

Pulse Media Web Hosting Terms and Conditions

As a customer of Pulse Media these standard terms plus our Acceptable Use Policy (AUP) form the basis of Pulse Media's contract with you.

1. Standard Terms and Conditions

- 1.1 As a customer of Pulse Media these standard terms form the basis of Pulse Media's contract with you. Our contract with you also includes your application form whether it is submitted by fax, or by internet submission and will be deemed to be the original application. We may amend these standard terms at any time. This will vary our contract with you. When we do this we will notify you via e-mail of the amended standard terms. The amendments we make will apply seven days after we send you the details of these amendments. We may interpret your ongoing use of our services after that date as constituting your acceptance of the amendments.
- 1.2 In this contract we use the terms "Pulse Media", "we", "our", and "us" to refer to Pulse Media and "you" and "your" to refer to the customer. Headings in this contract do not affect their interpretation.

2. Our Commitment of Service to You

- 2.1 We aim to provide you with consistently reliable and good quality service. We do not guarantee that the service we provide will be perfect. When access to your services are disrupted we will do our best to reinstate the service to you as soon as we can.
- 2.2 The Pulse Media Support Centre is available via e-mail, and any enquiries should be directed to hello@pulsemedia.nz.
- 2.3 The service we supply to you will be supplied to you in whatever way we think is appropriate. We can choose the carriers used to provide our services and we can change the carriers at our discretion.

3. Your General Responsibilities

- 3.1 You agree that you will:
 - a) Pay for all goods and services to you. Our charges will normally be exclusive of GST.
 - b) Pay each bill by the due date for payment set out in it. Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% per calendar month and such interest shall compound monthly at such a rate after as well as before any

judgment. We reserve the right to charge you late payment fees and disconnection fees and will advise you via email if this is to occur due to non payment of your account. We may also recover from you all legal and related collection costs incurred by us arising from the collection of any amount which you owe to us and which you do not pay to us then due.

- c) If any account remains overdue after thirty (30) days then an amount of the greater of \$20.00 or 5.00% of the amount overdue (up to a maximum of \$100) shall be levied for administration fees which sum shall become immediately due and payable
 - d) If you have a genuine dispute in relation to amounts, we have charged you, pay the undisputed charges and notify us immediately you become aware of any disputed charges. If you do so you must give us full details of the reason you are disputing the charges and you must give us evidence of the grounds for your dispute. We will look into the issue and you will comply with our good faith decision on the issues.
 - e) Ensure that all of the information you give us is correct and complete.
 - f) Comply with any legal requirements concerning the use of our services.
 - g) Comply with any requirements of any other carrier in relation to the use of its network.
 - h) Make sure everyone you are responsible for also meets these responsibilities.
 - i) agree that, whether or not the account you have created is used, all charges incurred between the activation of your account, and the suspension or disconnection of your account will be met by you, including those charges set out in clause 3.1 b
- 3.2 We may at our discretion request a credit report from a third party. By accepting these Terms and Conditions, you authorise us to use the information supplied for credit checking purposes only.
- 3.3 We reserve the right to impose a credit limit on your account at any time. You agree that the credit limit imposed by us may be altered at our discretion with effect from the date we notify you of such change. You also agree that if at any time you exceed our credit limit we will be entitled to suspend the provision of our service to you. All costs and expenses of or incurred by us as a result of such suspension and any re-commencement shall be payable by you upon demand.
- 3.4 We reserve the right to refuse service to any person or entity who applies to use our service. Reasons for refusal may include but is not limited to unfavourable credit rating, notification of bankruptcy, liquidation, business closure, criminal or unfair trading practices.

4. SUSPENSION OR DISCONNECTION

- 4.1 If you do not meet any one or more of your responsibilities under this contract we may suspend or disconnect you from our network. We may also discontinue any other services we provide to you. In that situation we may

also terminate our contract with you. These forms of action may be enforced by us without prior notice.

- 4.2 We may also suspend or disconnect you from our network if a carrier supplying services to us suspends or interrupts its service to us and that suspension or interruption affects our ability to provide our services to you.
- 4.3 We may also suspend or restrict a service in an emergency or whenever we, another carrier, or any other appropriate person considers that step necessary or reasonable to protect persons, systems or other property.
- 4.4 If you are suspended or disconnected from our network for failing to meet any of your responsibilities under this contract you may have to pay a re-commencement fee before you can use our services again.
- 4.5 Usually normal charges will continue to apply during your suspension or disconnection from our network.

5. COMPENSATION AND LIABILITY

- 5.1 If you receive goods or services from us for the purposes of a business, then you agree that the Consumer Guarantees Act 1993 will not apply to this contract or any of our business dealings.
- 5.2 If our service fails to operate for any reason and you use a service provided by another carrier, we will not be responsible for that carrier's service charges.
- 5.3 We also exclude all other liability we may have to you for acts or omissions by us, our directors, employees, agents, representatives and contractors. This includes both direct and indirect losses, including loss of profits, loss of revenue and loss of any opportunity. These exclusions of liability also apply under the Contracts (Privity) Act 1982 for the benefit of any other carrier who allows us to use its network to provide our service to you.
- 5.4 To the extent permitted by law none of the persons referred to in the preceding paragraph are liable to you or has to pay you for anything else caused by or resulting from anything any of them does or does not do, or delays in doing, whether or not it is contemplated or authorised by these standard terms
- 5.5 This exclusion of liability applies whether or not our contract with you has ended and regardless of the type of damage you suffer or howsoever it was caused.

