

SKY Advertising

Advertising Terms and Conditions

1 AGREEMENT

1.1 SKY agrees to allocate advertising time, and the Advertiser and/or Agency agrees to advertise products or services on SKY's television channels, in SKYWATCH and/or on SKY's website(s) on the terms and conditions set out below ("**Terms**"). These Terms are part of all contracts between SKY and any Advertiser and between SKY and any Agency. Any terms or conditions inconsistent with these Terms will not apply to any such contracts unless expressly agreed to by SKY.

1.2 These Terms apply to all advertising broadcast on SKY's television channels (each a "**television commercial**"), published in SKYWATCH (each a "**SKYWATCH advertisement**"), or placed on SKY's website(s) (each an "**online advertisement**") (together "**Advertisements/Advertising**").

1.3 Every Agency must ensure that every Advertiser for which the Agency places Advertising is made aware of, given a copy of, and complies at all times with, these Terms.

1.4 Advertisers that do not book through an Agency must apply for and establish a SKY credit account in accordance with SKY's Credit Terms before SKY will accept any bookings for television commercials or for **SKYWATCH advertisements or online advertisements**. SKY may cancel the Advertiser's credit account without notice where SKY has not provided any Advertising to the Advertiser through that credit account for a period of 2 years or more.

1.5 These Terms may be amended at any time by SKY without notice to Advertisers or Agencies. The most current version of these Terms will be posted on SKY Advertising's website in the Resources section.

2 CHANNELS AVAILABLE FOR ADVERTISING PLACEMENT

2.1 The following SKY channels are available for placement of television commercials within certain dayparts:

- Prime (SD&HD)
- Comedy Central
- Crime + Investigation
- Discovery TURBO
- JONES!
- JONES! too
- MTV
- SKY 5
- SKY Movies Extra (SD & HD)
- SKY Movies Greats (SD & HD)
- SKY Movies Premiere (SD & HD)
- SKY Sport 1 (SD & HD)
- SKY Sport 2 (SD & HD)
- SKY Sport 3 (SD & HD)

SKY Sport 4 (SD & HD)
Vibe

BBC Earth
Cartoon Network
Discovery Channel
E! Entertainment
Food Network
HISTORY
Living Channel
SKY Movies Action
SKY Movies Pop-ups (SD & HD)
National Geographic
Nickelodeon
Rugby Channel
SKY BOX SETS
SKY News Australia
SKY Sport 5 (SD & HD)
SKY Sport 6 (SD & HD)
SKY Sport 7 (SD & HD)
SKY Sport 8 (SD & HD)
SoHo (SD & HD)
SoHo2 (SD & HD)
TLC
UKTV
VICE

3 CANCELLATION POLICY

3.1 Orders placed for Advertising may not be cancelled by the Advertiser or Agency other than in accordance with these Terms.

3.2 For television commercials, cancellations within 28 days of transmission incur a 100% cancellation fee. Cancellations between 8 weeks and 29 days prior to transmission incur a 20% cancellation fee.

3.3 The terms for cancellations of Advertising scheduled within a Special Event or Pack (including the ability to cancel), will be at the sole discretion of SKY, subject to the Special Terms, if any. A specified cancellation fee may apply, or the Special Event or Pack may be deemed non-cancellable.

3.4 Any requests for cancellations and amendments must be in writing.

3.5 SKY reserves the right and without prior notice to the Advertiser and/or Agency to cancel, postpone, move or reschedule any television programme, article in SKYWATCH or content on SKY's website(s). Where this occurs, SKY will endeavour to replace any affected Advertisement as close to the original date and time as possible and/or reallocate the Advertisement to an appropriate alternative placement of equivalent value. This constitutes the Advertiser's sole remedy.

3.6 No Advertisement placement may be transferred, on-sold or booked or held for resale. SKY may cancel without notice any Advertisement placement that has been transferred or resold to any third party by an Advertiser or Agency.

4 TELEVISION BOOKING/ MOVEMENT POLICY

4.1 Bookings moved within 14 days before transmission incur a 100% cancellation fee. Bookings moved within the period of 15 to 28 days from transmission, so that they are more than 28 days from transmission, incur a 100% cancellation fee.

