

VisitorPoint Limited -Terms and Conditions

These terms and conditions (**Terms and Conditions**) apply to the provision of any services by VisitorPoint Limited (**Supplier**) to a Client.

By signing a Service Agreement or instructing the Supplier to provide the Services the Client is deemed to have accepted and agreed to be bound by these Terms and Conditions.

1. Definitions:

Advertising Client means the person or entity recorded under the Account Name in the Service Agreement (if any) or who otherwise engages the Supplier to provide services to store, manage and/or distribute the Client's advertising materials to strategically located display racks;

Agreement means these Terms and Conditions, the Service Agreement (if any) and any amendments, schedules and annexures in respect of the same agreed between the parties;

Charges means the charges for the Services set out in the Service Agreement (if any) and otherwise the standard charges of the Supplier for the Services provided to the Client as updated from time to time;

Client means an Advertising Client or a Displaying Client, whichever is relevant;

Displaying Client means the person or entity recorded under the Account Name in the Service Agreement (if any) or who otherwise engages the Supplier to provide services to host, manage and maximise brochure display racks;

Rate Card Cost means the current relevant rate card cost available at <https://visitorpoint.co.nz/VisitorPoint-Services-Rate-Card.pdf> and as updated from time to time;

End Date means the last day of the month noted as the End Date in the relevant Service Agreement (if any) or the date upon which this Agreement is terminated in accordance with its terms;

Services means the services set out in the Service Agreement (if any) or as otherwise requested by the Client and agreed to be provided by the Supplier;

Service Agreement means the service agreement between the Supplier and the Client (if any);

Start Date means the 1st day of the month noted as the Start Date in the relevant Service Agreement (if any) or otherwise the date upon which the Supplier first provides the Services to the Client;

Stock Delivery Instructions means the current relevant stock delivery instructions available at <https://visitorpoint.co.nz/delivery> and as updated from time to time;

Supplier means VisitorPoint Limited.

2. Term:

2.1 This Agreement will commence on the Start Date and will continue until the End Date.

2.2 Subject to clauses 2.3 to 2.5 (inclusive), either party may terminate this Agreement without cause by providing two calendar months' written notice to the other party.

2.3 If this Agreement is terminated by the Client less than 12 calendar months from the Start Date, the Supplier may, at the Supplier's sole discretion, retrospectively adjust the Charges per month for the Services provided up to and inclusive of the termination notice period, to the full Rate Card Cost.

2.4 The Supplier may terminate this Agreement immediately in the event that the Client has breached any term of this Agreement and either that breach is unable to be remedied or the breach is not remedied within 20 working days of the Supplier giving notice to the Client of the breach.

2.5 Where this Agreement is for a fixed term, the Supplier shall provide a written reminder one calendar month prior to the End Date and request that the Client acknowledges in writing that the Services are to cease being provided, or accept a renewal Agreement. Failure to respond to the request will be deemed a request for continuation of Services, on a month by month basis on the terms set out in this Agreement.

3. Supplier's Obligations

- 3.1 The Supplier agrees to provide the Services to the Client on the terms and subject to the conditions set out in this Agreement.

Obligations to Advertising Client

- 3.2 In respect of the Advertising Client the Supplier undertakes to:
- (a) warehouse the Advertising Client's brochure(s) and dispatch the brochures to distributors, trade outlets, end users, or as instructed by the Advertising Client;
 - (b) distribute the Advertising Client's brochure(s) to those outlets included in the VisitorPoint Brochure Circuit service(s) as nominated, subject to the Advertising Client's brochure not being in competitive conflict with any given outlet;
 - (c) display the brochures in the VisitorPoint Brochure Circuit service(s) in either the display units installed by the Supplier or in such other display device that in the opinion of the Supplier provides the brochure with ease of viewing and/or selection. Display outlets may change during the terms of the Agreement;
 - (d) display the brochures on the Supplier's website(s) for on-demand order & dispatch to distributors, trade outlets or end users.;
 - (e) provide access to website(s) &/or list the Advertising Client's business on its consumer website(s) as nominated. Credentials and support available by emailing sales@visitorpoint.co.nz.
- 3.3 For the avoidance of doubt, the Supplier does not undertake to provide any paid display locations for the brochures other than those service(s) agreed, without the prior approval of the Advertising Client to accept such charges, plus 10% handling fee.

