

Terms and conditions

1. Terms of Use

1. These terms and conditions govern the use of this Service provided on behalf of your Merchant by Magic Pulse Limited trading as Kitomba.
2. Magic Pulse Limited is a registered company in New Zealand (company number 1204376) with its registered office at Level 7, Eagle Technology House, 135 Victoria Street, Te Aro, Wellington, 6011 (**Kitomba**).
3. The following terms of use govern all use of the Kitomba.com website (**Website**), and also including the Service, and all other content, services and products (if any) provided by, at or through, the Website.
4. By accessing the Website, and using its content, services or products (if any), you (**Client**) confirm and acknowledge that you have read and agree to these terms of use. It is important that you read these terms of use carefully. If you have any questions, please contact us.

2. Intended Users

1. The Website is intended to be used by Clients for the purpose of making bookings or managing bookings for hair salon, beautician, spa, barber and personal care services provided by Merchants.

3. Definitions

1. **Content** means information or other electronic data uploaded by the Client to its Online Account.
2. **Client, you, or your** means the individual who accesses the Website and/or Service.
3. **Intellectual Property Rights** means any patents, copyright, database rights, design rights, registered designs, trademarks or service marks or know how (whether registered or not and including any applications or rights to apply for registration) and all rights or forms of protection of a similar nature subsisting anywhere in the world.
4. **Kitomba** means the New Zealand registered company who has its registered office at Level 7, Eagle Technology House, 135 Victoria Street, Te Aro, Wellington, 6011 (company number 1204376).
5. **Merchant** means hair salon, beautician, spa, barber and personal care providers who utilise the Service.
6. **Online Account** means the Client's individual online domain space provided by Kitomba onto which the Client can load Content.
7. **Service** means a cloud based scheduling system enabling Clients to make and manage bookings with Merchants.
8. **Software** means any software owned by or licensed to Kitomba by third party licensors for the provision of the Service.

4. General Terms

1. Kitomba on behalf of itself and any third party licensor(s) of the Software and Service retains all rights and title to the Software, the Website, the Service and, except as set out below, no Intellectual Property Rights or goodwill therein are transferred to the Client.
2. In relation to the Service:
 1. the Client is granted a non-exclusive, non-transferable right to use the Service;
 2. the Client agrees not to copy the Service or the Software or to reverse assemble or attempt to derive source code from the Software;
 3. You must not damage, interfere with or harm the Website or Services, or any network, or system underlying or connected to them, or attempt to do so;
 4. You may not use a robot, spider, scraper or other unauthorised automated means to access the Website or information featured on it for any purpose; and
 5. Client agrees to comply with all governmental or other regulations relating to the use of the Service.

3. The Client may only download and only print extracts from the Website including the Service for their own personal use and only insofar as necessary to assist the Client in managing and remembering any bookings made by the Client.
4. The Client must not remove or alter copyright and other proprietary notices contained on the Website.
5. The Client may not commercially exploit the Website (or any part of it) in any way.
6. The Client acknowledges that the Website utilises technology called “cookies” to collect information about how the Website is used. Information gathered through cookies may include the date and time of visits, the pages viewed, time spent at the Website, and websites visited just before and just after visiting the Website.

5. Providing Content

1. The Client warrants that he / she has provided complete, accurate and current personal information when registering Content. The Client must maintain and update the Content held by Kitomba to ensure it is kept current at all times. Kitomba may contact the Client including by phone or mail to verify these details. The Client must not register as a member under multiple identities or personas (whether false or not).
2. Kitomba reserves the right to decline to register or to terminate a Client’s membership without entering into further discussions with the Client.
3. The Client is responsible for keeping his / her login information, including email address and password, secret and secure. Without limiting this clause 5.3, the Client agrees:
 1. not to permit any other person to use his / her Content or Online Account; and
 2. not to disclose, or provide to any other person, his / her password or any other information that would enable that person to access his/her Content or Online Account.

