

Standard Terms and Conditions for Advertisers

Effective 18th October 2008

1. About our Advertising Terms and Conditions

1.1 MyPackage.com.au trades as MyPackage ("we" "us" "our"). These Advertising Terms and Conditions set out our standard terms and conditions for all the advertising products and services we supply to advertisers.

1.2 Every advertiser and advertising agency ("you" "your") who submits a signed order in the required form ("Insertion Order") for Advertising on an advertising platform operated by us or on any media platform associated with us ("Advertising Platforms"), agrees to be bound by these terms and conditions. Your Insertion Order and these Terms and Conditions form the basis of an Agreement between you and us for the provision of the Advertising ordered by you ("Advertising Agreement").

1.3 MyPackage aims to increase the profile of new home construction, through the promotion of the Building, New Home and Land industries and to increase consumer confidence in these industries. Any Advertisement provided by you for publication across any of our Advertising Platforms shall be in the spirit of our aims.

2. Advertising Products

The term "Advertising" and "Advertisement" refers to the following products, being:

2.1 Classifieds

Classifieds consist of one or more images and text relating to the product or service being advertised by you ("Classifieds"). Classifieds include text describing the goods/services offered and at least one image.

2.2 Display advertisements

Display advertisements consist of an image that may or may not contain text, which is positioned on the webpage and come in varying sizes and each will be specified on the Insertion Order ("Displays"). Displays may contain static or animated GIF's or JPEG's, which may or may not contain click through URL(s) guiding users to your website(s).

2.3 Magazine Advertisements

Magazine advertisements consist of either Classifieds or Displays which come in varying sizes as specified on the Insertion Order ("Magazine Advertisements"). Magazine Advertisements contain static images and/or text.

2.4 MyPackage.com.au Presents Television Commercials

"MyPackage.com.au Presents" television commercials ("TVC") consisting of television advertorials where we have produced an introduction and exit using our own talent and you provide audio visual content which is positioned between our introduction and exit. The TVC is then screened on the media specified in the Insertion Order.

2.5 Powered by Technology

Powered by technology allows you to output content from the MyPackage.com.au website and incorporate this content onto your, or a third party's website ("Powered by Technology"), only with our express written consent. Any content outputted from MyPackage.com.au cannot be altered or amended in any way and operates in the same manner as it would on the MyPackage.com.au website.

2.6 Business to Business Portal

The business to business portal ("Business to Business Portal") allows you to exchange information with other users in a limited access area. You may elect to join your product and/or service with another user's product and/or service in order to create a new product and/or service.

3. Publication of Advertisements

3.1 We will, subject to availability, technical limitations and these Terms and Conditions, use our reasonable endeavours to publish your advertisement in the format submitted by you and in accordance with your other instructions. The positioning or placement of your advertisement will be at our discretion unless we expressly agree otherwise in writing.

3.2 We may, at our absolute discretion, refuse to publish any advertisement without giving any reason. No agreement is formed between you and us until we accept your advertisement for publication and issue you with a valid tax invoice. If we refuse to publish your advertisement, no fee will be charged to you.

3.3 Even if an agreement has been formed between you and us, we reserve the right to refuse to publish or withdraw your advertisement from publication at any time, without giving reasons, even if we have previously published the same or similar advertisement. We will endeavour to notify you of a refusal to publish or a withdrawal and where possible provide reasons for such removal.

- 3.4 We may, at our absolute discretion and at no extra cost to you, re-publish your advertisement in any other place and in any other medium now known or later devised. You agree and acknowledge that we are entitled to publish your advertisement anywhere in the world via any medium and further acknowledge that the advertisement will be disseminated as widely as possible and as cost effectively as possible but at all times any re-publication of your advertisement is at our sole discretion. Should you not wish to make use of this service, you must advise us of this request in writing.
- 3.5 We may, without prior consultation or notice to you, amend your advertisement in any way whatsoever, if we believe that the publication of your advertisement would be offensive, in breach of any law, in breach of any pre-existing agreement we have with a third party or in breach of a third party's rights. If we amend your advertisement, this will not reduce the price agreed for publication of the advertisement.
- 3.6 We reserve the right to vary the placement or positioning of your advertisement and to change the format of your advertisement where we deem fit to do so. We will endeavour to notify you of those changes but we will not be liable for any costs, expenses, losses or damages suffered or incurred by you arising from our failure to publish your advertisement in accordance with your request.
- 3.7 Should an advertisement be removed or amended by us pursuant to these Terms and Conditions we shall provide you with the opportunity to engage in a dialogue with us in regards to the removed or amended Material and/or advertisement. However should such negotiations prove unsuccessful, it shall be at our sole discretion to determine whether an advertisement is published and in what form
- 3.8 We may head any advertisement as "*Advertisement*" whenever required to do so by law or whenever we consider it appropriate, for any reason, to distinguish it from other types of content.

