

## Reach Media New Zealand Limited: Terms & Conditions of Service

### 1. SERVICES

- 1.1. Reachmedia shall supply Services to the Client as described in the **Booking Confirmation**.
- 1.2. Reachmedia will notify the Client as soon as practicable of any circumstance(s) that may have a material effect on Reachmedia's ability to supply the services in accordance with the **Booking Confirmation**.
- 1.3. Reachmedia is entitled to distribute product for other clients during any distribution period.
- 1.4. Reachmedia may use sub-contractors to carry out any of its obligations without prior written consent from the Client.
- 1.5. Reachmedia will use reasonable endeavours to ensure that:
  - 1.5.1. Product is not delivered to letterboxes where a sign requesting non-delivery or an "Addressed Mail Only" sign is displayed;
  - 1.5.2. Product is not delivered to addresses where there is no letterbox or where the letterbox is unsuitable for receiving or holding such product;
  - 1.5.3. Product is not delivered to letterboxes that are already full; and
  - 1.5.4. Other mail/product already in the letterbox is not removed to make space for the Product.
- 1.6. Reachmedia will use reasonable endeavours to rectify any instances where the product is reported to be in the mailboxes referred to in clause 1.5 and ensure that in future the product is not delivered to these mailboxes.
- 1.7. It is the Client's responsibility to ensure that product is presented at the specified processing locations according to the product presentation guidelines in the **Distribution Requirements**, which can be viewed on the Reachmedia website: [www.reachmedia.co.nz](http://www.reachmedia.co.nz).
- 1.8. If product logistics are not managed by Reachmedia, it is the Client's responsibility to ensure that the product arrives at the destination(s) as instructed by Reachmedia by the date specified on the distribution list provided. The Client acknowledges that late product arrival could result in extra charges and / or delays to the distribution.
- 1.9. The Client must not insert any secondary product within primary product.
- 1.10. Reachmedia reserves the right to:
  - 1.10.1. open and inspect the product and may with reasonable justification refuse to accept or deliver the product; and
  - 1.10.2. To reject imperfect, defective or unsuitable (as referred to in clause 4.2.1) product provided by the Client.

### 2. PRICING

- 2.1. The pricing for services is stated in the **Booking Confirmation**.
- 2.2. All bookings made with Reachmedia containing a distribution component are subject to a minimum charge of **\$350** plus GST.
- 2.3. Product distributed through the Rural channel may attract a folding charge of **\$16** plus GST per thousand, if it exceeds 290mm x 400mm.
  - 2.3.1. This product must be lodged one additional day earlier than the lodgement time specified in the **Distribution Requirements**.
- 2.4. Product that is to be delivered via the Rural channel to dairy farmers only will attract an additional fee of **\$25.00** plus GST per thousand items.
- 2.5. The Client may amend (e.g. change the delivery areas, or Delivery Window if there is a delivery service available on the date requested) or cancel a booking by notifying Reachmedia in writing. The following fees may apply:
  - 2.5.1. Amendments or cancellations received more than 3 Business Days prior to the start of the Delivery Window will not incur any penalty fee (except for Postie Bookings as per 2.5.4 below) but the Client will be responsible for any costs Reachmedia incurs (i.e.

freight, processing etc) prior to or as an outcome of amending or cancelling the distribution.

- 2.5.2. Any amendments made to the job booking within 3 Business Days of the start of the Delivery Window may incur an amendment fee of either 25% of the value of the applicable charges or \$100.00 plus GST, whichever is the greater.
- 2.5.3. Any booking cancelled on or after the required Product Lodgement Date may incur a cancellation fee of either 25% of the value of the applicable charges or \$350.00 plus GST, whichever is the greater.
- 2.5.4. Any Postie Booking cancelled less than 3 weeks but more than 3 Business Days from the required Product Lodgement date (within 4 weeks of the start of the Delivery Window) may incur a cancellation fee of either 10% of the value of the applicable charges or \$50.00 plus GST, whichever is the greater.
- 2.6. The Client may be charged additional costs incurred as a result of:
  - 2.6.1. Weight of the product to be delivered exceeds that which was originally booked;
  - 2.6.2. Product presented after the required Lodgement times in the **Distribution Requirements**;
  - 2.6.3. Product not presented in accordance with the product presentation requirements set out in the **Distribution Requirements**; or
  - 2.6.4. Changed printing or transport arrangements without at least 14 days' notice to Reachmedia in advance of the changes.

