



## Advertising Terms and Conditions

**STAR NEWS GROUP PTY LTD ACN 005 848 108, GEELONG INDEPENDENT PTY LTD ACN 006 653 336, MAIL NEWS GROUP PTY LTD ACN 006 310 498, ALBURY WODONGA COMMUNITY MEDIA PTY LTD ACN 133 396 362 AND NETWORK CLASSIFIEDS PTY LTD ACN 168 607 458**

(Standard trading terms & conditions for customers)

Star News Group Pty Ltd, Geelong Independent Pty Ltd, Mail News Group Pty Ltd and Albury Wodonga Community Newspapers Pty Ltd ("we") and the customer ("you") wish to enter into an agreement regarding advertising in our publications.

### 1

1.1 The agreement comprises:

- (a) these Terms and Conditions;
- (b) the terms of the Booking Order(s);
- (c) the Credit Application Form if any; and

1.2 The agreement constitutes the entire agreement between the parties and replaces any previous discussions, communications or other documents concerning the supply of the Services.

### 2 Interpretation

#### 2.1 Definitions

In this agreement, the following words have these meanings, unless the context otherwise requires:

Advertising Copy means all advertising, marketing or other material supplied by you for publication in any of our magazines or on our web-site in the form and manner approved by us;

Approved Agency means any customer who provides advertising agency services to its customers and which is recognized by us as an approved agency;

Cancellation Fee means the estimated charges and costs we would have reasonably expected to have received for provision of the Services but for your late cancellation including our charges for producing any Custom Materials and our Fees for publishing any Custom Materials or Advertising Copy based on the applicable Booking Order; Custom Materials means customised content and materials in any form which we have produced for any particular campaign or promotion.

Confidential Information means:

- (a) this agreement; and
- (b) all information of a confidential nature disclosed or communicated by the disclosing party to the recipient including any financial and pricing data; business plans; policies; suppliers; inventions; product information and information about a party's marketing and/or promotional activities

- (c) but excludes any information which the recipient can establish:
- (i) is or becomes generally available in the public domain otherwise than through a breach of this agreement or any obligation of confidence owed to the disclosing party;
  - (ii) is or becomes known to the recipient from a source other than the disclosing party otherwise than through a breach of an obligation of confidentiality owed to the disclosing party;
  - (iii) is or has been independently developed or acquired by the recipient; or
  - (iv) is approved in writing by the disclosing party for disclosure by the recipient;

Creative Services means any design, production and promotional services we may provide;

Fees means our fees and chargers for the provision of Services as specified in the Booking Order; Indirect Losses includes losses of profits, revenue, opportunity, anticipated savings or data or any indirect or consequential loss or damage;

Booking Order means a Booking Order Confirmation Form which specifies details of the Services we agree to provide to you;

Publication date means the Wednesday prior to the date of publication;

Order means an order for Services described in a Booking Order which has been accepted by us in accordance with this agreement;

Rate Card means our current standard rates and charges for the provision of Services as notified to you from time to time;

Services means the services to be supplied by us to you described in any Booking Order;

We, our or us means STAR NEWS GROUP PTY LTD (ACN 005 848 108), GEELONG INDEPENDENT PTY LTD (ACN 006 653 336), MAIL NEWS GROUP PTY LTD (ACN 006 310 498) NETWORK CLASSIFIEDS PTY LTD (ACN 168 607 458), AND ALBURY WODONGA COMMUNITY MEDIA PTY LTD (ACN 133 396 362)

You or your means the person identified as the "Customer" in the Booking Order; and Value Credit means a credit we may issue to you upon your cancellation of an Order in accordance with 3.4 (b) for the supply by us of replacement services of equivalent value to the Order.

### **3 Services**

#### **3.1 Provision of Services**

We will provide to you with, and you agree to use the Services in our publications in accordance with the agreement.

#### **3.2 Orders for Services**

- (a) You may request Services from us by completing a Booking Order.
- (b) We will not be obliged to supply you the particular Services set out in the Booking Order until both the parties have signed the Booking Order.
- (c) We may require you to submit a completed Credit Application Form prior to our signature of the Booking Order.

### 3.3 Cancellation of Services

- (a) You may cancel an Order for any Services at any time without charge provided that you give us at least seven (7) days notice prior to the Publication Date.
- (b) In the event you cancel an Order for Services on less than seven (7) days notice prior to the Publication Date we may in our absolute discretion issue you with a Value Credit or charge you a Cancellation Fee.
- (c) All Value Credits must be used within sixty (60) days of the issue date unless otherwise agreed.
- (d) You further acknowledge that use by you of any Value Credit is subject to the availability of replacement services.
- (e) If you cancel an Order for Creative Services, regardless of the notice period we will charge you for any production costs and charges incurred as of the date of the cancellation.
- (f) We may cancel an Order or part of an Order at any time without giving you any reasons for the cancellation. If we exercise this right we will at our option:
  - (i) refund to you any Fees already paid to us;
  - (ii) issue a Value Credit; or
  - (iii) reschedule the Publication Date to another date within sixty (60) days of the cancellation date; and you agree that this is our sole liability to you in relation to that particular Order or part Order.

