

Terms and Conditions

1. Applicability

1.1 All contracts made between McHugh Media and the person placing an order for advertisement for publication ("the Advertiser") are subject to these Terms and Conditions.

1.2 Advertisements placed by an agency are accepted on the understanding that the agency is acting on behalf of the person placing an order for advertising and not for McHugh Media. For the purposes of these Terms and Conditions, the agency is bound by these Terms and Conditions and is treated as the Advertiser. McHugh Media will not be liable to the client of the agency.

1.3 The placing of an order for advertisement will be deemed to be acceptance by the Advertiser of these Terms of Conditions, notwithstanding anything that may be stated to the contrary in the Advertiser's inquiries unless otherwise agreed in writing by both parties.

1.4 McHugh Media may however from time to time agree to vary rescind or waive these Terms of Conditions in whole or in part by notice in writing to the Advertiser and specific other terms will prevail if stated by McHugh Media.

1.5 This document constitutes the entire agreement between the Advertiser and McHugh Media, and no warranties or representations not contained in this document shall apply to any contract between them.

2. Placing an Order for Advertising

2.1 The Advertiser will comply with McHugh Media's current method of placing orders, as may be advised from time to time. McHugh Media reserves however the right to accept orders in any other format, but is not obliged to do so.

2.2 The Advertiser must carefully check any documentation evidencing an order. McHugh Media will not be responsible for any errors or omissions of the Advertiser in respect of an order, nor any oversight or misinterpretation of the Advertiser's order.

2.3 Guaranteed advertisement positions are subject to availability at the time of booking and McHugh Media reserves the right to move these bookings if a subsequent advertisement is booked for the same position.

2.4 McHugh Media may refuse to publish, or withdraw an advertisement from publication without having to give a reason. McHugh Media may correct or amend an advertisement to conform to style or for other genuine reason.

2.5 By supplying or placing an order for supply of advertisement for publication, the Advertiser grants to McHugh Media a perpetual, royalty free licence to reproduce the advertisement in any print or electronic advertisement media. McHugh Media may offer to Advertisers from time to time.

3. Prices and Pricing

3.1 The charge for an advertisement will be in accordance with the published ratecard applying at the time for

publication, unless both parties agree otherwise in writing.

3.2 McHugh Media reserves the right to alter casual rates at any time. Forward booking contracts are given rate protection for the period covered by the bookings.

3.3 Rates are quoted exclusive of GST and are quoted in New Zealand dollars. GST will be charged in addition to quoted rates.

3.4 Advertising placed by Advertisers who are not New Zealand residents will be zero-rated for GST purposes. GST will be applied at the standard rate to advertising placed by non-resident agents for New Zealand resident principals.

3.5 Ratecard adjustments will apply to any space orders booked immediately after the rate adjustment is published on the ratecard. Rates for space orders apply for the whole space are not reduced if the whole space is not used.

3.6 VID and multi-buy discounts are available. Please contact your McHugh Media Representative for details.

4. Payment Terms

4.1 Unless otherwise agreed in writing, McHugh Media's terms of payment require payment to be made on or before the 20th of the month following the date of invoice ("the due date").

4.2 The Advertiser shall make payment of all amounts owing without set-off or deduction of any kind.

4.3 If payment is not made on the due date, McHugh Media shall be entitled to:

- a.** withhold publishing of the advertisement;
- b.** charge default interest at the rate of 2% per month on any or all overdue balances, which shall accrue on a daily basis from the due date until payment of all moneys in full (including default interest) and shall accrue after as well as before any court order or judgment;
- c.** recover from the Advertiser as a debt due all costs incurred by McHugh Media (calculated on a solicitor/client basis) in recovery action;
- d.** institute action for the recovery of outstanding balances, including also interest and costs incurred in recovery action.

5. Security for payment

5.1 If the Advertiser is an incorporated company, McHugh Media may require its directors and/or shareholders to provide personal guarantees for the obligation of the Advertiser's company (in the form attached). The Advertiser shall notify McHugh Media of any change in the legal or beneficiary ownership of its shares or issue of new capital and McHugh Media reserves the right to require additional securities including additional guarantees.

6. Cancellation by the Advertiser

6.1 To cancel an advertisement, the Advertiser must obtain a cancellation number from McHugh Media.

6.2 After the cancellation deadline, a 100% media placement cancellation

fee applies.

7. Cancellation by McHugh Media

7.1 McHugh Media may at any time cancel the contractual agreement with the Advertiser and withhold publication of an advertisement immediately upon written notice to the Advertiser if:

- a.** The Advertiser is in default in any way under these Terms and Conditions; or
- b.** The Advertiser ceases trading, enters into a deed or arrangement with the creditors, commits an act of bankruptcy or is deemed unable to pay its debts, or a receiver is appointed over its assets.

