

## SNOWSBEST TERMS AND CONDITIONS

In this Agreement, "us", "we", "Snowsbest" or "SnowsBest.com" means [sole trader Rachael Oakes-Ash] and "you" or "Advertiser" means you or any agency, corporation, organisation or any other entity you represent when interacting with us or seeking to place any advertisement with us or on our Websites or social media or any website or social media of our affiliates.

### 1. Advertising Requests

- 1.1 The Advertiser must complete and submit an Advertising Request before advertising with us.
- 1.2 All information on the Advertising Request must be complete and accurate and must comply with all laws, regulations and relevant industry codes.
- 1.3 Advertising Requests must not request publication or linking to content which is illegal or may bring SnowsBest into disrepute.
- 1.4 SnowsBest may reject or cancel any advertising request at any time at its sole discretion.
- 1.5 By submitting advertising requests the Advertiser authorises SnowsBest to publish the advertising content provided in the Advertising Request on the Website.

### 2. Positioning and Style

The Advertiser acknowledges and agrees that SnowsBest retains complete editorial control over the Website. SnowsBest may at its sole discretion:

- (a) refuse to include any advertising content at any time;
- (b) remove any advertising content at any time;
- (c) position advertising content as it sees fit;
- (d) label any sponsored content as "sponsored" for clarification and stipulate any other conditions to ensure that it is clear that the sponsored content has been sponsored; and
- (e) label any advertising content as an "advertisement" for clarification and stipulate any other conditions to ensure that it is clear that the Advertising Content is an advertisement.

### 3. Payment and cancellations

- 3.1 The Advertiser must pay SnowsBest the Fees as agreed.
- 3.2 Unless the parties have agreed otherwise in writing, half of the fees for each monthly lead advertisement and monthly snow forecast sponso must be paid upon booking and the remaining half at least 30 days prior to the first month of advertising.
- 3.3 Unless the parties have agreed otherwise in writing, the full fee for each edm, sponsored post, social posts and Facebook monthly competition must be paid upon booking to confirm that booking.
- 3.4 Where Snowsbest provides an invoice, each invoice is payable within 7 days of the date of the invoice. If the Advertiser has not paid an invoice in full by that date, the Advertiser must pay interest on any unpaid amount from that date until the date of payment, to be calculated on a daily basis at a rate of 3 percentage points over the Reserve Bank of Australia Cash Rate Target.
- 3.5 Cancellation fees apply. Monthly lead advertiser, monthly snow forecast partners and Facebook monthly competitions cancellation fees are 50% up to 60 days prior, 100% for any cancellations made 30 days or less prior. EDM bookings, sponsored posts, social media bookings cancellations incur a 50% cancellation fee up to 30 days prior, 100% for any cancellations made 30 days or less prior.

### 4. GST

- 4.1 All amounts payable under this Agreement are expressed exclusive of GST.

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- 4.2 In respect of any taxable supply, the Advertiser must pay to SnowsBest an additional amount equal to the prevailing GST rate, payable at the same time and in the same manner as the fees, subject to the receipt by the Advertiser of a valid tax invoice.

### 5. Confidentiality

- 5.1 A party must not, without the prior written consent of the other, use or disclose the other party's Confidential Information unless expressly permitted by this Agreement or required to do so by law or any regulatory authority.
- 5.2 A party may:
- (a) use the Confidential Information of the other party solely for the purposes of complying with its obligations and exercising its rights under this Agreement; and
  - (b) disclose the Confidential Information to its personnel or advisers to the extent necessary for them to know the information for purposes related to this Agreement, but only if reasonable steps are taken to ensure that the confidentiality of the information is retained.
- 5.3 Each party must implement and maintain effective security measures to prevent unauthorised use and disclosure of the other party's Confidential Information whilst it is in the receiving party's possession or control.
- 5.4 Each party must return, or at the other party's option destroy, all Confidential Information of the disclosing party in the receiving party's possession or control, on the earlier of SnowsBest's request or on termination of this Agreement for any reason.

