

GetSalesLeads.co.nz

Terms and Conditions

Definitions

- 1.1 In these terms and conditions:
- 1.1.1 "Agreement" means the contract between the Customer and the Supplier for the provision of services by the Supplier to the Customer of which these terms and conditions form part.
 - 1.1.2 "Business Category" means a category or class of business type, based on the classification of business types in the New Zealand Yellow Pages (www.yellow.co.nz), for a specific city or location in New Zealand.
 - 1.1.3 "Customer" means the person to whom the services are to be supplied by the Supplier under this Agreement.
 - 1.1.4 "Customer's Business" means the business carried out by the Customer, being a Business Category, which is to be advertised by the Supplier pursuant to this Agreement, as specified by the Customer.
 - 1.1.5 "Customer's Location" means the city or region in New Zealand in which the Customer is based, as specified by the Customer.
 - 1.1.6 "Customer's Website" means the Supplier's Website owned by the Supplier that will be produced by the Supplier for the purpose of advertising the Customer's Business in accordance with clause 2.2.1.
 - 1.1.7 "Optimised" in relation to a particular Website and a particular Search Engine, means that the Website has been designed and is maintained so as to appear on the first page of search results for the agreed Search Term, and "Optimisation" has a corresponding meaning.
 - 1.1.8 "Purchaser Data" means all data and information submitted or collected through the Customer's Website about persons purchasing goods or services from the Customer or seeking information from or about the Customer.
 - 1.1.9 "Search Engine" means an internet search engine which is accessible to the general public via a specific Website (example: www.yahoo.co.nz, www.bing.co.nz or www.google.co.nz).
 - 1.1.10 "Search Term" means the word or words used by internet users when looking to purchase the Customer's products or services.
 - 1.1.11 "Services" means the services provided by the Supplier to the Customer under this Agreement, including but not limited to the services detailed in clause 2.2.
 - 1.1.12 "Subscription Review Notice" has the meaning ascribed to it in clause 4.2.
 - 1.1.13 "Supplier" means AdCard Limited.
 - 1.1.14 "Website" means an internet website, and includes a URL or website address.
 - 1.1.15 "URL" means universal resource locator, being the unique address through which a Website is accessed or located.

Background

- 2.1 The Supplier owns a number of websites, each of which are designed and maintained so as to be optimised for a specific Search Term(s) ("the Supplier's Websites").

- 2.2 Subject to the Customer performing its obligations under this Agreement, during the term of this Agreement the Supplier will provide the following services to the Customer:
- 2.2.1 The Supplier will produce a website for the Customer in accordance with clause 2.4 on one of the Supplier's Websites which is appropriate for the Customer's Business Category and the Customer's Location, which will include the following:
 - 2.2.1.1 The name and contact details for the Customer, and links to Websites owned by the Customer, as specified by the Customer; and
 - 2.2.1.2 The Customer's logo and branding, as provided by the Customer; and
 - 2.2.1.3 A description of the Customer's Business and content relevant to the Customer's Business, including an offer and testimonials (if required), as provided by the Customer; and
 - 2.2.1.4 Optimisation in the Business Category for the Customer's Location specified by the Customer for the Search Engine(s) specified by the Customer.
 - 2.2.1.5 Privacy Statements and Disclaimers that comply with the Privacy Act 1993.(“the Customer's Website”)
 - 2.2.2 The Supplier will provide the Customer with a login to the content management system, so that the Customer can maintain the content of the Customer's Website.
 - 2.2.3 The Supplier will maintain the Customer's Website and ensure that it is available through the internet at all times (except for periods of necessary maintenance and repair and excluding internet outages or unavailability or other events beyond the Supplier's control).
 - 2.2.4 The Supplier will ensure that the Customer's Website is Optimised for the agreed Search Term so that the website may be found on the first search engine results page of the Search Engine specified by the Customer on no less than two-thirds of the days in any given month during the term of this Agreement.
 - 2.2.5 The Supplier will host the Customer's Website on the Supplier's computer server or on the computer server of a third party contracted for the purpose by the Supplier.
 - 2.2.6 The Supplier will provide additional Website design services to the Customer at the Supplier's usual charges for providing such services.
- 2.3 The Customer will:
- 2.3.1 Specify the Customer's Business that is to be advertised through the Customer's Website
 - 2.3.2 Specify the Customer's Business Category for which the Customer's Website is to be Optimised; and
 - 2.3.3 Specify the Customer's Location for which the Customer's Website is to be Optimised; and
 - 2.3.4 Specify the Search Engine(s) for which the Customer's Website is to be found on the first results page; and
 - 2.3.5 Provide the Customer's name and contact details; and
 - 2.3.6 Provide the Customer's logo and branding; and
 - 2.3.7 Provide any testimonials or links to other Websites that the Customer wishes to be included in the Customer's Website.
 - 2.3.8 Comply with any Privacy Statements and Disclaimers on the Customer's Website and with all applicable laws and legislation relating to the Customer's Website, including but not limited to the Privacy Act 1993 and the Unsolicited Electronic Messages Act 2007.
- 2.4 The Customer acknowledges that the purpose of the Customer's Website is to generate sales leads for the Customer's business through Optimisation of the Customer's Website (which will at all times remain owned by the Supplier) in the Business Category and in the Customer's Location specified by the Customer, and

