

## **TERMS AND CONDITIONS OF ADVERTISING WITH JUMPPAD LIMITED**

1. **ADVERTISEMENTS:** JUMPPAD LIMITED. The following Terms and Conditions will apply to all advertisements and notices ("advertisements") received from the Customer for publication in all publications under JUMPPAD LIMITED's control for online advertising on the JUMPPAD LIMITED websites.
2. **INCONSISTENT TERMS:** These Terms and Conditions will apply notwithstanding that any order submitted by the Customer attempts to include terms that are inconsistent with these terms. For the avoidance of doubt the inconsistent terms will not apply and no waiver or other contractual principal will be implied except in any event where JUMPPAD LIMITED expressly endorses in writing those inconsistent terms.
3. **CUSTOMER:** The expression "Customer" means the Advertiser and, where advertising has been placed with JUMPPAD LIMITED by an advertising agency, includes that agency.
4. **ENTIRE AGREEMENT:** Subject to clause 19 of these terms, these Terms and Conditions (including booking confirmations if applicable) set out the entire agreement between the parties in relation to Website Advertising or Other Advertising and supersede all prior arrangements, undertakings, representations and warranties by or between the parties in relation to such advertising.
5. **CUSTOMER UNDERTAKINGS:** The Customer undertakes to JUMPPAD LIMITED that no advertisement will:
  - (a) infringe copyright, trade mark or other intellectual or industrial property rights of any person;
  - (b) give rise to any claims or liabilities for JUMPPAD LIMITED;
  - (c) contain material that is obscene, offensive, defamatory, or otherwise unsuitable for publication;
  - (d) be, or be likely to be, misleading or deceptive or otherwise infringe the Fair Trading Act 1986 or any other statute, regulation or rule of law.
6. **INDEMNITY:** By submitting or authorising submission of an advertisement for publication, the Customer indemnifies JUMPPAD LIMITED (and its employees and agents) against any proceedings, demands, losses, costs (including legal costs), damages and other liabilities incurred by JUMPPAD LIMITED (and/or its employees and agents) in connection with the advertisement.
7. **NO GUARANTEE:** JUMPPAD LIMITED. JUMPPAD LIMITED does not guarantee that the Customer's product featured in the advertisement will be the only product of that type featured in advertisements on any one page. JUMPPAD LIMITED will not be responsible or liable to the Customer in any way if the Customer's request cannot be granted, or the product featured in the Customer's advertisement is not the only product of that type featured in advertisements on any one page. JUMPPAD LIMITED will however endeavour to grant the Customer the environment and/or positioning the Customer requests for its advertisements.
8. **JUMPPAD LIMITED RIGHTS:** JUMPPAD LIMITED may in its discretion:
  - (a) without notice to the Customer alter or abbreviate any advertisement or insert the word "Advertisement" above or below any advertisement which in JUMPPAD LIMITED's opinion resembles editorial matter; or
  - (b) refuse to publish any advertisement;
  - (c) at any time and without notice to the Customer cancel, reject or refuse to publish or continue publishing any advertisement without providing any reason for such rejection or refusal at any time prior to, or after, publication of the advertisement, provided this right will not be unreasonably exercised;
9. **PAYMENTS:** The Customer agrees that payment is to be made in full before advertising will commence and all charges relating to advertising are payable up-front, unless agreed otherwise. Advertising will not commence until full payment has been made.
10. **GST:** Unless otherwise stated by JUMPPAD LIMITED, GST is not payable on our advertising rates and the Customer will pay the full amount that is laid out in our Advertising Pricing Schedule.
11. **EXCLUSION OF LIABILITY:** Except as expressly provided in these Terms and Conditions, JUMPPAD LIMITED excludes, to the fullest extent permitted by law, all warranties, representations and conditions whether implied by law, trade, custom or otherwise. In no circumstances will JUMPPAD LIMITED (its employees or agents) be liable, whether in tort, contract or otherwise for any indirect loss, loss of profits, consequential loss or special damage suffered by the Customer or any other person. JUMPPAD LIMITED's (including JUMPPAD LIMITED's officers, employees and agents) liability to the Customer, or any other person, for any and all loss or damage arising in relation to these Terms and Conditions and/or advertisements (including from any errors or inaccuracies however caused, whether by negligence, system or press failure, mistake, mis-classifications, early, late or noninsertion of advertisements, or loss or delay in the delivery of replies) will be limited to an amount equal to the cost of the space of the relevant advertisement, provided that if the Customer does not advise JUMPPAD LIMITED of any error within five days of publication of the advertisement JUMPPAD LIMITED will have no liability whatsoever.
12. **CONSUMER GUARANTEES ACT:** If the Customer is a consumer under the Consumer Guarantees Act 1993 (the "Act") and acquires or holds itself out as acquiring goods or services from JUMPPAD LIMITED for the purposes of a business then the Act will not apply and is expressly excluded. Subject to this clause nothing in these Conditions will affect the Customer's rights as a consumer under the Act.