### 6. Warranties

The Advertiser represents and warrants that:

- (a) it is fully authorised to publish, and to authorise SnowsBest to publish, all Advertising Content;
- (b) the Advertising Content and the publication of the Advertising Content on the Websites does not and will not, at any time, infringe any Intellectual Property Right, any right of confidence or other right of any person;
- (c) all Advertising Content will comply with all applicable laws, regulations and relevant industry codes;
- (d) all advertised products and services will match the advertised description and be available in the manner, at the price and for the time period advertised; and
- (e) each website located at any URL shown or embedded in any Advertising Content is controlled and operated by or on behalf of the Advertiser, is functional and accessible and at all times operates in compliance with all applicable laws, regulations and relevant industry codes.

### 7. Liability

- 7.1 To the full extent permitted by law, SnowsBest excludes all liability in respect of loss of data, interruption of business or any consequential or incidental damages.
- 7.2 To the full extent permitted by law, SnowsBest excludes all representations, warranties or terms (whether express or implied) other than those expressly set out in this Agreement.
- 7.3 SnowsBest's total aggregate liability for all claims relating to this Agreement is limited to the Fees payable under this Agreement.
- 7.4 Either party's liability for any claim relating to this Agreement will be reduced to the extent to which the other party contributed to the damage arising from the claim.
- 7.5 This Agreement is to be read subject to any legislation which prohibits or restricts the

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exclusion, restriction or modification of any implied warranties, conditions or obligations. If such legislation applies, to the extent possible, SnowsBest limits its liability in respect of any claim to, at SnowsBest's option:

in the case of goods:

- (a) the replacement of the goods or the supply of equivalent goods;
- (b) the repair of the goods;
- (c) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
- (d) the payment of having the goods repaired, and

in the case of services:

- (e) the supply of the services again; or
- (f) the payment of the cost of having the services supplied again.

### 8. Indemnity

The Advertiser indemnifies and holds SnowsBest, its agents, affiliates, subsidiaries, directors, officers, employees, consultants and contractors (collectively "Indemnified Persons") harmless from and against any and all costs, claims, losses, damages, liability and expense (including all reasonable legal fees) which may be made or brought against or suffered or incurred, directly or indirectly by the Indemnified Persons in connection with:

- (a) any breach of this Agreement by the Advertiser;
- (b) any act of fraud or wilful misconduct by or on behalf of the Advertiser; or
- (c) the publication of, or any act or omission in relation to, the Advertising Content or any website represented by a URL included or embedded in the Advertising Content.

### 9. Termination

A party may terminate this Agreement by written notice to the other if any of the following events has occurred in respect of the other party:

- (a) a material breach of this Agreement which is not remediable or if capable of remedy, where the other party fails to remedy within 14 days of written notice;
- (b) an insolvency event occurs, other than an internal reconstruction with notice to the other party.

### 10. Consequences of Termination

If this Agreement is terminated or expires for any reason, then, in addition and without prejudice to any other rights or remedies available:

- (a) the parties are immediately released from their obligations under the Agreement except those obligations in clauses 3, 5, 7, 8 and any other obligations that, by their nature, survive termination;
- (b) each party retains the rights and claims it has against the other;
- (c) the Advertiser must immediately pay all outstanding Fees.

### 11. Website Terms and Conditions

The Website Terms and Conditions form part of the terms and conditions of this Agreement. A copy of the terms and conditions can be viewed at [www.snowsbest.com/terms](http://www.snowsbest.com/terms). The Advertiser acknowledges and agrees that:

- (a) it has read the Website Terms and Conditions and that they form part of this Agreement;  
and
- (b) a breach of the Website Terms and Conditions will also be a breach of this Agreement;  
and

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- (c) any right which is exercisable under the Website Terms and Conditions is exercisable under this Agreement and vice versa.