8. Warranties and Indemnities

8.1 In accepting an advertisement (including a notice) for publication, and in publishing it, McHugh Media is doing so in consideration of and on reliance of the Advertiser's express warranty, the truth of which is essential:

- a.** That the advertisement does not contain anything:
 - i.** That is misleading or deceptive or likely to mislead or deceive or which breaches the Fair Trading Act 1986;
 - ii.** That is defamatory or indecent or which otherwise offends against generally accepted community standards;
 - iii.** That infringes a copyright or trademark or otherwise infringes any intellectual or industrial property rights;
 - iv.** That breaches any provision of any statute, regulation, by-law or any other rule of law; and
- b.** That the advertisement complies in every way with the Advertising Codes of Practice issued by the Advertising Standards Authority Inc. ("ASA") and with every other code or industry relating to advertising in New Zealand; and
- c.** Publication of the advertisement will not give rise to any liability on the part of McHugh Media or in any claim being made against McHugh Media.

8.2 The Advertiser agrees to indemnify against McHugh Media against any loss or costs arising directly or indirectly from any breach of any of the warranties contained in the preceding paragraph by the Advertiser and from any costs incurred by McHugh Media in making corrections or amendments.

8.3 To the fullest extent permitted by law, McHugh Media is not liable to the Advertiser, or to any other person, for any loss or damage under or in connection with these Terms and Conditions or in connection with the goods and/or service supplied by McHugh Media to the Advertiser. To the fullest extent permitted by law, the goods and/or services provided by McHugh Media are provided without any warranties of any kind, whether express or implied. In any case where McHugh Media is found liable to the Advertiser for any reason whatsoever the extent of McHugh Media's liability will not exceed the contract price for the particular goods and/or services in question.

8.4 The Advertiser must advise

McHugh Media as soon as possible if there is an error or omission in any advertisement the Advertiser has placed. McHugh Media is not liable for any loss, direct or indirect or any consequential loss (which include loss of revenue or profit) from an error or omission or failure to publish and if McHugh Media are found to have any liability for any circumstances that liability is limited to the cost of the space of the advertisement.

9. Privacy Act

9.1 In relation to the Privacy Act 1993 the Advertiser acknowledges that:

- a.** Personal information collected or held by McHugh Media may be held, used or disclosed for any of the following purposes: administering (whether directly or indirectly) contracts or enforcing rights under contracts, marketing goods and services from time to time; ascertaining at any time the Advertiser's creditworthiness, and obtaining credit reports, character references or credit statements, enabling McHugh Media to notify any credit agency of any application for credit or default on any obligation of the Advertiser to McHugh Media, and enabling McHugh Media to provide such personal information to any credit agency. Also enabling McHugh Media to communicate with the Advertiser for any purpose.

Such personal information (where applicable) is collected by and will be held by McHugh Media. If the Purchaser is an individual, the Advertiser has the right under the Privacy Act to obtain access to, and request correction of, any personal information held by McHugh Media.

- b.** The Advertiser authorises McHugh Media at any time to obtain from any person or entity any information which McHugh Media requires to process and/or accept any application for credit.
- c.** The Advertiser authorises any person to release to McHugh Media for the purpose of establishing the Advertiser's creditworthiness any personal information that person holds concerning the Advertiser.
- d.** If the Advertiser fails to provide any information requested by McHugh Media in respect of any application for credit, such credit may not be provided.

10. Consumer Guarantees Act 1993

10.1 The Advertiser agrees and acknowledges that all supplies of goods and/or services by McHugh Media are/ will be acquired for the Advertiser's business purposes and accordingly the provisions of the Consumer Guarantees Act 1993 will not apply as between the Advertiser and McHugh Media.

11. Intellectual Property Rights

11.1 Where the Advertiser utilises any aspect of McHugh Media's creative services in the design or production of advertisement including photographic (or design work) the Advertiser acknowledges that McHugh Media

own the copyright in such work and that such work is not work for which commission payment has been made or agreed.

12. Force Majeure

12.1 In the event that a Force Majeure event occurs, McHugh Media may cancel or suspend its contract with the Advertiser without incurring any liability for any loss or damage suffered by the Advertiser or any other person. Force Majeure means any supervening event "act of God" action imposition of any law, and economic situation, beyond the control of McHugh Media.

13. Assignment

13.1 The Advertiser may not transfer, assign or otherwise dispose of any of its rights and obligations under these Terms and Conditions without McHugh Media prior written consent.

14. Applicable Law/ Unenforceability

14.1 The law applying to any contract arising between McHugh Media and the Advertiser shall be the law of New Zealand.

14.2 In the event that any provision contained in these Terms and Conditions, or in any other collateral agreement or document between McHugh Media and the Advertiser is deemed illegal or unenforceable, then such provision shall be deemed to be excluded there from, but only to the extent required to remedy the illegality or unenforceability, and these Terms and Conditions, and such collateral document shall in all other respects apply in accordance with their stated terms.