4.2 Bookings may be moved only once within a 28 day period or will incur a 100% cancellation fee.

4.3 Moving or amending bookings within a Special Event or Pack will be at the sole discretion of SKY (subject to the Special Terms, if any). If the booking is moved or amended, it will be rebooked at the current rate as applied to the new placement and new discounts applied (and if moved or amended after the booking deadline, may be subject to a cancellation fee).

4.4 Bookings moved outside a specified period, where a volume airtime agreement is in place between SKY and the Agency or Advertiser for the placement of television commercials in a particular time period, incur a 100% cancellation fee unless otherwise specified in the volume airtime agreement.

4.5 If a programme has been replaced by SKY and designated part of a Special Event or Pack then existing bookings may be moved by SKY to an alternative placement as close to the original date and time as possible and/or reallocated to an appropriate alternative placement of equivalent value.

4.6 Where booking durations are: (i) extended, the entire duration will be booked at a revised rate; or (ii) reduced, the entire duration will be booked at a revised rate.

5 CHANGE OF AGENCY

5.1 Agencies changing name, Advertisers changing Agencies or engaging an additional Agency, or Advertisers otherwise ceasing to use a particular Agency's services ("**agency changes**") must be advised to SKY in writing in advance, stating the products or services involved.

5.2 SKY will action agency changes to commence the following month where the commencement of the following month is no less than 10 working days from the date of notification.

5.3 Agency changes cannot be implemented for a partial month.

5.4 Upon any agency change, the Advertiser must fulfill all obligations it or the previous Agency has to SKY pursuant to any agreements or arrangements entered into with SKY by the previous Agency on the Advertiser's behalf. The Advertiser will continue to be jointly and severally liable pursuant to clause 14.12 of these Terms for the

obligations of the previous Agency, notwithstanding the terms of any arrangements between the Advertiser and the previous Agency.

6 SPONSORSHIP & COMPETITIVE PRODUCT PLACEMENT

6.1 SKY reserves the right to adjust existing bookings in order to accommodate a programme sponsor's advertising or to avoid a product conflict, at SKY's discretion. In such circumstances, bookings may be moved by SKY to an appropriate alternative placement of equivalent value.

6.2 SKY endeavours to make sure that an Advertiser's television commercial is not telecast within close proximity of a competitor but accepts no liability if for any reason there is such proximity of competing products.

7 DISCOUNTS

7.1 Any applied discounts are at the sole discretion of SKY and may only be valid for select placements or time periods negotiated at the time of booking.

7.2 SKY retains sole discretion to determine whether a discount should apply or continue to apply in situations where Advertisers undergo change of name, ownership or control.

8 BREAK POSITIONING

8.1 For television commercials:

- (a) Fixed Break (or last break) Positioning within a programme or break will be charged extra at SKY's discretion and at no less than an additional 10% of the negotiated value of the programme rate or as an agreed premium on the negotiated CPT.
- (b) Premiums for specially created breaks will be charged extra at SKY's discretion at no less than the highest rate of the corresponding programme at the appropriate duration loading plus 50%.

9 TERMS OF PAYMENT

9.1 Payment for Advertising must be made by the last working day of the month following invoicing. All payments due to SKY for Advertising, or otherwise in connection with these Terms, must be made in New Zealand dollars unless otherwise agreed in writing by SKY prior to the due date for payment.

9.2 If payment of any invoice is not received by SKY in accordance with clause 9.1, SKY may:

- (a) Immediately and without notice suspend or cancel all Advertising orders of the relevant Advertiser or Agency; and
- (b) Charge interest on any unpaid sums at a rate of 2% per month until payment is made in full.

9.3 Any GST or other governmental or industry taxes, levies, imposts and similar amounts must be borne by the Advertiser or Agency. SKY's prices are listed exclusive of GST unless specified otherwise.

9.4 SKY invoices Agencies and Advertisers on or about the end of each month, and Agencies must invoice Advertisers on the same basis. Overnight Download Files do not constitute payment advice and SKY accepts no responsibility for Agencies billing clients based on Overnight Download Files before SKY's invoice is issued at month end.