Obligations to Displaying Client

- 3.4 In respect of the Displaying Client the Supplier undertakes to:
- (a) provide at no cost to the Displaying Client, a suitable standard design display unit to contain advertiser brochures;
 - (b) regularly service and keep the display units well stocked and in a tidy condition;
 - (c) comply with the Displaying Client's reasonable individual outlet display requirements;
 - (d) ensure that the brochures which the Supplier delivers to the Displaying Client are of the greatest possible interest and value to the Displaying Client's guests/visitors; and
 - (e) ensure that such brochures do not compete with or detract from the Displaying Client's own business.

General Obligations

- 3.5 Stock or goods dispatched are subject to the Terms of Carriage as stipulated by the freight company nominated by the Supplier.
- 3.6 VisitorPoint Brochure Circuit Service(s) outlet service cycles are set by the Supplier based on demand. Brochure off-take may vary unexpectedly and therefore constant displays cannot be guaranteed in every outlet.

4. Clients' Obligations

Obligations of Advertising Client

- 4.1 The Advertising Client shall ensure that adequate stock of the Advertising Client's current brochure(s) is delivered as per the Stock Delivery Instructions to the location(s) nominated by the Supplier prior to the Start Date and from time to time thereafter to enable efficient distribution. Should adequate stock be unavailable the Supplier reserves the right to substitute the brochure in the VisitorPoint Brochure Circuit service(s) and/or publish a status of Out of Stock on the website(s) until stocks are available.
- 4.2 When providing a new brochure, the Advertising Client is to instruct the Supplier in writing in advance, of any special change-out requests. The Advertising Client must ensure that the Supplier has the new brochures not later than one week prior to the commencement date of the change-out (as agreed between the parties) and the Advertising Client acknowledges that the change-out will take up to one calendar month from the commencement date of the change-out for the Supplier to complete.
- 4.3 Within the VisitorPoint Brochure Circuit service(s), one change-out of brochure stock per annum will be accommodated. Additional change-outs of stock within any given 12-month period, at the Supplier's discretion, may incur an additional cost to the Advertising Client of 50% of one month's Charge for the relevant Services.
- 4.4 The Advertising Client warrants that any brochure(s) supplied to the Supplier is not in breach of any law in New Zealand and that distribution will not result in any claim or action being made or taken against the Supplier. The Advertising Client will indemnify the Supplier against and in respect of any such claim or action and the costs of defending any such claim or action (including on a solicitor and client basis) and any damages awarded against the Supplier.
- 4.5 Stock or goods provided by the Advertising Client are warehoused at the Supplier's nominated location(s), and all due care will be taken. However the Client must arrange and pay for sufficient insurance to cover all events. The Supplier will not be liable for any loss or damage of such stock or goods.
- 4.6 The Advertising Client must ensure that all stock or goods provided to VisitorPoint adheres to the Stock Delivery Instructions including ensuring that:
 - (a) stock or goods provided must not to exceed 12kgs per carton; and
 - (b) each carton of stock or goods must be clearly identified with a description of contents including quantity.
- 4.7 For VisitorPoint Brochure Circuit service(s) the Advertising Client must ensure that brochure paper weight is not less than:
 - (a) 130gsm for 2 or more fold brochures;
 - (b) 210gsm board for single panel brochures; and
 - (c) brochure size must be DLE (H210mm x W100mm).

Obligations of Displaying Client

- 4.8 The Displaying Client agrees:
 - (a) to prominently display the brochures in the units as provided, and to make them freely available to their guests/visitors;
 - (b) to allow the Supplier and its representatives reasonable access in order to keep supplies of such brochures well stocked;
 - (c) to ensure only brochures stocked or approved by the Supplier are displayed in the units provided;

- (d) that the display units and related equipment provided remain the property of the Supplier or its assignees at all times; and
- (e) to ensure that the units provided will not cause, and will be prevented from causing, any harm or damage to any person or property, of any individual, corporation or other legal entity.