4. Submitting Advertisements

- 4.1 You must submit to us all finalised Advertising material ("Material") no later than five (5) working days prior to the date on which the Advertising campaign is scheduled to commence.
- 4.2 If Material is received by us after the relevant date and causes your campaign to be delayed, the publication of the advertisement will be considered to have commenced on the commencement date specified in the Insertion Order.
- 4.3 It is your responsibility to ensure that all claims, promises, statements or otherwise made by you in an Advertisement or provided to us by you for an Advertisement are correct and we take no responsibility for any incorrect claim, promise, statement or otherwise made by you in your Advertisement.
- 4.4 It is your responsibility to arrange and manage re-directs with third party ad-servers and provide such third party with the creative and lead time requirements. We will not compensate you where campaigns are affected or delayed in any way by third party ad-server redirect problems. We may, in our absolute discretion, remove any redirects from our network which are delayed in serving advertisements.
- 4.5 All click-through URLs must enable the browser's 'back' feature to allow users to return to our website.
- 4.6 All Material submitted, whether electronically or otherwise must comply with our specifications contained in your Insertion Order. We may reject the Material if it is not submitted in accordance with such specifications.

5. Other Advertising Conditions

- 5.1 You must promptly:
- 5.1.1 check any proofs of Advertising, if we have arranged to provide you with same;
 - 5.1.2 notify us of any errors in the proofs or in any advertisement that we publish for you.
- 5.2 Where you notify us of an error in your advertisement, we will use our best endeavours to help you remedy such errors, however you acknowledge that there are circumstances where the advertisement cannot be altered, for example published Magazine Advertisements, and in such circumstances you agree that no remedy will be available to you. Any attempts made by us to help you remedy an error in your advertisement will be at our sole discretion to provide.
- 5.3 We do not accept any responsibility for errors in Advertising material that has been submitted by you.
- 5.4 We do not accept any responsibility for any information lost or in any way altered when Material is submitted by you via the back end of the website MyPackage.com.au.
- 5.5 Cancellation of any advertisement or campaign must be received in writing from you no less than 21 days before the commencement date in your Insertion Order in order to receive a 100% refund. Any cancellations after this

date will be subject to a cancellation fee of 100% of the total cost of the campaign. Campaigns cancelled at your request after commencement will not be entitled to a refund of the unused portion of the campaign.

- 5.6 The Insertion Order is valid for 72 hours from the time we provide it to you. If the Insertion Order is not signed and returned to us within this time, the order may not be fulfilled.

6. Commitment, Rates, Payment and GST

- 6.1 By submitting an Insertion Order to us, you agree to be liable for all relevant fees and costs of such order. Unless otherwise indicated in the relevant order and agreed by us in writing, the Insertion Order commences on the date of signature of the Insertion Order and will continue for the term set out therein ("Term"). Upon the end of the Term, you must notify us, in writing, of your intention to discontinue your advertisement. Should you not provide us with such a notice the Insertion Order shall continue for additional Terms of the same length as the initial Term. as specified in the Insertion Order
- 6.2 The rate for your Advertisement will be as agreed by us and specified in your Insertion Order on a per order basis. If we have quoted a rate to publish a specific quantity of Advertising over a specific period and a lesser quantity is submitted for publication within that period, then what is published within that period shall be costed at whatever rate is necessary to generate the expenditure which would have been made had the full agreed volume been published.
- 6.3 You will be invoiced quarterly, in advance. Unless otherwise agreed by the parties in writing, payment terms are net thirty (30) days from the date of each invoice. All invoices are payable in advance subject to the terms set out in the Insertion Order and this Agreement.
- 6.4 All Advertising fees not paid in accordance with this Insertion Order will accrue interest at the rate of 2% over the base rate quoted by Westpac in Melbourne on the date the payment becomes due.
- 6.5 In addition to all other available rights and remedies, we may cancel and remove any advertisement or integration content which is not paid for on a timely basis. Reinstatement after cancellation may require a new Insertion Order (including all applicable fees).
- 6.6 The Client will be responsible for paying all amounts outstanding at the effective date of any termination or expiration of the Advertising Agreement.
- 6.7 All rates and charges quoted are, unless expressly stated otherwise, exclusive of GST. We will issue you with a valid tax invoice and you must pay us any applicable GST in addition to the rates and charges quoted to you.

