SITES OR APPLICATIONS IN ANY WAY, INCLUDING BUT NOT LIMITED TO THE PROVISION OF CONTENT AND ICONS.

7. PAYMENT

- 7.1 Brandmoji offers a range of services which shall initially be provided to Users free of charge, for a limited period.
- 7.2 The free trial is a once-off opportunity to allow a User, to assess the desirability of the services offered and to allow Brandmoji the opportunity to assess the viability and functionality of the Website and Application.
- 7.3 After a certain period, at Brandmoji's discretion, and on notice, the access to the Website and Application's services will be subject to a fee payment, the value of which, is to be determined by Brandmoji, in due course.
- 7.4 The fee payment will apply on notice to the Users and the terms of which, will be communicated to the Users, before its commencement.
- 7.5 A Payment Policy shall be issued in due course dealing with payment related matters.

8. REGISTRATION

- 8.1 When creating a Brandmoji account, Users agree that:
- 8.1.1 they will be irrevocably bound by the terms and conditions applicable to the use of the Website and Application;
- 8.1.2 they will provide full and accurate information;
- 8.1.3 it is the User's responsibility to check and update information pertaining to their User account;
- 8.1.4 registration is for a single User only and a subscriber's username and password cannot be shared with any other person; and
- 8.1.5 a single username and password cannot be used to allow multiple access to other users over a network.

9. USER UNDERTAKINGS

Users further undertake not to:

- 9.1 impersonate any other person or use a false or unauthorised name so as to create a false identity, platform, telephone number and / or e-mail address or to misrepresent the origin or identity of any communications;
- 9.2 modify, access or make available any data stored on a computer device which has been accessed through Brandmoji's network;
- 9.3 make available or upload files that contain software or any other material not owned or licensed to the User; and
- 9.4 make use of the Website or Application to collect, disseminate or otherwise obtain personal information relating to other Users.

10. BRANDMOJI RESERVATIONS

- 10.1 Brandmoji expressly reserves its rights in respect of any abuse of the free or paid-for services offered through the Website or Application and will pursue prosecution of and compensation from any party which receives or attempts to receive any service to which he, she or it is not entitled.
- 10.2 The granting of an account, whether free or paid-for, is entirely within the discretion of Brandmoji and may, without limiting such discretion, be refused or ended where Brandmoji reasonably suspects abuse of the Website or Application or where the provisions of these Terms and Conditions of Use are breached.

11. RECEIPT OF DATA MESSAGES

- 11.1 A Data Message shall be regarded as received when the complete data message enters an information system designated or used for that purpose by the addressee and is capable of being retrieved and processed by the addressee.
- 11.2 Brandmoji reserves the right to remove any Data Message which contains obscene, threatening, defamatory or otherwise illegal, unlawful or inappropriate content, and to take the appropriate action against the sender of such Data Message where necessary.
- 11.3 Users should be aware that filtering technology employed by internet service providers, employers and others may result in the non-delivery of a service subscribed to. Brandmoji takes reasonable efforts to ensure that subscription services are not stopped by filtering technology used by Brandmoji and will make reasonable attempts to remedy non-delivery where it is notified thereof. If you have not received a subscription service please notify us.

12. MONITORING AND INTERCEPTION OF COMMUNICATIONS

- 12.1 In order to provide a relevant and secure service, and where required to do so under law, Brandmoji may monitor and/or intercept communications (including Data Messages) which are sent to the Website or Application.
- 12.2 To the full extent necessary under law the User hereby acknowledges that he or she is aware of such potential monitoring and/or interception and consents thereto in terms of sections 5 and 6 of the Regulation of Interception of Communications and Provision of Communication-Related Information Act 70 of 2002.

13. SUBMISSION AND UPLOADING OF CONTENT

- 13.1 The Website and Application offers a service through which Users may use and communicate with Icons and submit personal information for the purposes of social interaction. Further functionality in this regard may be added from time to time.
- 13.2 Brandmoji reserves the right, in its sole and absolute discretion, to approve or refuse any submission, including an Icon, device, image or logo.
- 13.3 Brandmoji further reserves the right, in its sole and absolute discretion, to remove any submissions or Icons on such grounds as it may deem fit.
- 13.4 Any content received by Data Message will be assumed to have been submitted for publication on the Website or Application free of charge.
- 13.5 Any unsolicited information or material sent to Brandmoji will be deemed not to be confidential, unless otherwise agreed to in writing by Brandmoji.