## 4 Advertising Copy

### 4.1 Form of Advertising Copy

You will ensure all Advertising Copy complies with our advertising specifications, which are available on request.

### 4.2 Editorial Style Advertisements

- (a) You will ensure that Advertising Copy is clearly identifiable to users as advertising material and does not contain any material which could be confused by readers with our editorial content.
- (b) You acknowledge that we may label any Advertising Copy as an advertisement when we publish it.

### 4.3 Promotion of Competitions

You will ensure that any Advertising Copy which references any competition clearly identifies the promoter of the competition and that you have obtained all applicable permits and approvals for the conduct of the competition prior to the Publication Date.

### 4.4 Website Links

Any reference in any Advertising Copy directing readers to a website will be checked by us and may be removed from the Advertising Copy in our discretion in the event it does not meet with our approval for whatever reason.

### 4.5 Delivery of Advertising Copy

- (a) You will supply us with Advertising Copy for our approval prior to the Advertising Copy Deadline.
- (b) We may in our discretion accept late Advertising Copy for publication.

- (c) If we do not receive your Advertising Copy on time we may treat this as a cancellation of the applicable Order or part thereof and we may charge you a Cancellation Fee.

## **5 Sales Materials**

You acknowledge that any marketing slide packs, mock ups, presentations or marketing materials supplied to you concerning our Services are examples only and that we may in our discretion vary the placement of any Advertising Copy.

## **6 Creative Services**

### **6.1 Instructions and Materials**

You will supply us with any design instructions, logos, art work or materials which we will need to carry out Creative Services for you in the manner and format we specify at the time of completion of the Booking Order.

### **6.2 Approval of Custom Content**

We will use reasonable endeavours to supply proofs of all Custom Materials for your approval reasonably in advance of the Publication Date.

- 6.3 You must promptly check proofs upon receipt and notify us of your approval or of any errors or amendments you require prior to the Publication Date. We may charge you additional fees for any amendments.

- 6.4 Subject to Clause 6.2 if we do not receive your approval for proofs of the Custom Materials supplied to you at least five (5) days prior to Publication Date we may in our discretion treat this as a cancellation of the applicable Order or part thereof and we may charge you a Cancellation Fee.

## **7. Classified Advertising**

- 7.1 We will publish classified Advertising under the classification heading it determines is most appropriate. These headings are for the convenience of readers. We will publish classified display Advertising sorted by alphabetical caption and, where space permits, with related line Advertising.

## **8. Online Advertising**

- 8.1 For online banner and display Advertising, you must submit creative materials and a click through URL to us at least 3 working days (5 working days for non-gif material) or within such other deadline advised by us at its discretion before publication date. We may charge you for online Advertising cancelled on less than 30 days notice or if creative materials are not submitted in accordance with this clause 6.1.

- 8.2 All online Advertising (including rich media) must comply with our advertising specifications.

- 8.3 We will measure online display and banner Advertising (including impressions delivered and clicks achieved) through its ad-serving systems. Results from you or third party adservers will not be accepted for the purposes of our billing and assessment of Advertising.

- 8.4 We are not liable for loss or damage from an internet or telecommunications failure.

- 8.5 You acknowledge that we may, at our discretion, include additional features or inclusions such as third party advertisements within online classified Advertising.

## **9 Warranties**

### **9.1 Your Warranties**

You warrant to us that:

- (a) you have all applicable licenses and consents necessary to enter into and perform your obligations under the agreement;
- (b) you are fully authorised to act on behalf of any advertiser or client on whose behalf you are requesting Services;
- (c) you have complied and will continue to comply with all applicable laws and regulations in performing your obligations under the agreement;
- (d) you will not breach any agreement, arrangement or understanding with a third party as a result of entering into or performing any part of the agreement;
- (e) all Advertising Copy complies with all applicable laws and regulations and industry guidelines;
- (f) Advertising Copy will not infringe the intellectual property rights of any person;
- (g) Advertising Copy will not include or contain a link to any content that is, illegal, obscene, violent, defamatory or pornographic;
- (h) you will not use or redistribute to any third party without our permission any information or reports we may supply to you other than for the purpose of evaluating the performance of our Services.

### **9.2 Our warranties**

We warrant to you that:

- (a) we have the right to supply the Services to you;
- (b) we will use reasonable care and skill in supplying the Services; and
- (c) we will comply with all applicable laws and regulations in supplying the Services.

### **9.3 Exclusion of Warranties**

We exclude all implied conditions and warranties from this agreement except any conditions or warranties (such as those implied by the Competition and Consumer Act 2010 which cannot by law be excluded).

