

STANDARD TERMS AND CONDITIONS

IN THESE TERMS AND CONDITIONS

“**Booking Authority**” means the advertiser or any agency authorised to act on its behalf.

“**GMS**” means GMS Global Marketing Solutions Pty Ltd formerly known as Global Media Solutions Group Pty Ltd.

“**IO**” means insertion order and includes the terms and conditions below.

“**KOL**” means a Key Opinion Leader and includes any person commonly referred to as an “influencer”.

“**Publisher**” means any media organisation or channel of any kind with whom advertising pursuant to the IO (Insertion Order) or any other documents or proposal is to be booked or purchased by GMS on behalf of the Booking Authority, and includes but not limited to newspapers, magazines, radio stations, any digital platform, television networks, influencer agency or event organiser.

A. COMMUNICATION, CONFIDENTIALITY & COPYRIGHT

In receiving and opening any email and its attachments or any other communication in any form from GMS you agree to these Terms and Conditions, including the following:

1. Any attached documents/s are provided expressly subject to **confidentiality** and **copyright**.
2. Before implementing, using or disclosing to any third party, any information, strategies or materials contained in these documents you must first obtain GMS’ permission in writing.
3. You agree not to directly or indirectly:
 - a. canvass, solicit, engage or otherwise seek or accept the custom of, any KOL or Publisher who is disclosed in any information, strategies or materials provided by GMS; and/or
 - b. solicit or entice away, or attempt to solicit or entice away from GMS, any KOL who is disclosed in any information, strategies or materials provided by GMS.
4. You agree that:
 - a. any failure to comply with Clause 3 immediately above will diminish the value of GMS;
 - b. the provisions in Clause 3 immediately above are reasonable and necessary for the protection of GMS, its business and its goodwill, and must be given full effect;
 - c. damages alone would be an insufficient remedy for any breach of the provisions of Clause 3 immediately above;
 - d. GMS is entitled to obtain interim and final orders restraining you from committing any breach, or further breach, of Clause 3 immediately above in addition to any other available remedies.
5. Any email and its attachments are intended solely for the named addressee and contains information which is confidential and may be protected by copyright.
6. If you are not the authorised recipient (or responsible for delivery of the message to the authorised recipient), you must not use, disclose, print, copy or deliver this message or its attachments to anyone.
7. If you received the email in error, please contact the sender immediately and permanently delete the message and its attachments from your system.
8. Any content of the message and its attachments that do not relate to the official business of GMS is not to be taken to have been sent or endorsed by the company.
9. No representation is made that any email or its attachments are without defect or that the contents express views other than those of the sender.

B. BOOKINGS AND PAYMENT

1. By signing the IO (Insertion Order) the Booking Authority agrees to be bound by these terms and conditions. If the Booking Authority does not return a signed copy of the IO, but nevertheless instructs or encourages, either directly or indirectly, GMS to proceed in accordance with this IO, the Booking Authority will be bound by these terms and conditions as if it had signed them.
2. The Booking Authority cannot cancel the IO without the prior written consent of GMS which it may withhold in its sole discretion.
3. The Booking Authority shall be liable for all costs, fees and charges incurred by GMS under the IO.

4. The Booking Authority agrees to pay the amount stipulated in any invoice that GMS issues pursuant to the IO by the due date stipulated by such invoice and in any event within seven (7) days of such invoice being issued unless otherwise agreed in writing with GMS.
5. The Booking Authority acknowledges that circumstances can change at short notice given the nature of the advertising industry and, accordingly, accepts liability for any costs, fees and charges related to any variations to the booking described in this IO that are in addition to the costs set out in this IO.
6. The Booking Authority agrees that it will be liable for reasonable costs payable to GMS associated with payments made after the due date stated on the invoice. Late payments shall bear interest at the rate of 3% per month, 30 days after the invoice due date. The Booking Authority shall be responsible for the cost of collecting past due amounts. These costs will be determined by GMS and stipulated in a revised invoice.
7. The media cancellation or amendment deadline may vary for each publisher and where GMS has not provided this for any reason, these deadlines can be found within the specific terms and conditions of the publisher or made available on request.
8. The IO currency pricing is valid for 7 days from the time it is provided to the Booking Authority. GMS cannot guarantee the order can be fulfilled until authority as email, or signed copy of the IO is received within that timeframe.
9. For international payment made in Australian Dollars, full payment is required prior to the commencement of any campaign, unless GMS otherwise agrees.
10. All rates are quoted exclusive of GST.