10 SKY RATES

10.1 SKY reserves the right to change its rates at any time without notice.

10.2 Television commercial time is sold in standard units of 15, 30 and 60 seconds. Other lengths are subject to approval and contingent on specific channel placement. For standard programming, each unit is sold at SKY's duration loading of the 30 second rate. Special Events or Packs may be costed in multiples of the 30 second rate or as detailed at the time of release.

11 TERMS AND CONDITIONS FOR SKYWATCH MAGAZINE

11.1 In relation to SKYWATCH advertisements:

- (a) The booking deadline for SKYWATCH advertisements is the first day of the month preceding the month of publication.
- (b) A cancellation fee of 100% is charged for bookings cancelled within six working weeks preceding date of publication.
- (c) The sizes of SKYWATCH advertisements are Full Page or Double Page Spread. A maximum of 3 inserts per issue is available.
- (d) Ratecard and discount structure is available on application and is at the sole discretion of SKY.
- (e) Full material specifications for SKYWATCH advertisements are available on request.

12 TERMS AND CONDITIONS FOR ONLINE ADVERTISEMENTS

12.1 In relation to online advertisements:

- (a) Cancellation less than 10 days before the start of the agreed period of advertising ("campaign") will incur a 100% cancellation fee.
- (b) Cancellations between 10 and 20 days before the start of the campaign will incur a 50% cancellation fee.
- (c) Rate card and discount structure, as well as full technical specifications for online advertisements, are available from SKY on request. Rates, discounts and technical specifications are at the sole discretion of SKY.

(d) Forecasts for impressions and unique browsers are estimates only. Actual impressions and unique browsers are determined by SKY, via SKY's trafficking system.

(e) Rates are for standard formats listed in SKY's technical specifications.

(f) For CPM buys, the online Advertising will be taken down once the purchased impressions are achieved (which may be before the end of the campaign).

(g) Online advertisements must be delivered to SKY in accordance with the timeframe set out in the Deadlines and Approvals Document, or as otherwise notified by SKY to the Advertiser. Where online advertisements are delivered late, SKY reserves the right to bill the Advertiser in full from the booked start date of the campaign and the Advertiser will pay the full rate for the online advertising, regardless of the number of impressions or unique browsers achieved during the campaign (and without any make-good).

(h) The placement of online advertisements is at SKY's discretion unless otherwise agreed. SKY may exclude specific sections of its website(s) or specific time periods during Special Event(s) from "run of network" online advertisements.

(i) Bookings must be confirmed in writing via the Insertion Order booking form (available from SKY on request).

13 TERMS FOR SPECIFIC SKY BOOKING ARRANGEMENTS

13.1 In relation to television commercials:

- (a) SKY predicts ratings based on actual past performance but is not liable for variations in actual ratings.
- (b) All performance measurements are based on consolidated ratings i.e. all ratings within a seven day period from the initial broadcast.
- (c) For guaranteed TARP or CPT deals for audience demographics outside of SKY's designated core trading demographics, both SKY and the Advertiser/Agency must agree to the target and the ratings objective. In such circumstances where: (i) the audience sample size for the desired demographics is less than 75 in SKY Homes for the SKY channels (except Prime) and is less than 100 in National Homes for the Prime channel; or (ii) the target objective is reviewed as unrealistic, then SKY will consult with the Advertiser/Agency on a more appropriate measure of performance.
- (d) If SKY has not achieved 95% of the rating objective on a guaranteed TARP or CPT deal,

then SKY will provide Advertisers with make-good airtime to achieve the target level. Performance of 95% of target or above will not require a make-good.

- (e) Make-good airtime is subject to availability and will be placed at SKY's discretion.
- (f) SKY may, in its sole discretion, remove airtime from any future bookings in which a guaranteed TARP or CPT deal is in place, due to the over performance of recently telecast bookings. SKY will notify the Advertiser/Agency of this.
- (g) Where SKY shares the onus of responsibility for the under-performance of any guaranteed TARP or CPT deal with the Advertiser/Agency, then at SKY's discretion, an alternative appropriate and mutually agreed remedy may be instigated in consultation with the Advertiser/Agency.
- (h) Specific SKY booking arrangements such as guaranteed TARP or CPT deals will be subject to additional terms and conditions, as agreed.

