

## hipages.com.au Terms & Conditions (effective from 1 September 2014)

These Terms & Conditions refer to the voice recorded signature or signed acceptance of agreement with us and, together with any recorded verbal terms or signed acceptance constitute your agreement with us ("**Agreement**"). Verbal terms that are not voice recorded by us do not form any part of the Agreement.

The Agreement dated as of Client's voice recorded signature or receipt of signed acceptance of the agreement via post or email ("**Effective Date**"), is by and between hipages.com.au Pty Ltd, ABN: 78 109 996 134, Level 2, 338 Pitt Street NSW 2000, Australia ("**us**", "**we**") and the entity named in the Agreement ("**Company**", "**you**").

We will provide you with our services in accordance with the Agreement.

### 1. Your Obligations to Us

- i. You must:
  - a) provide us with an active email address for us to direct receipt of emails (**Enquiry Email**); and or
  - b) provide us with an active mobile telephone phone number capable of receiving voice calls and SMS for us to direct receipt of enquiries and quotes (**Enquiry Number**), and or
  - c) provide us with an active land line number for you to receive phone calls (**Enquiry Number**)
- ii. You must:
  - a) notify us in writing of any changes to your Enquiry Email or Enquiry Number;
  - b) ensure the Enquiry Email and Enquiry Number phone is monitored by an employee of your company (**Employee**) regularly during business hours;
  - c) ensure a voicemail system is available for customers to leave a voicemail message during non-business hours;
  - d) accept that we may at our absolute discretion suspend or terminate your advertising for any length of time if your behavior or provision of services is deemed unacceptable by us.

### 2. Assigned phone numbers

Where we assign you a telephone number as part of a pay per lead product the telephone calls to and from that number may be recorded by us for review purposes.

### 3. Leads or Enquiries

- i. In this clause a reference to a charge includes, where applicable, a debit against a Value Cap balance.
- ii. In the case of a campaign that includes "get quotes", you **will** be charged for each successfully claimed "get quotes" invitation.
- iii. In relation to other pay per lead campaigns, a successful lead for which you **will** be charged is one that:
  - a) originates from any type of telephone, including a mobile, landline, private number, VOIP connection or any other telephone exchange; and
  - b) is made to the Enquiry Email or Enquiry Number; and
  - c) where a phone call, is answered (including by voicemail); and
  - d) lasts for a duration of 10 seconds or longer; or
  - e) a get quotes invitation that you accept and where you receive contact details for the lead.
- iv. Leads or Enquiries includes without limitation:
  - a) a telephone call originating from any type of telephone (mobile, landline, private number, VOIP connection or other telephone exchange), which is successfully connected to the Enquiry Number and is answered by you, your employee, your agent or voicemail and which lasts for a duration of 10 seconds or longer;
  - b) a telephone call to the Enquiry Number that is successfully connected to the Enquiry Number that is not answered by your employee or voicemail but where the originating number is recorded and this number is emailed by us to the Enquiry Email;
  - c) a telephone call to the Enquiry Number where the person informs you that they are calling you as a result of viewing [www.hipages.com.au](http://www.hipages.com.au);
  - d) any email enquiry or contact sent to the Enquiry Email by us from any page of [www.hipages.com.au](http://www.hipages.com.au) that is not an exact duplicate of another email, is not spam and is not a promotional email;
  - e) any email enquiry or contact sent to the Enquiry Email where the person sending the email informs you that they are emailing you as a result of viewing [www.hipages.com.au](http://www.hipages.com.au);
  - f) any other contact from a person to you in response to campaigns or advertising that we may from time-to-time offer via pay per lead campaigns that are not otherwise described above
- v. For the avoidance of doubt, notwithstanding any other part of the Agreement, we may in our discretion charge you for anything which we consider a Lead.

### 4. PPL banner campaigns

If your Agreement includes a banner ad to be displayed within search results on [www.hipages.com.au](http://www.hipages.com.au) that banner will be displayed until the monthly banner lead cap is reached.

### 5. Credits and Adjustments

- i. You may request in writing a review of a specific lead received by you as part of a pay per lead campaign within 7 days after receiving the lead.
- ii. Upon receiving your request we will review the content and nature of the lead within 4 business days.
- iii. Should we determine after our review that the lead does not qualify as a lead per the Agreement, we will issue you a bonus lead or, where applicable, credit your Value Cap with the lead value, however, no amount is reimbursable or subject to offset in connection with your obligations to pay us.

### 6. Assignment

- i. You may not transfer or assign your rights or obligations under this Agreement to a third party without the written approval of us.
- ii. We may assign this agreement in whole or part to a third party at our discretion,

### 7. Confidentiality

Each of the parties agrees with the other not to disclose or permit to be disclosed either directly or indirectly in any manner whatsoever confidential information of the other party to any person other than a person to whom such disclosure is necessary in Agreement to give effect to this Agreement or as required by Law.

### 8. Privacy

Our privacy policy, as varied from time to time, applies to your dealings with us and how we collect and use information and can be viewed at <http://www.hipages.com.au/privacy>. You consent to us collecting your personal data in accordance with the terms of our privacy policy. We may use your personal information to obtain a credit report from a credit reporting agency, including before providing services to you and you acknowledge that you may be named in a credit report.

### 9. Late payments

In addition to any amounts payable by you, we may recover all fees and charges associated with recovering overdue payments from you on an indemnity basis, including legal and debt recovery charges. By using our services you indemnify us for any charges so incurred. We may also charge simple interest of 10 per cent per annum accruing daily on any overdue amounts.

### 10. General

- i. The Agreement (including the recorded verbal terms) constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter, save where the agreement is for an additional service to be provided by us, in which case these terms replace any earlier terms mutatis mutandis and you remain bound by the obligations under the original agreements.
- ii. You warrant to us that you have relied entirely on your own investigations (including independent advice received by you) and have not relied on any representations, of ours about the matters contained in the Agreement or the negotiations relating to or leading up to the Agreement or the services that we provide pursuant to the Agreement.
- iii. Each party acknowledges and warrants to each other that:
  - a) it has been given full and ample opportunity to negotiate the terms of the Agreement with the other party and to obtain independent legal advice in relation to the terms of the Agreement;
  - b) it has not relied upon any representation or warranty, including any negligent misrepresentation made by the other party, or any person on behalf of the party in relation to the Agreement or the negotiations relating to or leading up to the Agreement;
  - c) it has not been provided with any legal, financial or other advice in respect of the Agreement by the other party to the Agreement .
- iv. No party shall be liable to any other party for any misrepresentation relating to or arising from the negotiations leading up to the Agreement
- v. The Agreement is governed by the law of New South Wales, Australia and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales.
- vi. If any term or words of the Agreement are void, voidable, unenforceable or illegal in its terms, but would not be void, voidable, unenforceable or illegal if they were read down, and they are capable of being read down without creating substantial injustice to the parties, that term or those words must be read down accordingly.
- vii. If, despite clause 10(vi), any terms or words are still void, voidable, unenforceable or illegal, those terms or words must be severed and that severance does not affect the enforceability of the balance of the Agreement.
- viii. Any and all amendments to this agreement must be made in writing, except where we use a voice recording service to make the amendment, in which case the contents of the recorded conversation will form a binding verbal contract between us and you. The Agreement cannot be varied verbally unless the variation is recorded by us.