

DIY Digital Marketing Terms of Business

At DIY Digital Marketing, we like to make things as clear and simple as possible, so our terms are set out in 3 easy sections:

- A. Some key important **Preliminary Terms**;
 - B. Our **General Terms** – these apply to all our Services (see clauses 4 onwards below); and
 - C. Our **Service Specific Terms** – these apply only to those Specific Services which you elect to purchase in addition to the Base Service (see Part C below).
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A. Preliminary Terms – Important!

By registering with us, or otherwise using any of our Services or our website, you acknowledge and accept that:

- 1. You have read and understood these terms, and have the authority to accept them as (or on behalf of) our customer;
- 2. Registration with us is free of any charges. If you chose to purchase any additional services directly from us, you will be purchasing our Services solely for your business purposes, as that is what our Services are intended for. In addition, you acknowledge that:
 - a. If you are an end purchaser of goods or services promoted by DIY Digital Marketing customers via our Services, then the supply concerned is made directly and solely from the DIY Digital Marketing customers concerned and not from DIY Digital Marketing ; and
 - b. DIY Digital Marketing does not supply financial products or related financial advisory services, and that our Services are strictly limited to the scope of our Digital Products and related Services as described in these terms and conditions;
- 3. Any Personal Information you supply to us will be governed by our Privacy Policy (which you can view here), and that you have read, understood and accept those policy terms.

B. General Terms

Term, Renewals & Termination (including any trial period)

- 4. **Commencement:** These terms and conditions apply from the date you register to use any of our Services, or our website, until the date these terms and conditions terminate under clauses 5 to 12 below.

- 5. **Your term:**

- a. If you have purchased any of our DIY Digital Marketing products or services, then you agree to purchase those services for a two-month minimum contract term. After the minimum contract term, you may request to cancel in writing and we will terminate the contract after two full billing cycles. Typically, 60 days.
 - b. Some products and services can have different terms, as mutually agreed. If this is mutually agreed, confirmation is via written form only.
6. **Agent:** By using the DIY Digital Marketing services, products and/or DIY Digital Marketing you are requesting DIY Digital Marketing to act as your agent to perform a range of tasks including research, analysis etc, which may include using a range of 3rd party sources.
7. **Automatic renewal unless you terminate:** Your services with DIY Digital Marketing will continue in perpetuity until cancelled. Cancellation of the services you choose to terminate will take effect two billing cycles from the date that you notify DIY Digital Marketing with your request to cancel. This request must be received in writing.
8. **Sales Order / Service Change Requests:** Following your acceptance of a Sales Order, you may choose to upgrade or change one or more Services contained in that Sales Order but only if we agree at our sole discretion to that change at that time, in which case we may issue a new Sales Order to apply if / when accepted by you. Variations to decrease an amount previously agreed by you in a Sales Order will take effect 60 calendar days following the due date of your next monthly invoice.
9. **Breach:** If either party is in material breach of this agreement at any time (the “breaching party”), then the other party (the “other party”) may give notice to the breaching party setting out the details of the alleged material breach and requiring the breaching party to remedy the breach within 14 (fourteen) days. If the breaching party fails to remedy that breach within that period then the other party may immediately, at any time afterwards, terminate this agreement by sending written notice of termination to the breaching party. Non-payment by you as customer of any sum due and payable to us will be deemed to be “material”.
10. **Suspension by us:** We may suspend the provision of any Services to you immediately at any time if we have reasonable grounds to suspect that a breach of this agreement has occurred or is likely to occur. We will endeavor to notify you as soon as possible. This clause does not limit our other rights under this agreement, including as stated in elsewhere in the contract.
11. **Liquidation:** If either party goes into liquidation, then the other party may immediately, at any time afterwards, terminate this agreement by sending written notice of termination to the party in liquidation.
12. **After termination:** If this agreement terminates for any reason:
 - a. we will cease performing any further Services for you;
 - b. each party will retain the rights and obligations it had under this agreement as at termination, including your obligation to pay us all current and future amounts due under all Sales Orders for the remainder of the Term that would have applied under clause 19 below; Except in the case of a material breach, which will follow the process set out in clause 9 above. In this situation, all current spend and spend during the remedy and written notice period will be payable.
 - c. you must immediately cease using our Products and/ or services, and we may immediately terminate your access to those (this does not apply to third party supplied Products and/ or services);
 - d. your DIY Digital Marketing Account will be ‘frozen’ or suspended from further use unless and until and renewed agreement between you and us eventuates (if that occurs); and
 - e. All links from our Digital Products and our related will immediately terminate.