7. Failure to Pay

- 7.1 If you fail to pay for the Advertising services in accordance with your Insertion Order and these Terms and Conditions, or if you commit an act of bankruptcy, become insolvent, have a receiver or administrator or liquidator or manager appointed over any of your assets or if you resolve to wind up your company, then we may at our absolute discretion:
- 7.1.1 cancel any current Advertising campaign and terminate any agreement for Advertising that is yet to be published;
 - 7.1.2 require cash payment in advance for future Advertising;
 - 7.1.3 charge interest at a rate of 2% per calendar month on overdue amounts; take proceedings against you to recover any overdue amount;
 - 7.1.4 recover from you all costs in relation to any action taken against you by us to recover overdue amounts. Such costs may include, without limiting the above, mercantile agency costs and legal costs on a full indemnity basis; and
 - 7.1.5 exercise any other rights we may have at law.

8. Your Warranties

- 8.1 By submitting Advertising material to us or authorising or approving the publication of Advertising material by us on your behalf, you warrant that the Advertising material complies with all relevant laws and regulations and that its publication will not give rise to any claims or liabilities against us, our directors, employees or agents.
- 8.2 You represent and warrant to us that you are fully authorised to publish the entire contents and subject matter of all Advertisements or integration content submitted to use (including, but not limited to, all text, graphics, icons, photographs, audio visual materials), materials generally provided to us for production purposes, URLs, and

sites to which URLs are to be linked), and that all such contents and subject matter will comply with all applicable laws, regulations and relevant industry codes.

8.3 Without limiting the above, you warrant that the Advertising submitted, authorised or approved by you does not breach or infringe:

8.3.1 the Trade Practices Act (Commonwealth) or the Fair Trading Acts of relevant States of Australia or equivalent or other sale of goods legislation;

8.3.2 any copyright, trade mark, obligation of confidentiality or other personal or proprietary rights;

8.3.3 any law of defamation or obscenity or be in contempt of any court, tribunal or royal commission;

8.3.4 any State or Commonwealth anti-discrimination legislation;

8.3.5 the Privacy Act (Commonwealth); or

8.3.6 any other law (including but not limited to the common law, any statute, delegated legislation, rule and ordinance of the Commonwealth or of any State or Territory).

9. Indemnity

9.1 By submitting, authorising or approving Advertising material for publication by us, you unconditionally indemnify and hold us harmless (including all of our officers, agents employees and affiliates) from and against any and all loss, damage, liability and expense (including all reasonable legal fees) suffered or incurred by reason of any claims, proceedings or suits based on or arising out the publication of, or any act or omission arising wholly or partially, directly or indirectly, from the advertisements and integration content; including but not limited to claims related to defamation, contempt of court, rights of publicity and/or privacy, copyright infringement, trade mark infringement, misleading or deceptive conduct and any failure to comply with or fulfil any representations, warranties or agreements made in the relevant advertisement or on any website represented by a URL shown or embedded in the relevant advertisement or any object in such advertisement.

9.2 Without limiting the generality of the above, you indemnify us (including all of our officers, agents employees and affiliates) against any costs, expenses, losses, damages, liability and claims suffered or incurred and arising from your breach of these Terms and Conditions and any negligent or unlawful act or omission by you in connection with the advertisement.

10. Liability

10.1 We make no representation or warranty in relation to the number of visitors to our websites or the number of impressions at any site except for a warranty made to you expressly in writing by us.

10.2 Except for any warranty or representation made expressly to you in writing by us, you acknowledge that you have not relied on any advice given or representation made by us or on our behalf in connection with the Advertising.