14. REMOVAL OF CONTENT - NOTICE OF OBJECTION

- 14.1 If Brandmoji receives a valid notice of objection relating to any content or Icon that is used or posted on the Website or Application then Brandmoji, subject to the provisions of this clause, will remove the content or Icon as contained on the Website or Application.
- 14.2 A valid notice of objection must be emailed or faxed to Brandmoji and include:
 - 14.2.1 full names and address of the complainant;
 - 14.2.2 written or electronic signature of the complainant;
 - 14.2.3 identification of the right that has allegedly been infringed;
 - 14.2.4 identification of the material or activity that allegedly infringes this right;
 - 14.2.5 the remedial action requested;
 - 14.2.6 the telephonic and electronic contact details of the complainant;
 - 14.2.7 a statement that the complainant is acting in good faith; and
 - 14.2.8 a statement that the information is true and correct.
- 14.3 If Brandmoji receives a notice of objection that complies with the above requirements and Brandmoji is of the view that the objection is legally valid, Brandmoji will remove the content or Icon and inform the complainant and, if necessary, the third party that posted that material immediately.
- 14.4 Brandmoji expressly disclaims any liability which may arise as a result of the removal of content or icon pursuant to the receipt of a valid notice of objection.

15. SECURITY

- 15.1 We take reasonable precautions to protect the security of the Website and Application. However, due to the nature of the Internet, we cannot guarantee that the Website and Application is error-free. In addition to the disclaimers contained elsewhere in these Terms and Conditions, Brandmoji also makes no warranty or representation, whether express or implied, that the information or files available on the Website or Application are free of viruses, spyware, malware, trojans, destructive materials or any

other data or code which is able to corrupt, destroy, compromise or jeopardise the operation, stability, security functionality or content of your computer system, computer network, hardware or software in any way.

- 15.2 The following acts in connection with the Website and Application are expressly prohibited:
- 15.2.1 gaining or attempting to gain unauthorised access to any web page or part of the Website or Application;
 - 15.2.2 delivering or attempting to deliver any unauthorised or malicious code or content to the Website or Application; and/or
 - 15.2.3 any amendment to or attempt to amend any of the content or Icon or any other part of the Website or Application by unauthorised persons.
- 15.3 We will pursue prosecution of and compensation from any person that delivers or attempts to deliver any destructive code to the Website or Application or attempts to gain unauthorized access to any page on or part of the Website or Application.

16. PATENT, COPYRIGHT AND INTELLECTUAL PROPERTY PROTECTION

- 16.1 Copyright in all information, logos, Icons, images, source codes and other original material contained in the Website and Application, which is not attributed to a third party, is held by or licensed to Brandmoji. Brandmoji asserts and reserves all its rights, including moral rights, in this regard. No right, title or interest in any proprietary material or information contained in the Website or Application is granted to users other than set out below.
- 16.2 Brandmoji grants to Users a personal, non-exclusive, non-assignable and non transferable license to view, copy, download to a local drive, print and display all content and information from the Website or Application on any machine of which the User is the primary user provided that such use:
- 16.2.1 is for information purposes only;
 - 16.2.2 is for non-commercial purposes or within a non-commercial Website or Application; and
 - 16.2.3 any reproduction must acknowledge the Website or Application as the source of the
 - 16.2.4 information in a proper copyright notice.
- 16.3 Brandmoji is the owner of Patent No. 2017/05443 titled “Method and System of inserting a Branded Icon in an Electronic Message”, which provides protection for the System.
- 16.4 Users are requested to note that intellectual property rights in certain material and/or information contained on the Website or Application may vest in a third party other than Brandmoji and that the user is under a legal duty to respect such rights, including in relation to Icons.

17. PRIVACY POLICY AND CONFIDENTIALITY OF COMMUNICATIONS

- 17.1 Brandmoji respects your privacy and is committed to the voluntary privacy protection principles contained in Chapter 8 of the ECT Act.
- 17.2 The User's attention is drawn to the fact that information transmitted via the Internet, including e-mail, is susceptible to monitoring and interception. The User is therefore discouraged from transmitting to the Website, Application or Brandmoji any information that may be confidential, proprietary, or sensitive. The User shall bear all risk of transmitting such information in this manner

and under no circumstances will Brandmoji be liable for any loss, harm, or damage suffered by the User as a result thereof.