6. Privacy

1. In addition to rights set out in clause 11 below, Kitomba collects, uses and discloses personal information about the Client, as outlined in its Privacy Policy <http://www.kitomba.com/nz/privacy-policy/>

7. Changes to these Terms of Use

1. Kitomba may at any time vary these terms of use. Revised terms of use will apply to the use of the Website, including the Services from the date of the publication of the revised terms of use on the Website. Please check this page regularly to ensure you are familiar with the current version.

8. Limitation of Liability

1. You agree that, to the maximum extent permitted by law, any and all liability and responsibility of Kitomba to you or any other person under or in connection with these terms and conditions, or in connection with the Services, this Website, a Merchant’s acts or omissions, another Client’s acts or omissions, or your use of or inability to use, the services or this Website, is excluded regardless of whether such liability arises in contract, tort (including negligence), equity, breach of statutory duty or otherwise. Kitomba’s liability and responsibility is excluded in respect of any and all loss or damage, whether direct or indirect, including, without limitation, loss of profits, loss of data, loss of business or anticipated savings, general and special damages, and consequential and incidental loss.
2. Kitomba will use its reasonable endeavours to ensure the availability of the Website and Services, subject to any downtime required for maintenance. However, Kitomba takes no responsibility for any system unavailability, or for any loss that is incurred as a result of Website or Services being unavailable. Furthermore, Kitomba takes no responsibility for the loss or corruption of any Client data or information or Content held by Kitomba.
3. Any information relating to a Merchant’s business operations, including booking times or schedules, on the Website are provided to Kitomba by the Merchant and Kitomba accepts no responsibility for the accuracy of this information. All material on this Website is provided “as is” and Kitomba gives no warranty of any kind regarding it, to the extent permitted by law.

9. Indemnity

1. The Client indemnifies and undertakes to keep indemnified Kitomba against any losses, damages, costs, liabilities and expenses (including without limitation legal expenses and any amounts paid by Kitomba to a third party (including the Merchant) in settlement of a claim or dispute) incurred or suffered by Kitomba arising out of any breach by the Client of any provision of these terms of use, or arising out of any claim that the Client has breached any provision of these terms of use.

10. Links to other websites

1. The Website may contain links to third party websites. These third party websites are not under Kitomba's control and so Kitomba is not responsible for the content or the links contained in those websites. We do not recommend or endorse the content of any third party website which may be linked to or from the Website, or the products or services of any third party mentioned or described on the Website.
2. The Website may contain advertisements for third parties' products and services. Kitomba is not the party offering those goods or services for sale and does not necessarily recommend or endorse those goods or services, or make any other representation whatsoever about them.

11. Client's Content

1. The Client grants to Kitomba a worldwide, irrevocable, non-exclusive, royalty-free licence to use, reproduce, adapt, publish, translate and distribute the Client's Content in any existing or future media. The Client also grants to Kitomba the right to sub-license these rights, and the right to bring an action for infringement of these rights.
2. The Client's Content must not be illegal or unlawful, must not infringe any third party's legal rights, and must not be capable of giving rise to legal action whether against the Client or Kitomba or any third party (in each case under any applicable law).
3. The Client must not submit any Content to the Website that is or has ever been the subject of any threatened or actual legal proceedings or other similar complaint.
4. Kitomba reserves the right to edit or remove any material (including Content) submitted to the Website, or stored on its servers.
5. Notwithstanding Kitomba's right under this clause 11, Kitomba does not undertake to monitor the submission of Content to, or the publication of Content on, the Website.

12. Contacts

1. If notice is required to be given to Kitomba under these terms and conditions please contact Kitomba via email at: support@kitomba.com

13. Entire Agreement

1. These terms of use constitute the entire agreement (and supersede all previous agreements) between the Client and Kitomba in relation to the Client's use of the Website.

14. Governing Law

1. These terms of use are governed by the laws of New Zealand. The Client submits to the non-exclusive jurisdiction of the Courts of New Zealand.