10.3 We have no liability to you and you indemnify us in relation to any failure of telecommunications services or systems which affect our receipt of your advertisement or the publication of your advertisement or affect your receipt of any third party communication from your advertisement.

10.4 We have no liability to you and you indemnify us in relation to any failure of telecommunications services or systems which results in any loss of all or part of your Advertisement.

10.5 We exclude all implied conditions and warranties from these Terms and Conditions, except any condition or warranty (such as those implied by the Trade Practices Act) which cannot be excluded ("non-excluded conditions").

10.6 We limit our liability for:

10.6.1 breach of any non-excluded condition (to the extent that liability for such breach can be limited); and

10.6.2 any other error or omission in publishing caused by us;

10.6.3 to (at our option) re-supply the Advertising services affected by our breach or to make payment of the cost of re-supply.

10.7 Subject to the above sub-clauses, we exclude all other liability to you for any costs, expenses, losses and damages suffered or incurred by you in connection with these Terms and Conditions and any advertisement

published by us, whether that liability arises in contract, tort (including by our negligence) or under statute. Without limitation, we will not, in any circumstance, be liable for any indirect or consequential losses, including loss of profits, loss of revenue and loss of business opportunity.

11. Privacy

- 11.1 We may need to collect and hold your personal information in order to provide the Advertising services to you. Your personal information will be held subject to our Privacy Policy.
- 11.2 Our Privacy Policy allows us to use your personal information for purposes related to your purchase of the Advertising services, such as re-publishing your Advertisement, making you aware of our other products and services or notifying you of opportunities offered by our business partners.
- 11.3 We may disclose your personal information to our related companies, to credit reporting agencies and other third parties as part of provision of the Advertising services. Where you owe us money, we may disclose your personal information to debt collection agencies to recover the amount due.
- 11.4 You may gain access to your personal information or obtain a copy of our Privacy Policy by contacting us at www.MyPackage.com.au or by post at My Package Pty Ltd, PO Box 707, Elsternwick, Victoria 3185.

12. Changes to Terms and Conditions

- 12.1 **New Orders.** We may change these Terms and Conditions at any time without notice to you. Those changes will apply to the provision of Advertising services after the date the change becomes effective. You and we will be bound by the Terms and Conditions that are current as at the date of your Insertion Order.
- 12.2 **Existing Agreements.** Should we wish to change the Terms and Conditions which apply to current matters we will post the changes on our website, and you agree that upon the expiry of thirty (30) days from the date of that posting the amended Terms and Conditions will thereupon apply to the agreement.

13. Dispute Resolution

- 13.1 Any dispute between the parties in connection with this Advertising Agreement (the "Dispute") must be attempted to be resolved by the following procedure ("Mediation") before a party may commence any Court proceedings in connection with the Dispute:
 - 13.1.1 either party may start a Mediation by contacting the other party either by telephone or email however should that party not respond to the contact then a notice to that effect may be served on the other party (the "Mediation Notice");
 - 13.1.2 the Mediation Notice must state that a dispute has arisen and identify what is in dispute;
 - 13.1.3 the parties must endeavour to resolve the Dispute between themselves before instituting proceedings
 - 13.1.4 the parties must jointly appoint a mediator within fourteen (14) days of the service of the Mediation Notice, failing which a mediator is to be appointed by the then CEO of the *Law Institute of Victoria* on the application of either party (in either case, the person so appointed is now called the "Mediator");
 - 13.1.5 the parties must observe the instructions of the Mediator about the conduct of the Mediation; and
 - 13.1.6 if the Dispute is not resolved within fourteen (14) days after the Mediator has been appointed, or any other time which the parties agree to in writing, the Mediation ceases.
- 13.2 The parties must bear and pay an equal share of the Mediator's costs.
- 13.3 If the Dispute is resolved via the Mediation, the parties must sign a note or memorandum recording the terms of that resolution, which will become final and binding on them.
- 13.4 The Mediation procedure will be confidential to the extent that:
 - 13.4.1 written statements prepared for the Mediator or for a party; and
 - 13.4.2 any discussion between the parties and between each of them and the Mediator during the Mediation.
- 13.5 Any information provided during the Mediation cannot be used in any subsequent proceedings in connection with the Dispute.
- 13.6 If the parties are unable to resolve Dispute via the Mediation, either of them may refer the Dispute to a Court having the appropriate jurisdiction.