Provision of Services by us

13. **DIY Digital Marketing:**

Terms of service

These terms and conditions govern your use of this website; by using this website, you accept these terms and conditions in full. If you disagree with these terms and conditions or any part of these terms and conditions, you must not use this website.

This website may use cookies. By using this website and agreeing to these terms and conditions, you consent to DIY Digital Marketing 's use of cookies in accordance with the terms of DIY Digital Marketing 's privacy policy. The data and information on this site is provided in good faith and has been obtained from sources which we believe to be reliable and accurate but its accuracy and completeness is not guaranteed. We are not responsible for the accuracy of the information contained on the site provided by third parties. The data and information is provided “as is” and is subject to change without notice.

Professional Advice

This site is not designed for the purpose of providing financial or investment advice. The services, products and any opinions, views or recommendations made or referred to on this site are provided for general information purposes only. To the extent that any such information, opinions, views and recommendations constitute advice, they do not take into account any particular financial situation or goals and, accordingly, do not constitute personalised financial advice under the Financial Advisers Act 2008, nor do they constitute advice of a legal, tax, accounting or other nature to any person.

Subject to Change

The information on this site may be changed at any time. The documents published on this website could include technical inaccuracies or typographical errors. The information presented on this web site is changed periodically and DIY Digital Marketing may make improvements and/or changes in the product(s), programs(s), and/or documentation described at any time, without notice.

Copyright

DIY Digital Marketing or its suppliers holds all copyright and other intellectual property rights in this website and reserves all rights as provided in this disclaimer. Items covered include information, images, text, screens and web pages appearing on the DIY Digital Marketing website. This includes, but is not limited to, all the DIY Digital Marketing website content, code, look and feel, text, graphics, logos, button icons, images, audio and video clips and software. The information and materials appearing on the DIY Digital Marketing website may not be copied, modified, published, reposted or reused.

Unsolicited Electronic Messages Act 2007 (“UEMA”)

The UEMA 2007 aims to stop people sending you unsolicited commercial electronic emails. If you, as a member or supplier of DIY Digital Marketing, receive an email from us promoting our products or services it is because we believe you have provided us with consent to do so. Should you not want to receive these emails you can manage which email to receive from us in your account settings or alternatively contact us directly.

Liability

In no event shall DIY Digital Marketing Ltd accept responsibility or liability for any loss, damages (including special, direct, indirect, or consequential damages) cost or expense (whether direct or indirect) whatsoever incurred by you as a result of or in connection with any error, omission or misrepresentation in any information in this site, reliance on information on this site, reliance on any tools or calculators provided on this site, or access to or our failure to provide this site. By using this website, you agree that the exclusions and limitations of liability set out in this website disclaimer are reasonable. If you do not think they are reasonable, you must not use this website.

Some jurisdictions do not allow the exclusion or limitation of implied warranties or of liability for incidental or consequential damages, so the above limitations or exclusions may not apply to you. This warranty gives you specific legal rights and you may also have other rights that vary from state to state. In the event that any of the above limitations or exclusions are held to be unenforceable, DIY Digital Marketing's total liability shall not exceed the amount of the membership fee paid for your individual business in the previous 12 months.

Links to third-party sites

Some links on this web site will let you leave DIY Digital Marketing's site. The linked sites are not under the control of DIY Digital Marketing and DIY Digital Marketing is not responsible for the content of these sites. These links are provided as a convenience, and do not imply an endorsement of the site by DIY Digital Marketing.