(including cookies or ad tags); and (iii) comply with all other SKY technical requirements (including as set out in the Deadlines and Approvals Document).

- 14.6 **SKY's right to refuse:** Notwithstanding any prior approval by CAB (where relevant) or SKY, SKY reserves the right to refuse to publish/transmit any Advertising at any time (whether before or after first publication/transmission) without the need to give any reason or prior notice to the Advertiser or Agency.
- 14.7 **Indemnity:** The Advertiser and/or Agency agree to indemnify SKY against all actions, claims, damages and costs (including legal fees on a solicitor-client basis) incurred arising directly or indirectly in respect of any Advertising placed at the request of the Advertiser or Agency (including any costs of correction or amendment to any Advertising).
- 14.8 **Filler:** SKY may use the Advertiser's TV Commercial Materials to fill any commercial breaks that are unsold at the time of transmission on any of the channels listed in clause 2.1, at SKY's discretion and without additional charge to the Advertiser.
- 14.9 **No refunds:** In no event shall SKY be required to refund any fee charged for any Advertising. The sole remedies available to Advertisers and Agencies in the event of any errors or failure to telecast or publish any Advertisements are a credit on future invoices or the placement of Advertisements in a future slot, unless otherwise agreed by SKY in writing.
- 14.10 **No warranties:** SKY will use all reasonable endeavours to transmit/publish Advertisements. All warranties and guarantees that may be implied by law (including under the Sale of Goods Act and Consumer Guarantees Act) are hereby excluded, it being acknowledged that the Advertisers and Agencies are acquiring services from SKY for the purposes of a business. Subject to clauses 3.6, 13.1(c) and 14.10, SKY will not be liable (either in contract, tort (including negligence) or otherwise) for any errors in content or incorrect appearance of any advertisements or for any other reason in connection with these Terms for any direct, indirect, special or consequential loss, cost, damage or expense suffered by any Advertiser, Agency or any other person.
- 14.11 **Joint and several liability:** Each Agency shall be jointly and severally liable for any obligations of Advertisers for whom that Agency places advertisements with SKY. Each Advertiser shall be jointly and severally liable for any obligations of an Agency that place advertisements with SKY for that Advertiser.
- 14.12 **No assignment:** No Agency or Advertiser is entitled to assign,

transmit, sublease or otherwise transfer any rights or obligations relating to these Terms without SKY's prior written consent.

- 14.13 **No waiver:** Neither party will be deemed to have waived any right under these Terms unless the waiver is in writing and signed by that party. A failure to exercise or delay in exercising any right under these Terms will not operate as a waiver of that right. Any such waiver will not constitute a waiver of any subsequent or continuing right or of any other provision in these Terms.
- 14.14 **Severability:** Any unlawful or voidable provision in these Terms shall be read down so as to be valid and enforceable or, if it cannot be read down, will be severed from these Terms without affecting the validity, legality or enforceability of the remaining provisions, provided the reading down or severing does not materially affect the purpose of or frustrate these Terms.
- 14.15 **Governing law and jurisdiction:** These Terms are governed by New Zealand law and the courts of New Zealand shall have non-exclusive jurisdiction in any proceedings relating to them.
- 14.16 **Confidentiality:** All Agencies and Advertisers agree to keep all details surrounding these Terms, and all advertising arrangements with SKY, strictly confidential.

14 GENERAL

- 14.1 **Availability, commission:** All placements are sold subject to availability, and inclusive of Agency commission.
- 14.2 **Exclusivity:** Bookings do not include exclusivity unless otherwise expressly agreed.
- 14.3 **Deadlines:** TV Commercial Material and all other Advertisements must be finalised and delivered to SKY at the Advertiser's or Agency's sole expense in accordance with the terms of the Deadlines and Approval Document (which terms are incorporated into these Terms).
- 14.4 **CAB Approval:** SKY will not telecast television commercials that have not been approved and assigned a rating by CAB. For full details on CAB terms and deadlines refer to www.commercialapprovals.co.nz or phone 0064 9 373 2907.
- 14.5 **Compliance with Law and other specifications:** Advertisers/Agencies must ensure that any Advertising submitted to SKY does not contain any false claim for a product or service, does not infringe the copyrights or other rights of any person, contain any defamatory matter, and conforms with all applicable advertising codes of practice (including the Advertising Standards Authority Codes of Practice), any standards advised by SKY from time to time, and all relevant legislation (including the Fair Trading Act). Advertisers/Agencies must also ensure that any Advertisements submitted to SKY: (i) are free from defects and viruses; (ii) do not contain any tracking mechanisms