13.7 The previous five (5) clauses are not intended to prevent a party from commencing Court proceedings seeking urgent injunctive relief.

14. Operation and Use of TVC

14.1 The use of a TVC has been licenced to you for use in the period and in the medium specified by you in the Insertion Order.

14.2 The right to use or in any way exploit a TVC shall be our sole right and you may only use or exploit a TVC with our express permission.

14.3 You may only use the TVC for the use and the time specified in the Insertion Order.

14.4 You may not, and may not authorize any third party to alter, amend or in any way change the TVC. Any alterations to the TVC must be performed by us.

14.5 Should you wish to use or exploit the TVC after the conclusion of the time frame specified in the Insertion Order you may apply to us in writing and approval of further use of the TVC shall only be deemed effective if in writing and signed by you and us.

15. Booking and Payment of TVC Advertising Space

15.1 In addition to requirements contained in this Agreement there is a two tiered booking and payment structure available to you for the payment of TVC's, being;

15.1.1 You book your preferred media (for example free to air television) through your own media planner or agent. All payment arrangements will be made between you and your media planner or agent. We are not a party to any payment arrangements and merely provide the complete TVC's as per the specifications provided; or

15.1.2 You book your preferred media through our media booking service. We require the full booking fee for the Advertising in your preferred media, in advance and at the time of booking.

16. Operation and use of Powered by Technology

16.1 You acknowledge and agree that any material you output using the Powered by Technology cannot be altered, amended or in any way changed.

16.2 You acknowledge that any material you output using the Powered by Technology is at all times connected to the MyPackage.com.au website and should the MyPackage.com.au website for any reason cease to operate, then so to will any material outputted using the Powered by Technology.

16.3 You agree and acknowledge that we have no liability to you and you indemnify us in relation to any failure of telecommunications services or systems which affects yours or any third party's receipt of any material using the Powered by Technology.

16.4 In addition to the Advertising Terms and Conditions set out in this Agreement, you agree and acknowledge that we have no liability to you and you indemnify us in relation to any incorrect, misleading, defamatory, or otherwise illegal information contained on MyPackage.com.au and outputted by you using the Powered by Technology.

16.5 We, at no time take responsibility for the accuracy or legality of any information contained on the MyPackage.com.au website and at all times it is your sole responsibility to verify the accuracy and working order of any material contained on MyPackage.com.au before you agree to output any material using the Powered by technology to your or a third party's website.

17. Operation and use of the Business to Business Portal

17.1 The Business to Business Portal is a service provided to users enabling them to present information to other users and see other users information, which may then, at the agreement of both parties, be transformed into a new product/service.

17.2 The rate for your access to the Business to Business Portal will be as agreed by us and specified in your Insertion Order on a per order basis.

17.3 The information you provide for insertion onto the Business to Business Portal must comply with all the Terms and Conditions contained in this Agreement.

17.4 We at no time take responsibility for the accuracy or legality of any information contained in the Business to Business portal and at all times it is your sole responsibility to verify the accuracy and working order of any material contained on the Business to Business Portal before you agree to enter into any agreement with any user of the Business to Business Portal.

17.5 Any new product or service created using the Business to Business Portal will be subject to a new Insertion Order before it may be inserted on any Advertising Platform.

18. General

18.1 These Terms and Conditions, together with your Insertion Order, represent the entire agreement between you and us in relation to the Advertising services and cannot be varied except by agreement in writing signed by one of our authorised officers. No purchase order or any document issued by you may vary these Terms and Conditions.

18.2 We will not be liable for any delay or failure to publish your advertisement that is caused by a factor outside of our reasonable control (including but not limited to any act of God, act of war, breakdown of plant, industrial dispute, electricity failure, governmental or legal restraint).

18.3 We may serve a notice or any court document on you by forwarding them by prepaid post or facsimile to your last known address.

18.4 No termination or expiration of the Insertion Order will terminate or otherwise affect the warranties and indemnities provided by you herein in respect of this Advertising Agreement and any subsequent and/or other Advertising agreement between use and you, and all such warranties and indemnities will survive and remain in full force and effect in respect of the performance of all of your relevant obligations.

18.5 These Terms and Conditions are governed by the laws of the State of Victoria. We and you hereby submit to the non-exclusive jurisdiction of the Courts of that State.