



## Confidentiality Agreement, Fees, Terms & Conditions (the “Agreement”)

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[www.johnjewelldesign.com.au](http://www.johnjewelldesign.com.au)

### Status of the Agreement

1. The following are the terms and conditions upon which John Jewell Design Pty Limited, of 397 Paul Avenue, Lavington (Albury), New South Wales, Australia ABN 41 021 036 308 (“John Jewell Design” or “we”) permits access to the ‘member area’ of the website located at [www.johnjewelldesign.com.au](http://www.johnjewelldesign.com.au) (the “Site”).
2. For the purposes of this Agreement, the term “you” means the party who applies to use the ‘member area’ of the Site as set out on the application form. If the application is made by an individual employed or engaged by a business which has legal capacity, such application is deemed to be on behalf of such business and the term “you” will be interpreted accordingly.
3. Access to the ‘member area’ of the Site is by unique username and password. You will only be provided with a username and password when you have confirmed that you agree to these terms and conditions.
4. Your agreement to these terms and conditions is shown by your application for a username and password by providing us with the information set out below and then by clicking on the “I Accept” button below.
5. Following acceptance of your application for a username and password by John Jewell Design: i) a binding contract will be formed between you and John Jewell Design; and ii) you will be provided with a unique username and password for use of the site.
6. Use of the Site allows you to have access to graphic designs, branding designs and related images (“concepts”). You may also be provided with customised designs based on the requirements you provide to John Jewell Design (known as the “concept proposals”). Your access to the concepts and/or the concept proposals is valuable consideration and the provision of the username and password is on the condition that you comply with the terms of this Agreement.

### Your use of the Site

7. Your use of the Site is to enable you to evaluate our products and, if you wish to place an order with John Jewell Design.
8. Collectively, the concepts, concept proposals and all related information provided or made available to you by John Jewell Design are referred to in this Agreement as “confidential information”. You acknowledge that the confidential information is made available to you for evaluation purposes only in contemplation that you may place an order with John Jewell Design (“the purpose”).
9. You will maintain the confidential information in confidence and use it only for the purpose for which it has been disclosed to you and for no other purpose. In particular you are not entitled to make commercial use of the confidential information for your own benefit or for the benefit of any third party other than in accordance with these terms and conditions.
10. You are entitled to share details of the confidential information to your directors, officers, employees, and professional advisers solely in relation to the purpose, but on the condition that i) such recipient is bound by terms of confidentiality in relation use of the confidential information which are at least as strict as those set out in this Agreement; and ii) you remain liable for the actions of such recipient as if they were your own actions.
11. You may also share the confidential information with specified third parties, subject to obtaining the written consent of John Jewell Design. If such disclosure is permitted, it is subject to the conditions in the preceding paragraph.
12. You will not copy, reproduce or use the confidential information or any part of it except as expressly authorised in writing by John Jewell Design in writing.
13. You will notify John Jewell Design immediately if you become aware of the disclosure of the confidential information to any unauthorised party and will take whatever reasonable steps John Jewell Design may require of you with respect to the unauthorised disclosure or use.
14. You acknowledge that John Jewell Design may suffer financial and other loss and damage if the confidential information is disclosed to an unauthorised third party, or is used otherwise than for the agreed purpose and that monetary damages may be insufficient remedy. Accordingly, you acknowledge and accept that John Jewell Design is entitled to injunctive and other equitable relief to prevent or in consequence of a breach of this Agreement.
15. Your username and password are unique to you and you must not disclose such information to any third party. You will remain liable for any use made of your username and password where you have not complied with this restriction. In any case, we have the right to disable any user identification code or password, if in our opinion you have failed to comply with any of the provisions of this Agreement.
16. You indemnify John Jewell Design against all costs, expenses, actions or claims directly or indirectly incurred or suffered by John Jewell Design as a result of any breach of these terms and conditions by you.



