

THE HEALTH MEDIA LTD

TERMS OF TRADE

The terms of trade set out below set out the conditions under which The Health Media Ltd (“THM”, “we”, “us”) supplies advertising, marketing and other services to the customer (“you”). They are effective from 1 September 2015. Your acceptance of any services from THM indicates your continuing acceptance of these terms of trade. .

1. General

- 1.1. In these conditions, “**Supplier**” means THM’s suppliers; “**Services**” means advertising, editing, publishing and other services which are supplied by THM to you.
- 1.2. These terms will replace all earlier THM terms of trade and any conditions contained in any document used by you and purporting to have contractual effect.

2. Price and Orders

- 2.1. The price, scope and anticipated time frame for each supply of services will be set out in a written quote which must be accepted by you in writing before the services will be supplied.
- 2.2. We will make every effort to ensure that performance of services is timely, but will not be liable to you for any loss or damage arising in any way from any delay in performance.

3. Payment

- 3.1. Unless we have agreed in writing to extend credit to you, you must pay by direct credit into a bank account nominated by us or by credit card before supply.
- 3.2. Where we have agreed in writing to extend credit to you, you must pay our invoices in full by the 20th day of the month following the date of invoice), unless we have agreed in writing to different payment terms. Your payment is made only when funds have fully cleared through the banking system into our bank account.
- 3.3. We have sole discretion to determine the amount of credit we will extend to you at any time.

- 3.4. You agree to pay for the Services in full without deduction or setoff and to pay goods and services tax and any other government duties, levies or taxes in respect of them.
- 3.5. If you have not paid in full by the due date, we may charge you interest compounding monthly on the unpaid overdue balance at the rate of 10% per annum above the current overdraft rate charged by our bankers, and we may charge costs (including collection costs and legal costs on a solicitor-client basis) and suspend performance of further services until the account is paid.
- 3.6. Notwithstanding clause 3.2 above, all payments shall immediately become due to us if we reasonably believe that the information which you have given us in your application for credit is incorrect or no longer correct and you have failed to give us correct information satisfactory to us within 5 days of our request, if you become insolvent or commit any act of insolvency, if a receiver, liquidator or statutory manager is appointed over any of your assets or undertaking, if you make or attempt to make an arrangement or composition with creditors.
- 3.7. You authorise us to search the Personal Property Securities Register at any time for any information about you or (if you are a company) your parent or associated companies.

4. Limitation of liability

- 4.1. Our Products are supplied only for the purpose of a business, the provisions of the Consumer Guarantees Act 1993 (“CGA”) shall not apply to any supply of Products to you, and all conditions, warranties and guarantees implied by statute or common law will not apply and are excluded from these terms of trade.
- 4.2. THM’s maximum liability to you (if any) shall be limited to the value of any faulty services supplied, and none of THM and its employees, contractors and agents will be liable to you or to any other person (including your principals, suppliers or customers) for loss or damage of any kind however that loss or damage is caused or arises. This exclusion of liability includes, but is not limited to, costs (including costs of republishing any information or publishing any corrections), consequential loss, loss of profits, damage caused by or arising from delays, negligence (including a failure to do something which should have been done or to prevent something from happening), faulty specifications and design, and faulty compilation.
- 4.3. We will not be liable to you for any losses caused by events beyond our reasonable control. We will not be required to settle a strike or lockout or other industrial disturbance against our wishes in order to benefit from this clause.
- 4.4. Where require us to publish information or advertisements relating to your suppliers (including parties related to you) you indemnify us against all claims

from third parties arising in any way from any publication of that information or those advertisements.

- 4.5. You indemnify THM against all costs (including legal costs on a solicitor and own client basis) expenses, losses, damages or claims arising in any way as a result of your failure to comply with any part of these terms of trade.

5. Compliance with the law

- 5.1. It is your responsibility to ensure that your advertisements and any products or services referenced in them comply with the standards of the Advertising Standards Authority and in particular the Therapeutic Products Advertising Code, the Code for Advertising Weight Management Products and Services, and also with any guidelines issued by the Ministry of Health. You must comply with statute law, including (without limitation) the provisions of the Fair Trading Act 1986, the Medicines Act 1981, the Privacy Act 1993 and all other statutes, regulations and codes.
- 5.2. You warrant that all copy and information that you send to us for publication is accurate, complete and compliant with the law, and indemnify us against any breach of this warranty. We may charge you at our then current rate for staff time spent or other costs incurred in addressing any issues we reasonably believe arise from any breach of this warranty, whether or not the copy or information has been published by us.

6. Intellectual property and confidentiality

- 6.1. Nothing in these Terms of Trade transfers any intellectual property (including copyright, trade marks, designs, patent or other intellectual property of any kind) from one party to the other.
- 6.2. You warrant that you have the right to use all intellectual property that you ask us to publish.
- 6.3. You must not cause or permit anything which may interfere with, damage or endanger the trade marks or other intellectual property rights of THM or other parties, or assist or allow others to do so.
- 6.4. You must advise THM immediately if you become aware of any unauthorised use or attempted use by any person of the trade marks or other intellectual property rights of THM or any other customers.
- 6.5. If your account with THM is terminated, you must immediately discontinue use of any intellectual property (including trade marks) of THM or its Suppliers in any way, and you shall not continue to use those trade marks directly or indirectly in connection with your business.

6.6. You agree to ensure that all Confidential Information given by THM to you is made available to your employees only on the basis that those employees at all times maintain strict confidentiality.

6.7. This clause 9 shall survive the termination of the Agreement.

7. **General**

7.1. THM reserves the right to change these terms of trade from time to time by notice to you in writing..

7.2. If THM fails to enforce any terms or to exercise its rights under these terms of trade at any time, THM has not waived those rights.

7.3. If any provision of these terms of trade is held to be invalid or unenforceable for any reason, the remaining provisions shall remain in full force and effect and the parties shall adjust their respective rights and obligations in accordance with the spirit and intent of the parties as shown by these terms of trade.

7.4. This agreement is governed by the laws of New Zealand and any dispute under it shall be subject to the exclusive jurisdiction of the Courts of New Zealand.