Price and Payment

14. **Price:** The Price for the Services you purchase will be as stated in the Sales Order we provide to you. You will be deemed to have accepted a Sales Order if you use the relevant Service as stated in the Sales Order. You agree to pay us the Prices as stated in that Sales Order, on time in accordance with clause 8. All Prices and any other fees and charges are in New Zealand dollars and exclude GST unless we state otherwise in the relevant Sales Order. You must pay us all applicable GST at the same time the Price is due for payment.
15. **Variable Prices / Third Party Pricing:** Some Services may use a variable pricing model. Those (or other) third parties we engage with as part of the Services you have purchased may vary their prices and other charges to us in any way from time to time. We cannot control that, and so if that occurs, we will be entitled to charge you for all such third-party price variations, and you agree to pay such charges.
16. **Suspension Request:** You may request that one or more of the Services you are purchasing be suspended for a limited period and restarted without incurring an additional set up charge. All such requests are subject to our prior written approval, which may or may not be provided (at our discretion) or with conditions attached. Even if we approve, some payments by you may still need to continue for that Service, which we would explain at that time. Suspension of any services will take effect 60 calendar days following the date of your next monthly invoice.
17. **Non-standard rates (discounts):** If we have agreed in our Sales Order to charge you a fixed price (or a non-rate card price) for a defined period, then, at the end of the applicable period, and for the remainder of your current Term and any renewed Term, you will be charged full rate card price for that Service. The maximum period available for non-standard or discounted prices is 12 months.
18. **Payment:** The required method of payment or any payment options available will be set out in your Sales Order. If you supply us with credit card details, these will be stored in conjunction with our Privacy Policy. By supplying these details, you hereby authorize us to take due payments according to your payment model. The name that will appear on your cardholder statement will be DIY Digital Marketing. If a Service uses an upfront payment model, you will be charged the entire amount for that Service in advance. If a Service uses a subscription payment model, you will be charged in regular instalments for that Service. Instalments are usually monthly (payable in advance), but sometimes other periods are available as may be set out in the

Sales Order. Subscription amounts are payable for each period in advance, from the day of the Sales Order being signed, and then on the same date each month afterwards. The first payment is generally taken within 48 hours of signing the Sales Order, and we will not be required to start performing the relevant Service(s) until the first (or only) advance payment has been received by us in respect of that Service.

19. **Refund Policy:** We do not offer refunds, partial or full, if you change your mind about a purchase. Please choose carefully.
20. **Default:** All amounts due and payable by you must be paid in full without set-off, counterclaim or any deduction whatsoever on or before that due date. If any payment due remains unpaid after its due date, we may invoke any of our rights under clauses 21 and 22, and we may also charge you the greater of either (i) interest at the rate of 18% (eighteen percent) per annum on all sums overdue or (ii) a late fee of \$ 25 per overdue invoice, from the due date to the date all such amounts are paid in full. In the event of a default, we may, at our discretion request payment of the full outstanding balance inclusive of the 2-billing cycle cancellation notice period and/or outstanding monthly payments for website, video production etc. We will also be entitled to charge you for all our costs of recovery, including our legal fees. You also agree to pay any costs of recovery including legal fees that are charged by our Debt Recovery Agency should the amount outstanding be passed to an agency for recovery. You also accept that this may affect your credit rating for up to a minimum of 5 years.
21. **Invoices:** We will send you an electronic invoice by email for all amounts we are entitled to invoice you for.

Your other obligations

22. By accepting these terms & conditions you agree that you shall not:
 - a. use the DIY Digital Marketing services, products and/or DIY Digital Marketing for any purpose that is improper, unlawful, or to post, share or transmit any material that (i) is defamatory, offensive, obscene or otherwise objectionable. (ii) is in breach of confidence or privacy of any third party's rights including copyright, trademark or other intellectual property rights; (iii) is posted, shared or transmitted for the purpose of advertising or promoting yourself or any third party; or (iv) is misleading or misrepresents your identity or which in any way suggests that you are sponsored, affiliated or connected with DIY Digital Marketing .
 - b. use the DIY Digital Marketing services, products and/or DIY Digital Marketing for any public or commercial purpose in any manner which may cause damage to DIY Digital Marketing or bring DIY Digital Marketing into disrepute.
23. In addition to your other obligations as stated in these terms, you must:
 - a. Comply with our terms, conditions and policies required by third party suppliers we use.
 - b. ensure that your name, contact details and related information about you within your online DIY Digital Marketing Account are kept up to date and are accurate always;
 - c. not cause, permit or allow any damage, interference with, or other harm to our Digital Products, including our website, or any network or system underlying or connecting to them, or make any attempt to do so;
 - d. not use a robot, spider, scraper or other unauthorized automated means to access our products or our website or any information featured on them for any purpose; and

Our Digital Products and related Intellectual Property Matters

24. **Our Digital Products:** Our Digital Products and other Intellectual Property we own will remain owned by us or our third-party licensors all times. At no time during or after this agreement terminates will you obtain any proprietary interest in relation to any of these items we own. You merely obtain a limited, non-exclusive license to use those of our Digital Products which we allow you to purchase the right to use as part of the Service, within the scope, duration and intended use requirements as stated in this agreement or as otherwise communicated by us to you from time to time.
25. **No copying etc.:** You must not attempt to copy in any way, or reverse engineer, decompile, or otherwise misuse any of our Digital Products at any time. You must not use our name, trademarks, brands or logos in any way without our prior written consent.