15 DEFINITIONS

- In these Terms:
- 15.1 **"Advertiser"** means any person booking advertising on SKY's television channels, in SKYWATCH Magazine, or on SKY's website(s).
 - 15.2 **"Agency"** means any person or organisation who acts on behalf of an Advertiser to have that Advertiser's products or services advertised on SKY's television channels or in SKYWATCH.
 - 15.3 **"Deadlines and Approvals Document"** means TV Commercial and SKYWATCH Deadlines and Approval document in effect from time to time and posted on the www.sky.co.nz/advertising website, or available upon request.
 - 15.4 **"Fixed Break Positioning"** means, in relation to a TV commercial, either:
 - (a) positioning the commercial at the start or end of a break in a programme; or
 - (b) positioning the commercial in a fixed position within a programme.
 - 15.5 **"Holiday Period"** means any public holiday in New Zealand or any other day or period nominated by SKY as a holiday.
 - 15.6 **"Overnight Download Files"** means the invoicing information files sent electronically by SKY to Agencies' financial systems.
 - 15.7 **"Pack" or "Special Event"** means a one-off or series of sporting or other events scheduled to show on SKY's television channels designated by



- SKY in its sole discretion to be a Pack or Special Event.
- 15.8 **"Special Terms"** means any special terms that apply to a Special Event or Pack which are detailed by SKY at the time the Special Event or Pack is released.
- 15.9 **"Terms"** means these Advertising Terms and Conditions in effect from time to time and posted on the <http://www.sky.co.nz/advertising> website or available upon request.
- 15.10 **"TV Commercial Material"** means the television commercial provided by the Advertiser to SKY for telecasting on SKY's channels.

SKY Advertising

TV Commercial Material and SKYWATCH Deadlines & Approval

1. MATERIAL INSTRUCTIONS

- 1.1 SKY accepts no responsibility for:
- (a) Inability to telecast/publish any Advertising due to the Advertiser's or Agency's failure to deliver the TV Commercial Material or Advertising, or any non compliance with the instructions set out in this document or in SKY's Advertising Terms and Conditions; or
 - (b) Incorrect material telecast/published if instructions are not received in written form, or are received later than as specified.
- 1.2 TV Commercial Material amendments received later than specified will not be accommodated except (where practicable and at the Advertiser's cost) where there are serious legal implications for the Advertiser and/or issues which have a direct impact on the public and are beyond the Advertiser's control.
- 1.3 Late changes will not be made for modifications or enhancements to graphics and/or audio.
- 1.4 SKY will only accept TV Commercial Material for any one Advertiser that features multiple products if one fully integrated composite commercial is scheduled for each spot bought.
- 1.5 SKY will not accept the scheduling of two or more separate television commercials playing back to back when one spot has been bought. In particular, one spot cannot contain advertisements for two or more different Advertisers.

2. SKY NETWORK CHANNELS:

- 2.1 TV Commercial Material and any other relevant instructions for television commercials on SKY channels must be at the SKY Advertising office at least 3 working days prior to transmission unless otherwise specified at Holiday Periods.
- 2.2 Material instructions must be sent to the following e-mail address even if another person within SKY Advertising's Department has been advised:
- Attention: Traffic
EMAIL: traffic@skytv.co.nz

3. TV COMMERCIAL MATERIAL DELIVERY

- 3.1 TV Commercial Material and any other relevant instructions for television commercials must be provided to SKY **no later than 3 "working" days** prior to the first transmission date. This

deadline will differ in the event of public holidays.