### **How to place an order**

17. If you wish to place an order with John Jewell Design, then please follow the procedure set out in the Site. All orders are subject to acceptance by John Jewell Design.
18. Please feel free to submit a budget for consideration on any project displayed in our online folio on Site.
19. John Jewell Design can also work to a commissioned brief and can supply design concepts and finished artwork up to print ready stage from a design brief. (Price on application or alternatively supply a budget with the brief for consideration).
20. Good ideas will take the time they need to reach their potential. The initial design concept fees are therefore subsidised by John Jewell Design to make them more affordable for the competitive export wine market.
21. To reserve a wine label design concept for an initial 21 day trial period a non-refundable holding fee of (AUD) \$1000 excluding GST per concept is applicable. If you proceed with the purchase of the label design. The deposit will be deducted from the total cost of either this project or subsequent projects selected for purchase.

### **Intellectual Property**

22. Upon purchase of a wine label design concept or concept proposal, John Jewell will grant you an exclusive worldwide licence to use the final agreed design work and the intellectual property subsisting therein for the purposed of marketing, advertising and promoting your beverage products.

### **Use of your information**

23. John Jewell Design undertakes to take reasonable steps to keep the information you submit secure. John Jewell Design will use such information to process your application for a username and password and any subsequent order (if applicable). Such information will be shared with third parties in relation to John Jewell Design's normal business practices, for example when discussing your order with printers or when confirming your identity or creditworthiness. If the information needs to be shared with any third party for any other reason, we will ensure that the recipient is bound by strict confidentiality undertakings.

### **Term**

24. This Agreement shall remain in full force and effect without limit of time - and regardless of whether you place an order with John Jewell Design or not.
25. If you do purchase a licence to use a concept or concept design from John Jewell Design, your use of such item will be governed by the terms and conditions applicable to that order. Following the acceptance of the order the items ordered will cease to be considered to be confidential information for the purposes of this Agreement. However, the terms of this Agreement will remain in full force and effect for all other confidential information.
26. Access to the Site is permitted on a temporary basis, and we reserve the right to withdraw or amend the service we provide on the Site without notice.

### **Liability**

27. The material displayed on the Site is provided without any guarantees, conditions or warranties as to its accuracy or ownership. To the extent permitted by law, we hereby expressly exclude all conditions, warranties and other terms which might otherwise be implied by statute, common law or the law of equity.
28. John Jewell Design hereby excludes any liability for any direct, indirect or consequential loss or damage incurred by any user in connection with the Site or in connection with the use, inability to use, or results of the use of the Site, including, without limitation any liability for i) loss of income or revenue; ii) loss of business; iii) loss of profits or contracts; iv) loss of anticipated savings; v) loss of data; vi) loss of goodwill; vii) wasted management or office time; and viii) for any other loss or damage of any kind, however arising and whether caused by tort (including negligence), breach of contract or otherwise, even if foreseeable.
29. Nothing in this Agreement shall affect John Jewell Design's liability for death or personal injury arising from our negligence, or our liability for fraudulent misrepresentation or misrepresentation, or any other liability which cannot be excluded or limited under applicable law.



### Jurisdiction and applicable law

30. This Agreement and any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
31. If there is any dispute in relation to this Agreement, both parties undertake to use their reasonable endeavours to resolve such dispute amicably within a reasonable timescale prior to raising formal legal proceedings. This may involve, for example, face to face discussions or a telephone-conference to seek to resolve the issue. However, nothing contained herein will prevent John Jewell Design from applying to court where the circumstances mean that such discussions are not practicable or where the dispute relates to John Jewell Design's intellectual property.
32. For any claim raised by you, the English courts will have exclusive jurisdiction over any claim arising from, or related to this Agreement. However, John Jewell Design has the right to bring proceedings against you for any claim arising from, or related to this Agreement in either the English courts or the courts of your country of residence or any other relevant country which has jurisdiction.
33. No term of this agreement shall be enforceable by a person who is not a party to this agreement under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

In order to receive a unique username and password to gain access to the site under the terms of this Agreement, please provide the details below, then click on "I Accept" below to acknowledge that you have read and understood these terms and conditions and accept and agree to be bound by them.

Date\* (d/m/yyyy)

Full Name\* Position

For and on behalf of Company\*

Winery Name (if applicable) ABN/ACN

Brand Names (if applicable)

Address\*

City\* Postcode\*

Country\*

Phone\* Fax

Email\* Mobile

By clicking on "I Accept" below, I confirm that I have read this Agreement and agree to be bound by its terms and conditions.

Once you click 'I Accept' follow the instructions in the popup window and click send in your email application.