Privacy, Security & Confidentiality

26. **Privacy:** As stated in Part A of these terms, any Personal Information associated with you or any person within your organization that is provided to us, is governed by the terms of our Privacy Policy.
27. **Security:** Our Digital Products are supplied using some of the latest technology, including in relation to the security of the data you supply to us. However, as many of our Services are supplied using the Internet, and as the Internet is widely acknowledged as being insecure, we are unable to guarantee that all your data as supplied to us will be kept safe and secure all the time even though we will use all reasonable endeavors to do so, and will comply with the applicable law in this regard too. We may also use third party hosting or other service suppliers to receive, store and process your data as part of the delivery of our Services to you. You confirm that this is acceptable.
28. **Access Codes:** In some cases, we will provide you with password protected access to your online DIY Digital Marketing Account and related online information about you and the Services you have purchased. You must keep all such passwords and other secret means of online access, safe and secure always. If you suspect any misuse of such passwords or other secret means of online access, then please contact us immediately and we will take all reasonable steps to protect your information and the Services you have purchased from us. In the absence of any such notification from you, we will be entitled to assume that anyone who uses your passwords or other secret means of online access has your authority to do so, and you will be liable for all associated fees and charges incurred with us.
29. **Confidential Information:** We accept that certain information which you supply to us is not intended for public viewing or use ("Confidential Information"). That information obviously excludes any of Your Content which is intended to be promoted or otherwise published online as we agree with you. You accept that we, including our officers, employees, contractors, have the right to view and use your Confidential Information (which may include Personal Information) for the purpose of supplying those Services to you which you have ordered, or for administering your account with us or in relation to this agreement. Any information which you receive from us and which is not in the public domain must be treated as confidential information by you, and must not be disclosed or otherwise used by you (other than for your own internal business purposes in relation to this agreement) without our prior written consent.

Exclusions, Limitations & Indemnities

30. **Limitation:** Our liability, including that of our officers, employees, contractors and agents, to you, will always, whether for breach of contract, in tort, in equity or for any other cause of action whatsoever, be limited to the lesser of: a) the total fees and charges which you paid to us for Services purchased in the six-month period immediately preceding the date of your written claim, or the first claim if a series of related claims; and b) \$5,000.
31. **Indemnification:** You shall indemnify, defend and hold DIY Digital Marketing, its agents, affiliates, and licensors harmless from any claim, costs, losses, damages, liabilities, judgments and expenses (including reasonable fees of attorneys and other professionals), arising out of or in connection with any claim, action or proceeding (any and all of which are "Claims") by a third party arising out of your use of the DIY Digital Marketing services, products and/or platform in any manner that breaches this Agreement or otherwise arising out of materials or technology presented to you by DIY Digital Marketing.

32. **Exclusions:** We will not be liable to you in any way for any indirect or consequential loss, or any loss of profits, revenue, or loss of data or other Content, or for any breach of this agreement by us due to an event or circumstance which is beyond our reasonable control. While we will do our best to optimize your results based on a range of techniques, we can't guarantee your search position, rates of engagement, the number of clicks, impressions, leads or return on investment that any campaign delivers. Any projected business growth related forecast that may be provided by us from time to time is a non-binding forecast only. You must seek independent financial, tax, legal and other professional services advice in respect of your desired business goals, plans and projections.
33. **Exclusions:** Due to the inherent uncertainties associated with providing any services online via the Internet and related computer systems, we are unable to guarantee that our Services will be supplied uninterrupted and fault free at all times. You accept this.
34. **Use of Third Parties:** We may, as part of the Services, supply you with links to, or data from third party suppliers. Although we will take reasonable steps to ensure the accuracy and completeness of such links and data, we are not liable for any error, inaccuracy or omission in relation to such items.
35. **Entire Agreement:** This agreement (and the terms of any Sales Order(s) accepted by you) constitutes the entire agreement between you and us. No other terms apply. All representations which may have been made by either you or us before these terms were agreed, and all other provisions which may otherwise be implied into this agreement by operation of law, are excluded from this agreement but only to the extent permitted by law.
36. **Indemnity for breach:** You agree to indemnify us and our officers, employees, and contractors (together the "Indemnified Parties") and hold them jointly and severally harmless against all loss, damage, cost or expense which any of the Indemnified Parties suffers or incurs because of a breach of these terms and conditions (or our Privacy Policy, or other related terms and conditions) by you or any employee, contractor or agent engaged by you.

