



## Terms and Conditions

### FatWeb General Terms

Term, Renewals & Termination (including any trial period)

- 1. 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.
- 2. Agent:** By using the FatWeb services, products and/or FatWeb platform you are requesting FatWeb to act as your agent to perform a range of tasks including research, analysis, design, creative, media placement, managing and updating listings and postings, reporting etc which may include using a range of 3rd party sources
- 3. Automatic renewal unless you terminate:** Your services with FatWeb will continue in perpetuity until cancelled. Cancellation of the services you choose to terminate will take effect one billing cycle from the date that you notify FatWeb with your request to cancel. This request must be received in writing.
- 4. 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".
- 5. 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.
- 6. FatWeb Managed Campaign: Our rights:** In relation to any of our Services, we may do one or more of the following at any time:
  - a. ask you to amend (or we may amend) any aspect of Your Content so that it complies with advertising standards or so that it otherwise complies with our Production Specifications and other requirements;
  - b. determine the category(s) within which Your Content will appear within our Services;
  - c. determine the placement of Your Content within those categories (and in relation to the placement of third party advertisements or other content within those categories);
  - d. revise any aspect of Your Content in order to meet requirements of Facebook, Google or any other third party platform provider;

- e. refuse to accept or publish (or cancel or remove) Your Content if there is a failure to comply with this clause or this agreement at any time; or
- f. engage any third party supplier to supply or assist us with supplying some or all of the relevant Service to you provided that we remain liable to you at all times, and although we will endeavour to contact you in advance, we may need to do any of the above things without prior notice to you

## **Price and Payment**

**7. 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. 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.

**8. Variable Prices / Third Party Pricing:** Some Services (such as Facebook and Google advertising) 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

**9. 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. 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

**10. Payment:** The required method of payment or any payment options available will be set out in your Sales Order. 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; or due within 7 days of invoice date, 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.

By engaging our services you are deemed to have accepted our terms and conditions, which are posted on our website: [www.fatweb.co.nz](http://www.fatweb.co.nz). Interest of 5% per month may be charged on all overdue accounts. All costs incurred in the recovery of overdue accounts will be added to the balance of any outstanding debt including, but not limited to, debt collection charges and legal fees. FatWeb reserves the right to suspend all services until the purchaser's debt has been cleared.

**11. Credit Information:** You accept that we may use any information which you supply to us, to undertake any credit checks required on you or your business before and after services will be or have been provided to you with any third party credit agency which we consider necessary. We reserve the right to require payment in full in advance from customers who we consider do not meet our credit criteria, prior to providing any Services to such customers.

**12. Our Digital Products:** Our Digital Products and other Intellectual Property we own will remain owned by us or our third party licensors as the case may be at all times. At no time during or after this agreement terminates will you obtain any proprietary interesting 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.

**13. Third party intellectual property:** FatWeb may present information to you from third party sources in various digital formats. This includes copy, images, logos, designs, links etc. Wherever a third party holds intellectual property in material presented by FatWeb, the property remains with that party.

**14. 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. 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.

**15. 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.

**16. 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.

**17. Disputes:** If either you or us has 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 endeavours 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

**18. Cancellation Fee:** If you cancel before your first cycle finishes of any Marketing Campaign, there will be a \$250+GST Admin Fee charged to your account and is due 20th month following invoice.

**19. FatWeb Call Tracking:**

What we'll provide

- Call tracking with Avanser (a third party vendor).
- An Avanser login in order to see reports.
- A daily report with all calls received in the last week.

What you need to do

- You are responsible for ensuring that your PABX or other network equipment is programmed, as specified by FatWeb or any carrier.

- You will reasonably cooperate with FatWeb and any carrier involved in the provision of the FatWeb Call Tracking service to allow FatWeb (and any such carrier) to establish and supply the Call Tracking service safely and efficiently.
- You will be responsible for updating code on your website with the required tags around each phone number that will be tracked. ***If this is not done then call tracking cannot go ahead.***
- Any equipment at your premises used to provide Call Tracking services through another supplier may be disconnected upon transfer to FatWeb. It is your responsibility to notify your current supplier of the change in provision of your services and to arrange forthwith the removal of any equipment.
- FatWeb will charge you a fee for each successful or failed/rejected port-in of a landline telephone number. You should ensure that all complex services (including but not limited to line hunt, DSL, diversions, ISDN) are completely removed from the landline telephone number before requesting FatWeb or its carrier to port-in the number. Failure to remove all complex services may result in the port-in being rejected by the incumbent carrier.

### **Important things you need to know about FatWeb Call Tracking**

You acknowledge and agree that:

- FatWeb Call Tracking is an inbound service and requires you to maintain a separate phone line and number
- FatWeb Call Tracking cannot and should not be used to make calls to emergency services
- You may only use the telephone numbers allocated to you for the purposes of tracking FatWeb advertising. If you use the telephone numbers for any other purpose (e.g. on business cards, letterheads, flyers, websites etc), then the FatWeb Call Tracking function will cease to operate
- FatWeb cannot guarantee that details about every call will be recorded with complete accuracy
- You agree to reimburse FatWeb at the set rate for any minutes you use in excess of those included in your monthly package
- The number of minutes in a monthly package are for use within that month only, and do not 'roll over' into following months\*
- Your use of the service is also subject to the General Terms and Conditions Applying to Phone Lead Alert, located at [www.avanser.co.nz](http://www.avanser.co.nz). We currently use Avanser as our provider. However we reserve the right to change providers.
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*\*In case of complementary call tracking, FatWeb will pay for your 0800 number setup and up to 50 free minutes every Month. You agree to reimburse FatWeb at the set rate for any minutes you use in excess of those included in your monthly package.*

### **Marketing Campaigns Including Google AdWords, Facebook Campaigns, Search Engine Optimisation**

#### Minimum Term & Cancellation

You acknowledge that you have ordered the Marketing Services for at least the Minimum number of Cycles set out in the Order Summary above. The Marketing Services will be continued to be supplied after the Minimum Term until you cancel. All our digital marketing campaigns are on a minimum 3 Months terms. As set out in the Marketing Terms & Conditions, if you give us written notice of the termination of your Marketing Services at least 60 days prior to the expiry of the Minimum Term then such termination will take effect

on the on the expiry of the Minimum Term. If you give us written notice of termination less than one month before the expiry of the Minimum Term or at any time after the expiry of the Minimum Term, then such termination will take effect on the date of expiry of the first full Cycle following the date of the termination notice.