



Terms And Conditions

These terms apply to all advertising provided to any person (“Customer”) by Phone First Digital Marketing ABN 502 9175

7427 or a subsidiary of (“Phone First Digital Marketing”). Customer includes an advertiser on whose behalf Advertising is placed, any creative and design work is produced, and any media company or agency that arranges the Advertising for its clients. App refers to the any phone application or digital platform managed by Phone First Digital Marketing (App), please refer addendum for current list.

1. Publication of Advertising

1.1 Subject to these Terms, in providing advertising to a Customer (“Advertising”), Phone First Digital Marketing will use its reasonable endeavours to publish the Advertising in the format and in the position agreed with the Customer. “Advertising” includes images submitted for publication and content or information relating to published advertisements.

1.2 Customer grants Phone First Digital Marketing a worldwide, royalty-free, non-exclusive, irrevocable licence to publish, the Advertising in any form or medium. Customer warrants that it is authorised to grant Phone First Digital Marketing the licence in this clause 1.

2. Right to Refuse Advertising

2.1 Neither these Terms nor any written or verbal quotation by Phone First Digital Marketing represents an agreement to publish Advertising. An agreement will only be formed between Phone First Digital Marketing and Customer when Phone First Digital Marketing accepts the Advertising in writing or generates a tax invoice for that Advertising.

2.2 Phone First Digital Marketing reserves the right to refuse or withdraw from publication any Advertising at any time that, in the opinion of Our Town Southern Highlands, is illegal, defamatory, offensive, obscene and/or contrary to the business interest, goodwill and/or reputation of Phone First Digital Marketing or any of its customers or vendors or is likely to infringe on the rights of third parties (even if the Advertising has previously been published by Phone First Digital Marketing).

3. Right to vary Format, Placement or Distribution

3.1 Phone First Digital Marketing will use reasonable efforts to publish Advertising in the format and in the position requested by the Customer. However, Phone First Digital Marketing reserves the right to vary the placement of Advertising within the App or website or to change the format of Advertising. Customer must pay the full price for Advertising even if Phone First Digital Marketing varies the format or placement of the Advertising.

3.2 Except in accordance with clause 12, Phone First Digital Marketing will not be liable for any loss or damage incurred by a Customer arising from Phone First Digital Marketing's failure to publish Advertising in the format and position requested by the Customer.

4. Submission of Advertising

4.1 Customer warrants to Phone First Digital Marketing that the publication of the Advertising does not breach or infringe:

the Competition and Consumer Act (Cth) or equivalent State legislation;

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

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

State or Commonwealth privacy legislation or anti-discrimination legislation;

any financial services law as defined in the Corporations Act 2001 (Cth); or

any other law or applicable code (including any common law, statute, delegated legislation, rule or ordinance of the

Commonwealth, or a State or Territory).

4.2 Customer warrants that if Advertising contains the name or photographic or pictorial representation of any living person

and/or any copy by which any living person can be identified, the Customer has obtained the authority of that person to

make use of his/her name or representation or the copy.

4.3 Advertising submitted electronically must comply with Phone First Digital Marketing's specifications. Phone First Digital

Marketing may reject the Advertising material if it is not submitted in accordance with such specifications.

4.4 If Customer is a corporation and the Advertising contains the price for consumer goods or services, Customer warrants

that the Advertising complies with the component pricing provisions of the Competition and Consumer Act (Cth) and

contains, as a single price, the minimum total price to the extent quantifiable at time of the Advertising.

4.5 Customer must not resell Advertising space to any third party without Phone First Digital Marketing's consent.

4.6 If Advertising promotes a competition or trade promotion, Customer warrants it has obtained all relevant permits and

indemnifies Phone First Digital Marketing against any loss in connection with the Advertising.

5. Classified Advertising – Buy/Sell Tab on the App

Phone First Digital Marketing will publish classified Advertising under the classification heading it determines is most appropriate. These headings are for the convenience of App users. Phone First Digital Marketing will publish classified display Advertising sorted by alphabetical caption and, where space permits, with related line Advertising.

6. App Advertising

6.1 For App banner and display Advertising, Customer must submit creative materials and a click-through URL to Phone First Digital Marketing at least 3 working days (5 working days for non-gif material) or within such other deadline advised by Phone First Digital Marketing at its discretion before launch date. Phone First Digital Marketing may charge Customer for online Advertising cancelled on less than 14 days' notice or if creative materials are not submitted in accordance with this clause 6.1.

6.2 All online Advertising (including rich media) must comply with Phone First Digital Marketing advertising specifications.

6.3 Phone First Digital Marketing will measure online display and banner Advertising (including impressions delivered and clicks achieved) through its ad-serving systems. Results from Customer or third party ad-servers will not be accepted for the purposes of Phone First Digital Marketing billing and assessment of Advertising.

6.4 Phone First Digital Marketing is not liable for loss or damage from an internet or telecommunications failure.

6.5 Customer acknowledges that Phone First Digital Marketing may at its discretion include additional features or inclusions on the App such as third party advertisements within online classified Advertising.

7. Errors

7.1 Customer must promptly check proofs of Advertising (if provided to the Customer by Phone First Digital Marketing) and notify Phone First Digital Marketing of any errors in the proofs or in published Advertising on the App.

7.2 Phone First Digital Marketing does not accept responsibility for any errors submitted by the Customer or its agent, including errors in Advertising placed over the telephone.

7.3 Customer must send any claim for credit or republication in writing to Phone First Digital Marketing no later than 7 days after the date of publication of the Advertising.

8. Advertising Rates and GST

8.1 The Customer must pay for Advertising at the agreed rate. Advertising rates may only be varied by Phone First Digital Marketing with 90 days written notice. Customer must pay GST at the time it pays for Advertising. Phone First Digital Marketing will provide a tax invoice, tax receipt for payment, or adjustment note (as applicable).

