

Terms and Conditions

Please read these terms and conditions before confirming your booking of a court through this website.

1. Definitions

In these Terms and Conditions the following terms have the following meanings:

“**Booking**” means any Court booking You make through the Website;

“**Booking Terms**” means the Court Provider's terms and conditions, if any, governing its provision of any Court, a copy of which shall be available to You before You complete a Booking (if applicable);

“**ClubSpark Portal**” means the system, made available by Sportlabs, for the booking of Courts and other services provided by tennis venues, and the court booking module through which You may review, select, apply to attend and book and pay for Courts.

“**Court**” means a tennis court made available for booking through the Website;

“**Court Provider**” means the provider of the Court as stated within the applicable part of the Website, and as selected by You;

“**TNZ**” means Tennis New Zealand Incorporated, 17 Antares Place, Mairangi Bay, Auckland 0632;

“**Sportlabs**” means Sportlabs Technology Limited of 101 Barnett Wood Lane, Ashted, Surrey KT21 2LR (registered in England No. 7981720);

“the **Website**” means the website available at clubspark.kiwi/;

“**You**” or means you, the user of the Website as stated on the Booking Form, and “**Your**” shall be construed accordingly.

2. Terms and Conditions

2.1 Any person wishing to book a Court through the Website must accept these terms and conditions with Tennis New Zealand Incorporated and Sportlabs Technology Limited. These terms and conditions shall apply to the booking of a Court to the exclusion of all other terms and conditions with the exception of TNZ Website Terms and Conditions and TNZ Privacy Policy (each of which shall also apply) and, if You make a Booking, the relevant Court Provider's booking terms, if any (which shall if so applicable also apply).

2.2 TNZ has commissioned Sportlabs to provide, as part of the ClubSpark Portal, an online tool to facilitate the promotion and booking of Courts by members of the public and club members. The booking and transactional service are licensed directly to You by Sportlabs and not TNZ, and it is Sportlabs which facilitates transactions between You and any Court Provider, and facilitates payments on behalf of the Court Provider.

2.3 If You book a Court, You will enter into a contract with the relevant Court Provider. Sportlabs will facilitate that transaction by means of the ClubSpark Portal, but is not itself a party to that contract and accepts payment from you on behalf of the Court Provider. You should also refer to the Booking Terms before concluding any Booking.

2.4 By ticking the terms and conditions box as part of Your booking of a Court via the Website you acknowledge that You have read, understand and accept these terms and conditions.

3. Licence to use the ClubSpark Portal

3.1 You must provide true, complete and accurate information when booking a Court via the Website. You authorise Sportlabs to use such information to verify your information and to obtain credit authorisations. Sportlabs reserves the right to reject registration and Bookings at its reasonable discretion.

3.2 Sportlabs grants You a limited, non-transferable licence to make use of the booking and transactional modules of the Website for the purposes of booking and concluding purchase agreements with Court Providers for provision of Court Bookings.

4. Information on Courts

4.1 TNZ permits Court Providers to provide information and advertise their Courts using the ClubSpark Portal and the Website. TNZ grants You a limited, non-transferable licence to make use of the Website for the purposes of viewing such Court booking information.

4.2 As the information is provided by the Court Provider TNZ can make no representation and gives no assurance as to accuracy of information presented by Court Providers through the Website.

5. Bookings

5.1 A Booking for any Court shall be made by You directly with the Court Provider. Sportlabs facilitates the transaction between You and any Court Provider by means of the Website but neither Sportlabs nor TNZ is the buyer/recipient or seller/provider of any service offered and/or made available by any Court Provider through the Website. Notwithstanding conclusion of contracts between You and any Court Provider by means of the Website, Sportlabs acts as limited agent for You to conclude the booking contract with the Court Provider and enforcement of any contractual obligation relating to the provision of any Court is the exclusive responsibility of You and the Court Provider concerned.

5.2 Bookings shall in addition be subject to the Booking Terms.

6. Payment for Courts

6.1 You must (where a Court fee applies) pay for Courts booked through the Website by a credit or debit card accepted on the Website. A request by You to book a Court using the booking process on this Website is an offer made subject to these Terms and Conditions.

6.2 Once You have offered to book a Court then (when a Court fee applies), subject to checking Your debit/credit card details, Sportlabs will accept Your offer on behalf of the Court Provider and confirm Your Booking by displaying Your unique booking reference code.

6.3 The Booking contract shall consist of these terms and conditions, the email Sportlabs sends You on behalf of the Court Provider confirming acceptance of Your booking, the applicable details within the Court booking information provided by the Court Provider and the Booking Terms.

6.4 When Sportlabs accepts Your offer to book a Court, Sportlabs will (where a Court fee applies) charge Your debit/credit card with the total cost of the Court including a booking fee. Sportlabs will forward the cost of the Court to the Court Provider less the booking fee. The booking fee is the separate charge Sportlabs and its payment service provider make for facilitating the Booking (and is inclusive of VAT). If You require a VAT receipt for the Court booking fees You must contact the Court Provider.

6.5 Whilst Sportlabs try to ensure that all prices on the Website are accurate, errors may occur. If Sportlabs discover an error in the price of the Court You have booked, Sportlabs will inform You as soon as possible and give You the option of reconfirming Your order at the correct price (and credit or debit Your account as applicable) or cancelling Your booking. If Sportlabs is unable to contact You, You agree that Sportlabs may treat the booking as cancelled. If You choose to cancel after You have already paid the incorrect ticket price for the booking, You will receive a full refund from Sportlabs.