that the purpose of the Customer's Website is not to be a comprehensive brochure Website with substantial content relating to the Customer or the Customer's Business and complex Website design features such as animated graphics. The Supplier will only be required to spend up to a maximum of two days producing the Customer's Website in terms of clause 2.2 above, and any additional content or Website Design Services required by the Customer will either be completed by the Supplier at the Supplier's usual charges for providing such services or by the Customer through the content management system.

Ownership of Website and Data

- 3.1 The Supplier shall at all times remain the sole and absolute legal and beneficial owner of the Supplier's Websites, including the Customer's Website.
- 3.2 The Customer shall at all times remain the sole and absolute legal and beneficial owner of the Customer's name, logo, and branding. The Customer grants the Supplier a licence to use the Customer's name, logo, branding and any content supplied by the Customer in connection with and for the purpose of producing and maintaining the Customer's Website during the term of this Agreement.
- 3.3 The Customer shall at all times remain the sole and absolute legal and beneficial owner of all Purchaser Data.
- 3.4 Upon termination of this Agreement, the Supplier will be entitled to remove and delete all content (including the Customer's name and contact details, logo and branding, and links, offers, testimonials and other content) from the Customer's Website and to produce another Website for another customer on the Supplier's Website formerly used for the Customer's Website.

Set Up Fee and Monthly Subscription Fees

- 4.1 The Customer shall pay:
 - 4.1.1 An Engagement Fee for the exclusive online lead generation services provided by the Supplier to the Customer in the Business Category and Customer's Location for the term of this Agreement (including the services provided in accordance with clauses 2.1.1 and 2.2.2), being the Engagement Fee quoted by the Supplier, which shall be payable immediately on oral or written acceptance of the Supplier's quote by the Customer.
 - 4.1.2 A Monthly Subscription Fee for the ongoing maintenance and Optimisation and hosting of the Customer's Website in accordance with clauses 2.2.3 to 2.2.5, being the Monthly Subscription Fee quoted by the Supplier (dependent on the Search Term the Customer's Website is Optimised for), which shall be payable monthly during the term of this Agreement in advance, the first such payment being due on the date that the Customer's Website is ranked in the first ten search results of the Search Engine for the agreed Search Term.
 - 4.1.3 The Supplier's usual charges for any additional Website design services provided by the Supplier to the Customer in accordance with clauses 2.2.6 and 2.4, payable within 5 working days of invoice.
- 4.2 The Supplier shall be entitled to review the Monthly Subscription Fee by giving notice in writing to the Customer setting out the new Monthly Subscription Fee ("Subscription Review Notice"). The new Monthly Subscription Fee shall be payable from the date that is 20 working days after the date that the Subscription Review Notice is given. If the Customer does not accept the new Monthly Subscription Fee detailed in the Subscription Review Notice, the Customer shall be entitled to terminate this agreement by giving notice in writing to the Supplier within 20 working days of the date that the Subscription Review Notice is given (time being of the essence).
- 4.3 All fees and prices as quoted are exclusive of goods and services tax unless otherwise stated.
- 4.4 If full payment is not made by the Customer to the Supplier in accordance with clause 4.1 above then:
 - 4.4.1 The Customer will be in default under this Agreement and the Supplier may exercise all of the rights and remedies set out in this Agreement and otherwise available at law; and

- 4.4.2 The Customer will pay interest on the default monies at the rate of 2.5% per month payable on a daily basis from the due date to the Supplier; and
 - 4.4.3 The Customer will be liable for all expenses (including, without limitation, legal costs on a solicitor and own client basis) incurred by the Supplier as a result of the default; and
 - 4.4.4 The Supplier may withhold, suspend, or terminate the further supply of services, including but not limited to the ongoing maintenance and Optimisation and hosting of the Customer's Website, under this Agreement.
- 4.5 The Customer acknowledges that all payments made to the Customer's account with the Supplier are in the ordinary course of the Customer's business and are received by the Supplier on the reasonably held belief that those payments are valid (unless the Customer advises otherwise in writing), and that by accepting any payments on or after the due date for payment the Supplier has altered its position in reliance on the validity of those payments.