General

37. **Variations:** We may vary the terms of this agreement to apply when your term is renewed under clause 22, or at any time if we are doing so for all our customers who purchase the relevant Service. We will send you an email in advance if we do this. You agree to accept all such variations subject to your right to not renew (when applicable) as stated in clause 22.
38. **Right to change term:** DIY Digital Marketing in its sole discretion reserves the right to introduce a minimum term period of any other Specific Service you may purchase at any time. Notification of any intended minimum term period will be advised in writing to you and will take effect no sooner than 60 calendar days following the date of your next monthly invoice.
39. **Disputes:** If either you or we have any issues or concerns about this agreement or our wider business relationship, we agree to set those concerns out reasonably, in an email to the other party, after which we must use all reasonable endeavors to discuss or meet to try to resolve the issue amicably. This step must be taken before any other legal action is taken by either party, other than in respect of any monies owing by you to us, or in respect of any urgent interlocutory relief.
40. **Notices:** You may send any notices to us via your DIY Digital Marketing Account, or our contact details. Please supply us with your customer number when doing so. We may send notices to you via the email address you register for you with us, or otherwise via your DIY Digital Marketing account.
41. **Relationship:** Unless expressly stated otherwise in these terms, we are not your agent and nor are you our agent. Both parties enter into this agreement as independent contractors.
42. **No Assignment:** You must not assign any of your rights or obligations under this agreement to any third party without our prior written consent. We may assign our rights or obligations under this agreement to any third party of substance who purchases the whole or a substantial part of our business at any time. We may do so without prior notice to you, or the need to obtain your consent. We will be released from all liability to you from the date of any such assignment by us.

43. **Severance:** If any of these terms are held to be invalid, unenforceable or illegal for any reason by a competent court or tribunal, the remaining terms will continue in full force and effect.
44. **Governing Law & Forum:** This agreement is governed by the laws of New Zealand and each party irrevocably submits to the non-exclusive jurisdiction of the courts of New Zealand.
45. **No waiver:** No failure or delay on the part of either party to exercise any right or remedy under this agreement is a waiver of such right or remedy unless it is in writing and signed by the party purporting to waive its rights.
46. **Priority:** If there is any conflict between the provisions of this agreement and any Sales Order, the provisions of the Sales Order will prevail.

Defined Terms

47. The following terms used in this agreement have the following meanings:
 - a. **Business Day** means any day in Auckland other than a Saturday, Sunday or Public Holiday.
 - b. **Intellectual Property** includes copyright, trademarks, designs, patents, know how, confidential information or any other intellectual property as exists anywhere in the world at any time.
 - c. **DIY Digital MarketingAccount** means that page (or pages) on our website which are specifically dedicated to you, your account with us, and other information relating to you.
 - d. **Personal Information** has the meaning as given in the Privacy Act 1993.
 - e. **Price** means our price and other charges for supplying one or more Services to you, as set out in a Sales Order.
 - f. **Privacy Policy** means our Privacy Policy as updated from time to time and found on our website.
 - g. **Services** means the DIY Digital MarketingApp Service and any Specific Services purchased by you from time to time.
 - h. **Specific Services** means those Services supplied by us as set out in Part C of these terms, as may be added to or otherwise varied from time to time in accordance with this agreement and must always include the DIY Digital MarketingManaged Service.
 - i. **Sales Order** means an electronic (or paper) sales order generated by us (either by one of our Account Managers or via one of our self-service options on our website) for the purchase of one or more of our Specific Services by you, and which is accepted by you.
 - j. **Term** means the duration of this agreement as determined in accordance with clauses 19 to 25 (inclusive).
 - k. **we/our/us** means DIY Digital MarketingLimited and our successors and assigns.
 - l. **website** means our website at www.GrowNZbusiness.co.nz or any other websites that we may create and make available to you from time to time, and includes any mobile app forming part of our Digital Products.
 - m. **you/your** means the person, company, partnership or other legal entity accessing or using our website, Digital Products and Services, and includes their executors, administrators, successors and permitted assigns.