5. Charges and Payment:

- 5.1 The Client will pay the Charges for the Services to the Supplier in accordance with this Agreement.
- 5.2 All Charges are subject to GST and are in New Zealand Dollars (NZD) unless stated otherwise.
- 5.3 Subject to clause 5.4, the Supplier reserves the right to increase the Charges, not more than once in any 12 month period, by notice in writing to the Client not less than two calendar months prior to the proposed date of the increase.
- 5.4 The Supplier reserves the right at its discretion to pass on shipping increases and charges (including freight and/or fuel levies) should these occur at any time during the term of this Agreement, without limit to the regularity. The Supplier will endeavour to provide notice in writing to the Client in advance, but in any event not later than one calendar month after any such increase.
- 5.5 Nominated fixed monthly charge service(s) will be invoiced in advance, with payment due on the 20th of the month of service.
- 5.6 Nominated variable activity charges of Shipping & Handling will be invoiced monthly in arrears, with payment due on the 20th of the month following the issue of the invoice.
- 5.7 The Supplier reserves the right at its sole discretion to charge an Advertising Client a handling fee of \$100 plus GST per hour for bundling, repacking and re-labelling stock received contrary to the Stock Delivery Instructions.
- 5.8 Method of payment is to be recorded in an authorised agreement. The Supplier's preferred method of payment is direct debit, which requires the Client to provide a completed direct debit form to enable payment for the Services provided under the Agreement.
- 5.9 If any payment is not received when due, then the Client shall be in default and, without prejudice to the Supplier's other remedies, the Supplier may:
 - (a) Cease to supply the Services until the default is remedied;
 - (b) Terminate the Agreement immediately by notice to the Client (with rate adjustments, if any, being applicable in such event) in accordance with clause 2.4; and/or
 - (c) Charge and recover a penalty fee of \$15.00 plus GST per month (or part thereof) from the date upon which the payment is due until the date upon which the payment is made in full.
- 5.10 Any expenses, disbursements and legal costs incurred by the Supplier in the enforcement of its rights pursuant to this Agreement shall be paid by the Client, including any reasonable solicitor's fees or debt collection agency fees.

6. Liability

- 6.1 The maximum liability of the Supplier to the Client for any act or omission on the part of the Supplier shall not exceed an amount equal to the Charges for the Services under the Agreement for the calendar month in which the claim arose.

6.2 Notwithstanding clause 6.1, the Supplier shall not be liable for any consequential loss, loss of profits, special or indirect loss for any act or omission on the part of the Supplier.

7. General

- 7.1 The Client consents to the Supplier collecting, retaining and using any information about the Client and its directors and officers to allow the Supplier to provide the Services, for the purpose of assessing the Client's creditworthiness, and for enforcing any rights under this Agreement. The Client authorises the Supplier to disclose any information obtained to any person for the above purposes. Where the Client is an individual the Supplier will meet its obligations pursuant to the Privacy Act 1993.
- 7.2 The Client consents to receiving electronic messages from the Supplier in terms of the Unsolicited Electronic Messages Act 2007.
- 7.3 Where the parties are in trade and the Services are supplied and acquired in trade the Supplier and the Client agree the provisions of the Consumer Guarantees Act 1993 and sections 9, 12A and 13 of the Fair Trading Act 1986 will not apply.
- 7.4 The Supplier may subcontract or assign any of its rights or obligations under the Agreement to any respectable, responsible third party who has the financial resources to meet the Supplier's obligations under the Agreement.
- 7.5 Where a notice is required to be given under this Agreement the notice must be in writing and will be deemed to have been given when delivered to the party's last known business address or registered office, or sent to the party's last advised email address provided that a delivery receipt is received in respect of that email.
- 7.6 Unless otherwise provided for in this Agreement, the Supplier reserves its right to vary these terms and conditions from time to time upon reasonable notice to the Client.
- 7.7 This Agreement is governed by the laws of New Zealand. The parties submit to the non-exclusive jurisdiction of the courts of New Zealand.

ADDRESS

VisitorPoint Limited
PO Box 1516, Invercargill 9840

PHONE

0800 276 248
Monday - Friday 9am -4pm

EMAIL & WEB

sales@VisitorPoint.co.nz
VisitorPoint.co.nz