C. ADVERTISING CONDITIONS

1. The parties acknowledge that:
 - a. this IO and these terms and conditions are subject to the particular terms and conditions of each publisher to which this IO relates and that such particular terms and conditions vary from publisher to publisher.
 - b. Publishers' terms and conditions may include the right of a publisher to reject an advertisement for any reason, impose new content requirements, change the publisher's media format or change advertising rates with little time and warning for a client such as the Booking Authority, or a person on its behalf, to cancel or amend a booking without incurring a penalty or charge.
 - c. GMS has encouraged the Booking Authority to familiarise itself with the terms and conditions of each publisher prior to signing this IO and has recommended that the Booking Authority visit the website of each such publisher to review its terms and conditions which website information GMS can provide on request.
2. It is the sole responsibility of the Booking Authority to familiarise itself with the terms and conditions of each publisher to which this IO relates.
3. The Booking Authority will be liable for all costs, including any penalty or charge, that may arise as a result of any of the circumstances described in paragraphs 1 and 2 of this section ("C Advertising Conditions") arising and the Booking Authority further agrees to indemnify GMS for any costs it may incur on behalf of the Booking Authority under this IO as a result of any of the circumstances described in paragraphs 1 and 2 of this section ("C Advertising Conditions") arising.

D. CREATIVE CONDITIONS AND SPECIFICATION

1. If the Booking Authority sends creative content to GMS after the relevant date as specified in the final approved media plan and results in a campaign being delayed, the publication of the advertisement will be considered to have commenced as of the date on the IO.
2. It is the Booking Authority's sole responsibility to arrange and manage re-directs with third party ad-servers and provide such third party with the creative content and lead time requirements.
3. The Booking Authority acknowledges that publishers will generally not compensate clients such as the Booking Authority for campaigns which are affected or delayed.

E. WARRANTY AND INDEMNITY

1. By lodging material including electronic material or data for publication or authorizing or approving the publication of any material with the Publisher, the Booking Authority warrants that the material complies fully with all relevant laws and regulations.
2. By lodging material including electronic material or data for publication or authorizing or approving the publication of any material with the Publisher or media organization, the Booking Authority indemnifies GMS, its directors, employees and agents against all claims.
3. Without limiting the generality of the above, the Booking Authority agrees to indemnify GMS against any claims, liabilities, suits or actions arising from defamation, infringement of copyright, trade mark or patents, or any misuse of intellectual property belonging to any third party, whether such claims, liabilities, suits or actions arise under statute or at common law.
4. GMS shall not be liable for the acts or omissions of any Booking Authority or content provider or the content of any advertisement and or digital media.
5. GMS shall have no liability for:
 - a. any failure or delay resulting from conditions beyond GMS's control;
 - b. any failure to provide reference or access to all or any part of the advertisement due to system failures or other technological failures of the Internet;
 - c. delays in delivery and or non-delivery of the campaign, including, without limitation, difficulties with a participating media, difficulties with a third-party ad server, or electronic malfunction; or
 - d. errors in content or omissions in any creative or advertising materials provided by any Booking Authority.
6. In no events shall GMS be liable for special, indirect, incidental or consequential damages.

F. CURRENCY EXCHANGE RATES

1. As GMS does not plan a margin on currency exchange rates, all international quotes are estimates only and may change at time of booking according to currency fluctuations without notice.
2. GMS anticipates the effective exchange rate at the time the Booking Authority will pay the invoice related to the IO.
3. The booking Authority acknowledges that GMS will not be liable for any costs or losses related to currency fluctuations.
4. The Publisher determines the currency in which the Publisher invoice must be paid. GMS will, at its discretion determine a currency exchange rate to calculate an estimate of the amount payable to GMS by the Booking Authority.
5. If the Booking Authority requires the IO to only stipulate costs in AUD it is the responsibility of the Booking Authority to request pricing in the currency in which the Publisher must be paid.
6. The Booking Authority may request GMS provide the amount payable for each item on the IO in the currency in which it will be paid to Publisher.
7. Only the currency in which the Publisher shall be paid is fixed.

G. GOVERNING LAWS

1. The laws of the State of Victoria, Australia will govern the construction of this agreement. Any action arising relating to this agreement will fall within the exclusive jurisdiction of the courts of the State of Victoria, Australia.
2. In the event of any conflict between the Terms and Conditions of GMS and the terms contained in any amended authority, the terms contained in this document, the GMS Standard Terms and Conditions, will prevail.