9. Credit and Customer Accounts

Phone First Digital Marketing may grant, deny or withdraw credit to a Customer at any time in its discretion. Customer must ensure that its Customer account number is available only to those employees authorised to use it. Customer acknowledges it will be liable for all Advertising placed under Customer's account number.

10. Payment

10.1 The Customer must pre-pay for Advertising, unless agreed in writing otherwise by Phone First Digital Marketing, in full or by monthly direct debit from their nominated account or payment method.

10.2 Customer must pay the full price for Advertising even if there is an error in the Advertising, unless the error was Phone First Digital Marketing's fault.

10.3 Customer must pay its electronic transmission costs.

10.4 Payments for digital platform and App only advertising on a monthly basis with a twelve month contract, or month to month contract will automatically be renewed at the end of the contract period unless notified in writing by the customer.

10.5 Phone First Digital Marketing will make all reasonable attempts to contact the customer and provide 14 days' notice when a twelve month contract is due to expire.

11. Failure to Pay and Other Breach

11.1 If Customer breaches these terms, fails to pay for Advertising or suffers an Insolvency Event (defined in clause 11.2),

Phone First Digital Marketing may (in its discretion and without limitation):

- a) require cash pre-payment for further Advertising;**
- b) take proceedings against the Customer for any outstanding amounts;**
- c) recover Phone First Digital Marketing's costs including mercantile agency and legal costs on a full indemnity basis;**
- d) cease Advertising or suspend an agreement for Advertising not yet published until the breach is remedied and if it is not remedied within 10 Business Days, Phone First Digital Marketing may terminate an agreement for Advertising not published;**
- e) exercise any other rights at law.**

11.2 A Customer suffers an "Insolvency Event" if:

- a) Customer is a natural person and commits an act of bankruptcy; or**
- B) Customer is a body corporate and cannot pay its debts as and when they fall due or enters an arrangement with its creditors other than in the ordinary course of business or passes a resolution for administration, winding up or liquidation (other than for the purposes of reorganisation or reconstruction); or has a receiver, manager, liquidator or administrator appointed to any of its property or assets or has a petition presented for its winding up.**

11.3 A written statement of debt signed by an authorised employee of Phone First Digital Marketing is evidence of the amount owed by the Customer to Phone First Digital Marketing.

12. Liability

12.1 Each of the parties excludes all implied conditions and warranties from these terms, except any condition or warranty (such as conditions and warranties implied by the Competition and Consumer Act 2010 and equivalent State acts) which cannot by law be excluded (“Non-excludable Condition”).

12.2 Each of the parties limits its liability for:

a) breach of any Non-excludable Condition (to the extent such liability can be limited); and

b) for any breach of contract caused by or contributed by a party, in the case of Phone First Digital Marketing, to the resupply of the Advertising if reasonably possible or payment of the cost of re-supply to Customer and in the case of Customer, the amount paid for the Advertising.

12.3 Subject to clauses 12.1, neither party will, in any circumstances, be liable to the other for any indirect or consequential losses, loss of profits, loss of revenue or loss of business opportunity.

12.4 Subject to clause 12.2, the Customer indemnifies Phone First Digital Marketing and its officers, employees, contractors and agents (the “Indemnified”) against any costs, expenses, losses, damages and liability suffered or incurred by the Indemnified arising from the Customer’s breach of these Terms and any negligent or unlawful act or omission of the Customer in connection with the Advertising.

13. Privacy

13.1 Phone First Digital Marketing collects a Customer's personal information to provide the Advertising to the Customer and for invoicing purposes. Phone First Digital Marketing may disclose this personal information to its related bodies corporate, and for overdue accounts, to debt collection agencies to recover amounts owing.

13.3 Customers may gain access to their personal information by writing to the Privacy Officer, PO Box 708, Moss Vale NSW 2577. Phone First Digital Marketing's privacy policy is available on the App, also referred to as Our Town Privacy Policy.

14. Confidentiality

14.1 Each party will treat as confidential, and will procure that its advertising agents, other agents, and contractors ("Agents") treat as confidential and will not disclose, unless disclosure is required by law:

- a) the terms of this Agreement (including terms relating to tab listings on the APP and pricing);**
- b) information generated for the performance of this Agreement, including all data relating to advertising schedules, budgets, forecasts, booked advertising, prices or volumes;**
- c) any other information that ought in good faith to be treated as confidential given the circumstances of disclosure or the nature of the information; and**
- d) any information derived wholly or partly for any information referred to in (a) to (c) above.**

14.2 Each party agrees to take all reasonable precautions to prevent any unauthorised use, disclosure, publication or dissemination of the confidential information by or on behalf of itself or any third party.

15. General

15.1 These Terms, with any other written agreement, represent the entire agreement of the Customer and Phone First

Digital Marketing for Advertising. They can only be varied in writing by an authorised officer of Our Town Southern

Highlands. No purchase order or other document issued by the Customer will vary these Terms.

15.2 Phone First Digital Marketing will not be liable for any delay or failure to publish Advertising caused by a factor outside

Our Town Southern Highlands's reasonable control (including but not limited to any act of God, war, breakdown of plant,

industrial dispute, electricity failure, governmental or legal restraint).

15.3 Phone First Digital Marketing may serve notice on Customer by post, email, or last known address of the Customer.

15.4 These Terms are governed by the laws of the State of New South Wales.

Addendum

PHONE FIRST DIGITAL MARKETING – App List

These terms and conditions apply to advertising on any Phone First Digital Marketing platform including but not limited to the

following mobile phone Apps managed by Phone First Digital.

1. Our Town Southern Highlands

2. Cowra Local