7. Cancellation and refunds

7.1 If You wish to cancel your Booking, you must cancel the Booking via the "My Bookings" page on the ClubSpark Portal, 24 hours or more prior to the scheduled time at which the Court booking is due to take place. It is at the Court Providers discretion to offer refunds within 24 hours or after the Court booking is due to take place.

7.2 If You give notice in accordance with paragraph 7.1 to cancel your Booking, You will (where a Court fee applies) be refunded the fee for the Court. No refund will be given if notice is given less than 24 hours prior to the scheduled commencement of the Court booking.

7.3 If a Court booking is cancelled by You within 24 hours of the Court booking, Sportlabs will process the refund and the fee for the Booking (where a fee applies) shall be refunded back to the card that it was paid with.

8. Limitation of liability

8.1 You acknowledge and agree that TNZ and Sportlabs use the ClubSpark Portal and the Website merely to facilitate the booking of Courts online and that neither TNZ nor Sportlabs is in any way responsible for the management, organisation or running of, or any health and safety issues in connection with, any Court or associated facilities advertised through the Website or the ClubSpark Portal. Liability for the provision and management of the Court remains the sole responsibility of the Court Provider.

8.2 So far as is reasonably practicable the Website is made available by Sportlabs on a 24 hour 7 day basis. As it is technically impossible to provide a fault-free uninterrupted service, the Website is provided 'as is' and 'as available' without warranties of any kind, express or implied (other than warranties not capable of exclusion as a matter of law). Whilst Sportlabs will use reasonable efforts to ensure that the Website booking facility is available at all times, to keep unavoidable interruptions to a minimum and to give notice at log-in of anticipated interruptions, there will inevitably be times when it is unavailable.

8.3 TNZ shall not be liable to You for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection Your use of the Website, or from any misrepresentation, whether innocent or negligent, except to the extent that such liability may not be lawfully excluded.

8.4 Notwithstanding anything else contained in this Agreement, TNZ shall not be liable to You for: (i) loss of profits or contracts or goodwill or statutory penalties or indirect or consequential loss, whether arising from negligence, breach of contract or howsoever caused; (ii) any and all costs related to the procurement of any substitute service(s); (iii) third party claims of any kind; or (iv) any loss or damage arising from Your failure to use the Website strictly in accordance with the terms of this Agreement.

8.5 Neither TNZ nor Sportlabs excludes liability for death or personal injury caused by its negligence.

9. Data Protection Act 1998

9.1 Each of TNZ and Sportlabs confirms that it will process Your personal data in accordance with the Data Protection Act 1998. You agree that TNZ, Sportlabs and the Court Provider may process Your personal data to provide the ClubSpark Portal, process the Booking and administer the Court (as applicable) and for any other purpose You agree to.

9.2 Your financial information (credit or debit card details) will not be stored by

Sportlabs. Sportlabs use a payment service provider who has been audited by a PCI-certified auditor, and is certified to PCI Service Provider Level 1. This is the most stringent level of certification available.

9.3 You agree that Your name may (where this is indicated in the Court booking information) appear on the Website and/or other material published by the Court Provider in connection with Your booking.

10.1 Force Majeure. Neither TNZ nor Sportlabs shall be liable for any failure to fulfil its obligations caused by circumstances beyond its reasonable control, including any period during which access to the Website is suspended, provided that such party has made reasonable efforts to fulfil its obligations under this Agreement.

10.2 Entire Agreement. These terms and conditions, together with TNZ Website Terms and Conditions and TNZ Privacy Policy, set out the whole of our agreement relating to use of the Website to book a Court with the exception of the Court Provider's booking terms where you make a Booking and there only in respect of the provision of the Court by the Court Provider. Nothing said by any person on our behalf should be understood as a variation of these terms and conditions or as an authorised representation about the nature or quality of any goods/services offered by TNZ. Except for fraud or fraudulent misrepresentation, neither TNZ nor Sportlabs shall have any liability for any such representation being untrue or misleading.

10.3 Variation. TNZ and Sportlabs shall have the right to modify the terms of this Agreement at any time by service of not less than 30 days' notice on You and, if you continue to use the service, you will be deemed to have accepted any such modification.

10.4 Severance & Waiver. In the event that any provision of this Agreement is held to be illegal, invalid, void or unenforceable, it shall be severed from the remaining provisions of this Agreement which shall continue in full force and effect. Failure or neglect by either party to enforce any provision of this Agreement shall not be construed nor shall be deemed

to be a waiver of a party's rights under this Agreement and shall not prejudice that party's rights to take subsequent action.

10.5 Assignment. You shall not, without the prior written consent of TNZ and Sportlabs, assign, sub-license, sub-contract or otherwise transfer to any third party any of its rights or obligations under this Agreement.

- 10.6 **Third Party Rights.** Each party agrees that no term of this Agreement will be enforceable by any third party by virtue of the Contracts (Rights of Third Parties) Act 1999.
- 10.7 **Governing Law and Jurisdiction.** These terms and conditions are subject to the laws of New Zealand and you and TNZ irrevocably submit to the exclusive jurisdiction of the Courts of New Zealand.
- 10.8 **Validity of terms.** If any provision of these terms is found to be invalid by any court having competent jurisdiction, the invalidity of that provision will not affect the validity of the remaining provisions of these terms, which shall remain in full force and effect.
- 10.9 **Contacting TNZ and Sportlabs.** If you need to contact TNZ or Sportlabs about these terms and conditions or the service provided through the Website you may do so by post using the address below or by email using this address enquiries@sportlabs.com.

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