### 3. INVOICING AND PAYMENT

- 3.1. Unless the Client holds a credit account with Reachmedia, the Client will pay for the services prior to the booking deadline as described in the **Distribution Requirements**. Payment is deemed to have been received once it has been deposited as clear funds into Reachmedia's bank account.
- 3.2. The Client may wish to make an application for credit by completing a credit application form. The Client will be considered to hold a credit account with Reachmedia once the application has been submitted to Reachmedia, processed and approved in writing by Reachmedia.
- 3.3. If the Client holds a credit account, Reachmedia will issue a valid GST invoice to the Client. If the Client does not hold a credit account then the Booking Confirmation form acts as the GST invoice.
- 3.4. If the Client disputes any amount payable or paid for services rendered, then the Client will:
  - 3.4.1. Advise Reachmedia in writing of the nature of the dispute; and
  - 3.4.2. Pay any undisputed portion of any invoice in accordance with these Terms and Conditions.

### 4. WARRANTIES, INDEMNITIES AND FORCE MAJEURE

- 4.1. Reachmedia warrants that:
  - 4.1.1. It has authority and ability to enter into, and perform, this Contract without breach of any other obligation (statutory or contractual) on it or its officers;
  - 4.1.2. Reachmedia shall investigate any complaint in relation to its failure to meet its obligations to the Client provided such complaint is made in writing addressed to the headquarters of Reachmedia within 2 business days of the date of completion of the distribution of the product. All distribution complaints must contain at least a complainant's name, house number, street, suburb, town/city, reason for the complaint and contact details.
  - 4.1.3. Reachmedia will act in good faith to remedy any situation that is the direct error and responsibility of Reachmedia.
  - 4.1.4. This Contract does not exclude, restrict or modify the application of any provisions of any Government or

council which by law cannot be excluded, restricted or modified. Should any of the terms and conditions of this Contract be held to so exclude, restrict or modify then those terms and conditions shall be deemed to be severed from this Contract.

4.1.5. Reachmedia shall not be liable for loss of profits, loss or damage to reputation or any consequential or indirect losses, costs or expenses under or in connection with this Contract. Reachmedia's aggregate liability arising out of or in connection with any order under this Contract (in contract, tort (including negligence) or otherwise) shall be limited to and shall not exceed the total charges connected with that order.

4.1.6. Reachmedia shall make every reasonable endeavour to ensure prompt distribution but shall not be responsible for any failure to deliver to all sites within a distribution area, or loss or damage caused by any failure or delay to distribute where such failure or delay is wholly or partly due to any cause or circumstance whatsoever outside the reasonable control of Reachmedia. This includes, but is not limited to, war, strikes, lockouts, industrial disputes or arrest, government restrictions or intervention, late receipt of product, transport delays, fire, act of God, breakdown of plant, shortage of supplies or labour, adverse weather conditions, theft, vandalism, riots, civil commotions or accidents of any kind.

4.2. The Client warrants that:

4.2.1. Any and all product does not contain any matter that is obscene, defamatory, infringe any patent copyright or design, or the distribution of which may be contrary to law.

4.2.2. Reachmedia, its servants, agents, and subcontractors will be indemnified by the Client against all liability, claims, actions, proceedings, losses, damage, costs and expenses whatsoever arising for which Reachmedia or such other persons shall or may be or become liable in respect of or arising from the performance of its obligations and/or the distribution of the product on behalf of the Client under this Contract or any contract or order.