13. **NO LIABILITY FOR LOSS SUFFERED:** JUMPPAD LIMITED will not be liable to the Customer or any other person for any loss of whatever kind suffered as a result of an advertisement not being available for publication where such event arises from any cause beyond its control. (Any loss suffered as a result of any partial or total breakdown of JUMPPAD LIMITED's operation or network will be deemed to be an event beyond JUMPPAD LIMITED's control. Should such an event occur, JUMPPAD LIMITED will take responsibility to resurrect site and links, and the Customer has the right to cancel the particular contract for the affected advertising at no penalty if such an occurrence results in the site being down for more than 7 working days (working days being Monday to Friday inclusive, but excluding statutory holidays) Nor will JUMPPAD LIMITED be responsible for any error or inaccuracy in advertisements placed by telephone.

14. **NO WAIVER:** If any time JUMPPAD LIMITED does not enforce any of these terms and conditions or grants the Customer time or other indulgence, JUMPPAD LIMITED shall not be construed as having waived that term or condition or its right to later enforce that or any other term or condition.

15. **CONFIDENTIALITY:** The Customer acknowledges the confidential nature of the subject-matter of these Terms and Conditions ("Confidential Information"). The Customer accordingly undertakes to keep the Confidential Information confidential and not disclose any of the Confidential Information without the prior written consent of JUMPPAD LIMITED. The Customer will ensure that its employees, agents, representatives and advisers observe the terms of this clause. The Customer indemnifies JUMPPAD LIMITED against all losses, damages, costs or expenses which JUMPPAD LIMITED may incur as a result of any unauthorised disclosure of the Confidential Information. This obligation of confidentiality will continue in full force until all of the Confidential Information has entered the public domain and will survive termination of these Terms and Conditions.

16. **ASSIGNMENT:** The Customer may not:

(a) assign this Contract or any part of it (including advertising space allocated to it) to any third party; or

(b) place advertisements (whether directly or indirectly) on behalf of third party advertiser(s) (whether as an agent or otherwise), except on terms previously agreed with the Company.

Advertisements are placed by a Customer on behalf of a third party advertiser where, for example (but without limitation), the advertisement promotes or otherwise notifies readers as to the goods or services of the third party advertiser rather than the Customer.

17. **SEVERABILITY:** If any provision of these Terms and Conditions is held illegal or unenforceable, then such illegality or unenforceability shall not affect the remaining provisions of these Terms and Conditions which shall remain in full force and effect.

18. **JURISDICTION:** These Terms and Conditions are governed by, and construed in accordance with the laws of New Zealand. The parties submit to the exclusive jurisdiction of the laws of New Zealand in respect of any dispute arising from these Terms and Conditions.

19. **ADDITIONAL TERMS:** In addition to these General Terms and Conditions the Customer acknowledges that all Informant Advertising, Website Advertising and Supplement Advertising, including the conditions of payment, delivery and changes to or cancellation of such advertising, will be in accordance with and subject to the conditions notified to the Customer or generally published by JUMPPAD LIMITED from time to time.

20. **JUMPPAD LIMITED ABILITY TO CHANGE:** JUMPPAD LIMITED may vary these Terms and Conditions at any time in its sole discretion, provided that:

(a) such amended terms will not affect prior agreed advertising orders; and

(b) if the Customer does not agree with a variation.

21. **DURATION OF CONTRACT:** Subject to clause 20 these terms and conditions shall apply to each request to advertise with JUMPPAD LIMITED by the Customer. Any change to these General terms and Conditions pursuant to clause 20 will apply from:

(a) any advertising orders requested after the date the Customer is notified of the changes.

(b) any advertising orders requested after a date one month from the date these changes are published on the JUMPPAD LIMITED website [www.iphonezealand.co.nz](http://www.iphonezealand.co.nz)