### 12. General

- 12.1 The Advertiser must not assign or otherwise deal in any other way with any of its rights under this Agreement without the prior written consent of SnowsBest.
- 12.2 Nothing contained in this Agreement creates any relationship of partnership or agency between the parties.
- 12.3 If a provision of this Agreement is invalid or unenforceable it is to be read down or severed to the extent necessary without affecting the validity or enforceability of the remaining provisions.
- 12.4 Each party must at its own expense do everything reasonably necessary to give full effect to this Agreement and the events contemplated by it.
- 12.5 This Agreement (and any documents executed in connection with it) is the entire Agreement of the parties about its subject matter and supersedes all other representations, arrangements or agreements. Other than as expressly set out in this Agreement, no party has relied on any representation made by or on behalf of the other.
- 12.6 This Agreement may be amended only by a document signed by all parties.
- 12.7 A provision of or a right under this Agreement may not be waived or varied except in writing signed by the person to be bound.
- 12.8 This Agreement may be executed in counterparts which will be taken together to constitute one document.
- 12.9 A party will not be responsible for a failure to comply with its obligations under this Agreement to the extent that failure is caused by a Force Majeure Event, provided that the party keeps the other closely informed in such circumstances and uses reasonable endeavours to rectify the situation.
- 12.10 Without limiting any other right to terminate under this Agreement, if a Force Majeure Event affects a party's performance under this Agreement for more than thirty (30) consecutive days, the other party may immediately terminate this Agreement by written notice.
- 12.11 All stamp duties and other government charges in relation to this Agreement must be paid by the Advertiser.
- 12.12 This Agreement is governed by the laws of New South Wales and each party submits to the non-exclusive jurisdiction of the courts of New South Wales.

### 13. Definitions and Interpretation

- 13.1 In this Agreement, unless the context otherwise requires:

*Advertising Content* means the content of advertisements submitted by or on behalf of the Advertiser to Snowsbest in an Advertising Request including but not limited to all text, graphics, icons, photographs and URLs;

*Advertising Request* means the request from the Advertiser to Snowsbest;

*Confidential Information* means all information provided by one party to the other in connection with this Agreement where such information is identified as confidential at the time of its disclosure or ought reasonably be considered confidential based on its content, nature or the manner of its disclosure, but excluding:

- (a) information that enters the public domain or is disclosed to a party by a third party, other than through a breach of this Agreement, and
- (b) information developed independently by a party;

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*Fees* means the advertising fees disclosed in the Media Kit or as otherwise agreed in writing by the parties;

*Force Majeure Event* means any event beyond the control of the relevant party;

*GST* has the meaning given in A New Tax System (Goods and Services Tax) Act 1999 (Cth), or any other similar tax;

*Intellectual Property Rights* means all intellectual property rights, including all copyright, patents, trade marks, design rights, moral rights, trade secrets, domain names, know how and other rights of a similar nature, whether registrable or not and whether registered or not, and any applications for registration or rights to make such an application;

*Media Kit* means the document entitled "Media Kit" created by SnowsBest which contains the Fees;

*Website* means [www.snowsbest.com](http://www.snowsbest.com) and all related social media channels which are controlled by Snowsbest; and

*Website Terms and Conditions* means the terms and conditions located on the webpage [www.snowsbest.com/terms](http://www.snowsbest.com/terms).

13.2 Except to the extent that the context otherwise requires:

- (a) a reference to any legislation is a reference to that legislation as modified or re-enacted from time to time, and includes all regulations and statutory instruments issued under it;
- (b) a reference to dollars or \$ is to Australian currency;
- (c) if there is any inconsistency between this Agreement, the Website Terms and Conditions or any other document or attachment incorporated by reference, to the extent of any such inconsistency, the order of priority will be:
  - (a) this Agreement;
  - (b) the Website Terms and Conditions;
  - (c) any attachment or document incorporated by reference.