6. LIMITATION OF LIABILITY

- 6.1 To the extent permitted by law if, despite the provisions contained in the previous section, we or any other carrier is liable to you for any breach of these standard terms, or for breach of any other obligation that might be owed

to you, our liability shall be limited, at our discretion, to any one or more of the following:

- a) If the breach relates to the provision of services:
 - o supplying of the relevant services again; or
 - o payment of the cost of having the relevant services supplied again; and
- b) If the breach relates to goods:
 - o replacement of the relevant goods or supply of equivalent goods;
 - o repair of the relevant goods;
 - o payment of the cost of replacing the relevant goods or of acquiring equivalent goods; or
 - o payment of the cost of having the relevant goods repaired.

7. MAINTENANCE

- 7.1 Pulse Media will provide maintenance services if required by the Purchaser and upon the Purchaser executing Pulse Media's maintenance contract.

8. CUSTOMER INFORMATION

- 8.1 You agree, for the purposes of this contract and the performance of our obligations to you, that we may collect information about you. The information we collect about you may be obtained from you and others. We may obtain information about you when the services offered to you are used, either by you or anyone else.
- 8.2 You may decide not to provide any information sought from you. If you do not provide it then we may not be able to provide our services to you.
- 8.3 We may use the information we hold about you and may exchange information about you with our contractors, agents and representatives, with other carriers, and with credit reporting and debt collection agencies for the purposes of our business.
- 8.4 You may obtain access to, and correct, any information held by us under the Privacy Act 1993.

9. OTHER TERMS

- 9.1 Other terms may apply to some of the services provided by us to you. We will tell you about the terms that apply in those circumstances.

10. INVOICES AND NOTICES

- 10.1 We will deliver our invoices and any other notices to the most recent email address you have given us or by post. We may assume that any such invoice or notice has been received 1 day after we have sent it. Please ensure that you inform us when you change your address.

- 10.2 It is essential that if you change address or move premises, you must inform us of this event in writing to enable us to ensure that there is no interruption in our supply of service to you. If you do not inform us of this event we will not be able to ensure continued supply of our service to you.

11. ASSIGNMENT AND DELEGATION

- 11.1 We may assign or transfer our rights and responsibilities under this contract to someone else. We will give you written notice in advance if we intend to do this.
- 11.2 We may also subcontract the performance of any of our responsibilities under this contract to anyone else.
- 11.3 You may not assign or transfer any of your rights or responsibilities under this to anyone else without our prior written consent.

12. TERMS SEPARATELY BINDING

- 12.1 If, for any reason, any provisions of this contract cannot be enforced or relied on by either of us, all other terms of our contract with you remain binding.

13. TERMINATION

- 13.1 If you do not pay any of the invoices we send to you or you otherwise fail to meet your responsibilities to us we may end our contract with you. Ending the contract between us in this way shall not release you from any outstanding obligations or responsibilities you owe to us.
- 13.2 If you want to end the contract between us please write to us at MBE M134, Private Bag 92132, Victoria St West, Auckland, 1142, New Zealand, or e-mail us at accounts@pulsemedia.nz . Our agreement will end and all charges will cease at the end of your current billing cycle provided you have paid us in full all outstanding amounts due to us.
- 13.3 If for any reason we delay in exercising our rights that will not mean we have waived or given up our rights.
- 13.4 On termination of our contract with you, we will cease providing our service to you and all amounts which you owe to us will immediately become due and payable. We shall not be liable to you for any loss or damage suffered, or claimed to have been suffered, by you on or following termination of the supply of our service to you.

14. FORCE MAJEURE

- 14.1 We shall not be liable to you for any loss or damage directly or indirectly arising out of or in connection with any delay in delivery of the goods or failure to perform its obligations under this Agreement where such delay is caused directly or indirectly by an act of God, armed conflict, labour dispute, civil

commotion, intervention of a government, inability to obtain labour, materials or manufacturing facilities, accidents, interruptions of, or delay in, transportation or any other cause beyond our control.

15. COMPLIANCE WITH REGULATIONS AND ACCEPTABLE USE

- 15.1 You shall be solely responsible for obtaining any necessary permits under and for compliance with all legislation, regulations, by-laws or rules having the force of law in connection with the installation and operation of the services. Pulse Media will not be held accountable or liable for any illegal activities as seen by the laws of this country or any international laws.
- 15.2 Pulse Media may monitor your use of the Services and any material posted, downloaded, transmitted or communicated using the Services for compliance with Pulse Media's Terms. Pulse Media may pass on any material or information it finds as a result to the relevant authority if Pulse Media suspects any illegal or offensive activity is involved, and you will have no claim against Pulse Media for this.
- 15.3 Pulse Media may also monitor your use of the services at anytime with regard to reasonable usage and if it deems your usage is in excess of reasonable, and/or it solely places a strain on Pulse Media resources or services to its existing or perspective clients, Pulse Media reserves the right to request an upgrade of plan, or negotiation outside of its standard plan pricing, terms and conditions.