Liability on Claims

- 5.1 The total liability of the Supplier for any loss arising from any defect or non-compliance of the Services or any other breach by the Supplier of its obligations under this Agreement will not in any circumstances exceed an amount equivalent to the Monthly Subscription Fee (at the rate current at the time of such defect, non-compliance, or breach) multiplied by twelve.
- 5.2 The Supplier will not be liable for any consequential indirect or special damage or loss of any kind, or any loss caused by the Customer's employees, contractors, agents or any other persons whatsoever. The Customer will indemnify the Supplier against any claim by the Customer's employees, contractors, agents or other persons in respect of any loss arising from any defect in or non-compliance of the Services.
- 5.3 No warranty, condition or guarantee either express or implied is given by the Supplier as to the quality, state, condition or content or fitness for any particular purpose of the Services.

Consumer Guarantees Act

- 6.1 The Supplier is supplying the Services to the Customer for business purposes within the meaning of the Consumer Guarantees Act 1993, and accordingly pursuant to Section 43 of the Consumer Guarantees Act 1993, the provisions of the Consumer Guarantees Act 1993 will not apply to this Agreement.

Information and Privacy Act

- 7.1 For the purpose of facilitating the efficient running of the Supplier's business, the Customer authorises the Supplier:
 - 7.1.1 To collect all information about the Customer that the Supplier may require from any third parties and authorises those third parties to release that information to the Supplier; and
 - 7.1.2 To hold all information given by the Customer or any third parties to the Supplier; and
 - 7.1.3 To use that information, including giving information to any other person to facilitate collection of debts from the Customer.
 - 7.1.4 To collect, hold, use, give and assign the Purchaser Data.
- 7.2 The information referred to in clause 7.1 will be collected, held and used on the condition that:
 - 7.2.1 It will be held securely at the Supplier's registered office; and

7.2.2 It will be accessible to any of the Supplier's employees and agents who need access to it for the efficient running of the Supplier's business; and

7.2.3 The Customer may request access to and correction of it at any time.

Waiver and Forbearance

8.1 All the Supplier's rights will remain in full force despite any delay in enforcement. The Supplier will not be deemed to have waived any condition unless that waiver is in writing and signed by a duly authorised officer of the Supplier. Any waiver will apply only to the particular matter in respect of which it is given.

Assignment

9.1 The Supplier is entitled at any time to assign its rights under this Agreement. The assignee will be entitled to claim full rights of set off or counter claim against the Customer, its charge holders or successors in respect of any debt or part of a debt which is assigned.

9.2 The Customer is not entitled to assign its rights under this Agreement.

Entire Contract

10.1 The Supplier and the Customer agree that these terms express the complete agreement between them. There has been no representation made by either party to the other except as expressly set out in this document. There is no inconsistency with the terms of any order for Services that may be lodged by the Customer, and if there is any inconsistency then any such order will be of no effect.

10.2 The Supplier may from time to time amend these terms and condition whereupon the Customer shall be deemed to have agreed to the amended terms and conditions, which shall at the Supplier's election prevail over any previous terms and conditions, to the maximum extent permitted by law consistent with the existence of a contract. The Customer agrees that it shall have been sufficiently notified of any such amendment by virtue of the amended terms and conditions being posted on the Supplier's website, the homepage for which is <http://www.GetSalesLeads.co.nz/>.

Notices

11.1 Any notice to be given pursuant to the terms of this Agreement shall be in writing addressed to the party to whom it is given and left at or sent by e-mail, facsimile transmission or pre-paid airmail post to the address of such party as it may from time to time notify to the other and shall be deemed to be served on the day so left or transmitted by e-mail or facsimile machine or on the fifth working day after it is so posted.

Termination

12.1 This Agreement (including any unperformed obligations of the Supplier) may be terminated by the Supplier giving written notice to the Customer that this Agreement is terminated in the event that:

12.1.1 The Customer is in default under this Agreement; or

12.1.2 The Customer becomes insolvent, subject to the appointment of a receiver, manager, liquidator, or statutory manager, commits an act of bankruptcy, makes a scheme of arrangement with its creditors, or becomes unlikely to be able to meet its obligations to the Supplier (in the opinion of the Supplier).

12.2 Either the Supplier or the Customer may terminate this Agreement at any time without reason by giving the other party no less than 60 working days' notice in writing.

12.3 Termination of this Agreement will not affect any accrued rights or claims of the Supplier against the Customer, and (without prejudice to the Supplier's rights or claims against the Customer) the Customer will pay all expenses, fees and obligations for time spent by the Supplier up to the date of termination of this Agreement immediately following termination of this Agreement for any reason.