- 17.3 The Website or Application owner reserves the right to request independent verification of any information transmitted via e-mail and the User consents to such verification should Brandmoji deem it necessary.
- 17.4 Where you submit personal information (such as your name, address, telephone number, e-mail address to the Website or Application, for example through sending a Data Message when interacting on a personal social platform or filling in required fields, the following principles are observed in the handling of that information:
- 17.4.1 Brandmoji collects, processes and stores only such personal information regarding users as is necessary to provide the services offered. The specific purpose for which information is collected is apparent from the context in which it is requested.
- 17.4.2 Brandmoji will not use the personal information submitted for any other purpose other than the efficient provision of services, including the Website or Application and services offered through them by third parties, without obtaining the prior written approval of the User or unless required to do so by law. The names and e-mail addresses of account holders and persons taking advantage of the trial offer are retained for verification purposes.
- 17.4.3 Brandmoji will keep records of all personal information collected and the specific purpose for which it was collected for a period of at least one year from the date on which it was last used.
- 17.4.4 Subject to clause 17.4.2 above, Brandmoji will not disclose any personal information regarding a User to any third party unless the prior written agreement of the User is obtained or Brandmoji is required or permitted to do so by law.
- 17.4.5 If personal information is released with the User's consent, Brandmoji will retain a record of the information released, the third party to which it was released, the reason for the release and the date of release, for a period of one year after such release.
- 17.4.6 Brandmoji will destroy or delete any personal information under its control, which has become obsolete.
- 17.5 Brandmoji will not utilise personal and other information submitted by Users through the use of the Website or Application in order to provide further information about the Website or Application and related services unless users have expressly given prior permission.
- 17.6 In the event of the sale of Brandmoji's business or the Website or Application or associated services and sites, Brandmoji will stipulate that the sale shall be subject to the condition that the purchaser observes the provisions of this privacy policy in the handling of personal information of Users.
- 17.7 Note that, as permitted by the ECT Act, the Website or Application may use personal information collected to compile profiles for statistical purposes. No information contained in the profiles or statistics will be able to be linked to any specific user.
- 17.8 In order to provide the best possible and most relevant service, the Website or Application utilises cookies. A cookie is a small file that is placed on the User's hard drive in order to keep a record of a user's interaction with the Website or Application and facilitate user convenience.
- 17.9 Cookies from the Website or Application allow Brandmoji to tailor advertising and other services to your displayed preferences. The Website or Application may use third party cookies from an adserver for this purpose.

- 17.10 Cookies by themselves will not be used to personally identify Users but will be used to compile anonymous statistics relating to use of services offered or to provide us with feedback on the performance of the Website or Application.
- 17.11 The following classes of information will be collected in respect of Users who have enabled cookies:
- 17.11.1 The browser used;
 - 17.11.2 IP address;
 - 17.11.3 Date and time of activities while visiting the Website or Application;
 - 17.11.4 URLs of internal pages visited; and,
 - 17.11.5 Referrers.
- 17.12 If a user does not wish cookies to be employed to customize his or her interaction with the Website or Application it is possible to alter the manner in which their browser handles cookies. Please note that, if this is done, certain services on the Website or Application may not be available.
- 17.13 Where a User believes that personal data concerning them held by Brandmoji is outdated or incorrect they may request that such personal data be corrected by editing their account.
- 17.14 You may request that Brandmoji cease sending you any information or request that your personal information be removed from our database at any time by deactivating your account.
- 17.15 We have no control over and accept no responsibility for the privacy practices of any third party sites to which hyperlinks may have been provided on the Website or Application and we strongly recommend that you review the privacy policy of any site you visit before using it further.
- 17.16 While reasonable measures are taken to ensure the security and integrity of information submitted to or collected by this site, the Website or Application can not under any circumstances be held liable for any loss or other damage sustained by a user or users as a result of the release of information by Brandmoji, an employee of Brandmoji or any third party where such release was not due to any fault on the part of such persons.
- 17.17 We regard the safety and privacy of children using the Website or Application extremely seriously but it remains the ultimate responsibility of the parents and other care-givers of children to ensure that they are not exposed to inappropriate content or behaviour.

18. ADVERTISING AND SPONSORSHIP

- 18.1 The Website or Application may contain advertising and sponsorship. Advertisers and sponsors are responsible for ensuring that material submitted for inclusion in the Website or Application complies with all applicable laws and regulations.
- 18.2 Brandmoji accordingly excludes, to the fullest possible extent permissible under law, any responsibility or liability for any error or inaccuracy appearing in advertising or sponsorship material.

19. AUTOMATED SEARCHING

- 19.1 Automated transactions and searches are subject to these terms and conditions.
- 19.2 The use of malicious search technology is prohibited.

- 19.3 The use of search technology in an unlawful manner or for the collecting or harvesting of data for commercial gain is prohibited.
- 19.4 Search technology which does not unduly retard the operation of the Website or Application is acceptable but Brandmoji reserves the right to prohibit any specific entity from employing search technology on the Website or Application.