- 3.2 All material instructions are to be emailed to your Traffic Co-ordinator: traffic@skytv.co.nz (or to individual email address of your Traffic co-ordinator). These should be provided by product name as either:
- o A list of individual spots (including spot numbers) with the relevant key numbers beside each, or
 - o The date range the relevant key numbers should be applied to.

At the time of providing material instructions, please advise SKY of the method of TV Commercial Material delivery (Adstream, IMD Cloud) along with expected delivery date and time.

4. CAB APPROVAL

- 4.1 SKY does not telecast any television commercials that have not been approved by CAB (Commercial Approvals Bureau). If CAB has not approved your television commercial within the relevant time frame, your television commercial placement may be moved to a later transmission date.
- 4.2 For more info on CAB please visit their website www.commercialapprovals.co.nz or phone (+649) 373 2907.

NB: CAB will not approve any advertisements that arrive at their office **after 4pm, Friday.**

5. LATE CHANGES

- 5.1 Transmission logs are completed ahead of time. It is appreciated if Traffic and/or your Account Manager can be alerted of any upcoming changes to existing key numbers, durations and late arriving instructions or material, in advance. **Please phone to confirm receipt of instructions for any changes to spots previously instructed.**

6. DELIVERY OF TV COMMERCIAL MATERIAL

- 6.1 METHODS AVAILABLE: Adstream / IMD
- 6.2 TV Commercial Material must be delivered to SKY **no later than 4pm, 3 "working" days** prior to the advertisement's first transmission date. This deadline will differ in the event of public holidays. **If material is to be delivered outside of office hours, please contact a member of our Traffic team to make special arrangements. TV Commercial Material delivered outside of our standard deadlines is at the advertisers own risk, and SKY reserves the right to reschedule or cancel any television commercial**

placements where the relevant TV Commercial Material is not received on time.

7. DELIVERY OF SKYWATCH ADVERTISEMENTS

SKYWATCH advertisements must be delivered to SKY in an acceptable manner and format and in accordance with SKY's technical specifications (as notified by SKY from time to time). SKYWATCH advertisements must be received by SKY approximately one month preceding publication, with material required 5 working days after the booking deadline. For exact dates contact your SKY Advertising Account Manager.

Full specifications for SKYWATCH advertisements are available from SKY on request.

The form and content of SKYWATCH advertisements is subject to SKY's prior approval and SKY reserves the right to reject SKYWATCH advertisements as set out in clause 14.6 of the Advertising Terms and Conditions.

8. DELIVERY OF ONLINE ADVERTISEMENTS

Online advertisements must be delivered to SKY by email at webadvertising@skytv.co.nz in an acceptable format and in accordance with SKY's technical specifications (as notified by SKY from time to time), at least 3 working days before the start of the campaign.

Full specifications for online advertisements are available from SKY on request.

The form and content of online advertisements is subject to SKY's prior approval and SKY reserves the right to reject online advertisements as set out in clause 14.6 of the Advertising Terms and Conditions.



9. ACCEPTED DELIVERY METHODS FOR TV COMMERCIAL MATERIAL

CHANNEL	METHOD OF DELIVERY
<p>SKY (Panorama Rd)</p> <p>SD & HD: Prime Television, SKY Sport 1, SKY Sport 2, SKY Sport 3, SKY Sport 4, SKY Sport 5, SKY Sport 6, SKY Sport 7, SKY Sport 8, SKY Movies Premiere, SKY Movies Greats, SKY Movies Extra, SKY Movies Pop-Up (includes SKY Movies Family), SKY BOX SETS, SoHo, SoHo2, BBC Earth, Crime + Investigation, MTV, Comedy Central, Rugby Channel, SKY 5, Vibe, Living Channel, E!, SKY News Australia, Cartoon Network, Discovery, Discovery TURBO, TLC, National Geographic, HISTORY, JONES!, JONES! too, UKTV, Nickelodeon, Food Network, SKY Movies Action, VICE</p>	<ul style="list-style-type: none"> • Adstream • IMD Cloud <p>Select <u>SKY</u> delivery option for ALL of these channels</p>

NB: For Commercial technical specifications see SKY's "Commercial Technical Specification" document.