4.2.3. All carriage undertaken by Reachmedia under this Contract will be at 'limited carrier's risk' under the Carriage of Goods Act 1979.

## 5. INTELLECTUAL PROPERTY

5.1. Each party acknowledges that the other party is the owner (or the licensee as the case may be) of certain property. The parties agree to have no claim over the other's property and each has no license to use the other's property, except as necessary to give effect to this Contract. Neither party will do anything, whether by act or omission and whether directly or indirectly, which may prejudice or infringe the other party's property.

## 6. CONFIDENTIALITY

6.1. Each party acknowledges that in performing its obligations under this Contract, it may obtain confidential and/or proprietary information concerning the other party or any other third parties. Where a party comes into possession of any confidential information:

6.1.1. That party and its respective officers, employees, contractors and/or agents will only be permitted to use the confidential information to the extent necessary to enable it to perform its obligations under this Contract; and

6.1.2. That party and its respective officers, employees, contractors and/or agents will not disclose the confidential information to any third party without the prior written consent of the other party, unless required by law to do so.

## 7. SETTLEMENT OF DISPUTES

7.1. If a dispute arises between the parties concerning the interpretation, application or operation of this contract ("Dispute"), the parties will endeavour in the first instance to resolve the Dispute between themselves, and with both parties acting in good faith.

7.2. If the Dispute has not been resolved within 14 days after the Dispute has been notified by a party in writing, either party may give the other written notice requiring the parties to attend mediation. The parties will agree on the mediator or, if agreement has not been reached within seven days after the notice to attend mediation, the matter will be referred to LEADR New Zealand Incorporated to appoint a mediator. Unless the parties agree otherwise, the mediation will take place in an agreed location within 10 days after a mediator has been appointed and the costs of the mediation, excluding the parties' own legal and preparation costs, will be shared equally. The mediator will determine the process for mediation.

7.3. Subject to the following clause, neither party may issue legal proceedings in any court in relation to a Dispute until mediation has concluded, or, if neither party has given notice requiring the other to attend mediation, until 28 days after the Dispute has been notified by a party in writing. Mediation is deemed to have concluded when both parties agree that it has concluded, or the mediator confirms in writing to both parties that it has concluded.

7.4. This agreement does not limit the parties' right to seek urgent interlocutory relief.

7.5. The parties agree that the existence of any Dispute and the information relating to any Dispute will remain confidential, unless they agree otherwise or a court of law determines otherwise.

7.6. The parties may at any time agree in writing to resolve their Dispute by arbitration before a single arbitrator. In that event:

7.6.1. The arbitrator will be appointed by agreement or, failing agreement within fourteen days after the parties have agreed to arbitration, by LEADR New Zealand Incorporated;

7.6.2. The arbitration will take place in an agreed location, unless the parties agree otherwise;

7.6.3. The costs of arbitration, excluding the parties' own legal and preparation costs, will be shared equally, unless the arbitrator determines otherwise;

7.6.4. The Second Schedule to the Arbitration Act 1996 will not apply; and

7.6.5. The arbitrator will determine the procedure for the arbitration.

## 8. MISCELLANEOUS

8.1. This Contract will be governed by and construed in accordance with the laws of New Zealand.

8.2. Nothing in this Contract will create, constitute or evidence any partnership, joint venture, agency, trust or employer/employee relationship between the parties, and a party may not make, or allow to be made, any representation that any such relationship exists between the parties. A party will not have the authority to act for, or to incur any obligation on behalf of, any other party, except as expressly provided for in this Contract.

8.3. Except as otherwise expressly provided in this Contract, this Contract constitutes the entire agreement, understanding and arrangement (express and implied) between the parties relating to the subject matter of this Contract and supersedes and cancels any previous Contract, understanding and arrangement relating thereto whether written or oral.

8.4. If any provision of this Contract is or becomes unenforceable, illegal or invalid for any reason it will be deemed to be severed from this Contract without affecting the validity of the remainder of this Contract and will not affect the enforceability, legality, validity or application of any other provision of this Contract.