20. HYPERLINKS, DEEP LINKS, FRAMING AND WEB CRAWLERS

- 20.1 Persons, business and Website or Applications may link to the Website or Application only with the written permission of Brandmoji. Requests for such permission must be done by e-mailing details of the link and the page to which it points to info@brandmojimedia.com
- 20.2 Permission to link to the Website or Application is given without assumption of any liability. We reserve the right to withdraw permission granted to link to the Website or Application at any time and for any reason.
- 20.3 Use of the sites or pages linked to is accordingly exclusively at the risk of the User.
- 20.4 The express permission in writing of Brandmoji, which may be subject to conditions, is required before the Website or Application, any of its pages and/or any of the information contained on the site is framed. Requests for permission can be submitted by e-mailing info@brandmojimedia.com
- 20.5 While the use of web crawlers and search software is permitted on the Website or Application, Brandmoji reserves the right to restrict the use of web crawlers in whole or in part as it sees fit. You may not save the whole or any part of the source code of the Website or Application nor may a person use any technology or application that extracts the source code of the Website or Application and saves this information.
- 20.6 The user of electronic agents to harvest personal information from Brandmoji is strictly prohibited.

21. TERMINATION

Brandmoji reserves the right, in its sole and absolute discretion and on written notification where possible, to terminate the provision of the Website or Application and/or to terminate the access rights of any User and / or to terminate the use of any Icon, where, for example and without limitation:

- 21.1 Brandmoji regards the action or inaction of a User to constitute a breach of these terms and conditions;
- 21.2 Brandmoji regards the action or inaction of a user to constitute abuse of the services offered through the Website or Application; and/or.
- 21.3 events beyond the reasonable control of Brandmoji, including technical failures, prevent the continuing provision of the Website or Application; and / or
- 21.4 where the Brand Owner requires the removal of their Icon, image, device or logo.

22. WHAT LAW GOVERNS THESE TERMS AND CONDITIONS?

- 22.1 Subject to the dispute resolution provisions below, the User hereby agrees that the law applicable to these terms and conditions of use, their interpretation and any matter or litigation in connection therewith or arising from them will be the law of the Republic of South Africa.
- 22.2 The Website or Application is owned, hosted and maintained within the Republic of South Africa.

22.3 When using the Website or Application and agreeing to these Terms and Conditions such use and agreement is deemed to have taken place in Johannesburg, South Africa.

22.4 Users of the Website or Application are encouraged to familiarise themselves with the South African law relating to electronic communications and transactions as contained in the ECT Act.

23. DISPUTE RESOLUTION

23.1 By accessing the Website or Application you acknowledge and agree that in the event of any dispute or purported dispute arising out of use or inability to use the Website or Application, or claim in respect of any service or product offered through the Website or Application, or on any matter provided for in, or arising out of these terms and conditions, then that dispute shall be submitted to The Arbitration Forum and decided by mediation or arbitration, in accordance with The Arbitration Forum's Mediation and Arbitration rules.

23.2 Any dispute will be resolved in Johannesburg, South Africa, in English, in accordance with the law of the Republic of South Africa.

24. AMENDMENT OF THE TERMS AND CONDITIONS

24.1 Please note that, due to legal and other developments, we may be required to amend these Terms and Conditions of Use from time to time. Please refer to the last revision date at the foot of this page. You are accordingly encouraged to check the Website or Application regularly.

24.2 We will attempt to give notice of any amendments, but reserve the right to effect amendments, additions or deletions from time to time without notice. Any such change will only apply to your use of the Website or Application after the change is displayed on the Website or Application. If you use the Website or Application after such updated or amended Terms and Conditions have been displayed on the Website or Application, you will be deemed to have accepted such updates or amendments.

25. ENFORCEABILITY & WAIVERS

25.1 Users may not cede, sub-license or otherwise transfer any rights they may have under these terms and conditions or which may otherwise have been obtained through the use of the Website or Application.

25.2 Any failure by Brandmoji to exercise or enforce any right or provision of these Terms and Conditions of Use shall in no way constitute a waiver of such right or provision.

25.3 In the event of any part of these Terms and Conditions being found to be partially or fully unenforceable, for whatever reason, this shall not affect the application or enforceability of the remainder of these terms and conditions.

25.4 These Terms and conditions contain the record of the entire agreement between the User and Brandmoji regarding the subject matter thereof.

25.5 Failure to enforce any provision of these Terms and Conditions shall not be deemed a waiver of such provision nor of the right to enforce such provision.

Latest Revision Date: _____