## **10.1 Intellectual Property**

- (a) Unless otherwise agreed in the Booking Order we or our licensors own the intellectual property in the Custom Material, our trade marks and any other material developed or provided by us under the agreement.
- (b) You and your licensors own the intellectual property in any Advertising Copy, your trade marks and any other material you provide to us under the agreement.
- (c) Except as authorised by the agreement, the parties agree not to:
  - (i) reproduce the other party's intellectual property; or
  - (ii) sub-license, on-supply or further syndicate the other party's intellectual property.

## 10.2 Licence of Intellectual Property

- (a) You grant us a limited, non-exclusive and non-transferable licence to reproduce and communicate to the public the Advertising Copy in our publications in accordance with the agreement.
- (b) You grant us a limited non-exclusive right to copy, adapt, modify and otherwise use any logos or other design materials you supply to use for the purposes of supplying you with Creative Services.

## 11 Payment

### 11.1 Rates and Fees

You will pay the Fees. If no Fees are specified in the Booking Order the charges for our Services will be as set out in our current Rate Card at the time of our acceptance of the Order.

### 11.2 Changes to Rates

We may change our Rate Card from time to time without notice.

### 11.3 Costs and charges

We may charge you additional costs we incur in the provision of Services including:

- (a) cost of obtaining any necessary licenses for any competitions which form part of Creative Services;
- (b) any additional costs we incur in providing any talent, photography, filming, special effects of other special services which you request be supplied as part of the for the Creative Services;
- (c) late payment charges for any overdue invoice calculated monthly on the overdue amount at two per cent (2%) above the rate of rate set out in the Penalty Interest Rates Act 1983 (Vic).

### 11.4 GST and taxes

You will pay all taxes, duties and other government charges payable or assessed in connection with the agreement including goods and services tax, other value added tax, sales or use taxes, stamp duty and turnover tax, but excluding taxes, duties and government charges assessed on our income.

### 11.5 Invoices

- (a) We will invoice you monthly for fees and costs due under the agreement.
- (b) You will pay the amounts invoiced within thirty (30) days of the date of the invoice.

## 12 Approved Agencies

### 12.1 Commission Payments

- (a) Where you are an Approved Agency you will be entitled to receive a commission equal to ten percent (10%) of the total amount of your monthly invoiced Fees if agreed in writing prior to booking being placed.
- (b) Payment of any commission is conditional upon the following:
  - (i) you must fully disclose to your clients the amount of commission you receive from us;
  - (ii) you must fully comply with this agreement; and

- (iii) payment in full of invoices within thirty (45) days.
- (c) Any commission payable to you will be deducted from your monthly invoice. We will add GST to the commission.

#### 12.2 Status as Approved Agency

- (a) You must supply us with any information we may reasonably request in support of your application to be registered as an Approved Agency including solvency statements, balance sheets and profit and loss statements and details of any insurance policies you hold.
- (b) We may revoke your status as an Approved Agency at any time upon written notice without giving any reason.

### 13 Confidential Information

- (a) Each party must:
  - (i) take all action reasonably necessary to maintain the confidentiality of the other party's Confidential Information;
  - (ii) not disclose the other party's Confidential Information to any person except as permitted under paragraph (b);
- (b) A party ("recipient") may disclose the Confidential Information of the other party:
  - (i) to a representative of the recipient who needs to know the Confidential Information for the purposes of this agreement and subject to the recipient taking reasonable steps to ensure that any such representative is fully aware of the confidential nature of the Confidential Information of the disclosing party before the disclosure is made; or
  - (ii) which is required or authorised to be disclosed by any law.

### 14 Indemnity and liability

You indemnify us against all loss or liability we may suffer or incur arising out of any claim made against us as a result of breach of your warranties in clause 7.1 and any act or omission by you in connection with your Advertising Copy.

#### 14.1 Limitation of Liability

- (a) neither party is liable for any Indirect Loss incurred by them or by any other person arising out of or in connection with the agreement; and
- (b) our liability to you for any claims made under the agreement (whether such liability arises in contract, tort (including negligence) or otherwise) is, to the fullest extent permitted by law, limited at our option to resupplying the Services or paying the cost of having the Services resupplied.

#### 14.2 No responsibility for Advertising Copy

- (a) We are not liable for any aspect of the Advertising Copy including any products or services referred to in the Advertising Copy.
- (b) You are solely responsible for the content of all Advertising Copy and associated products and services, including any ancillary competitions and promotions.

#### 14.3 Errors

It is your responsibility to notify us of any error published, immediately after publication. We are not responsible for recurring errors.

#### 14.4 Complaints

If you wish to make a claim for a Value Credit, republication or any other remedy in respect of our Services you must send the claim in writing to us within fourteen (14) days after the Publication Date.

### 15 General

#### 15.1 Applicable law

This agreement is governed by the laws of Victoria. Each party submits to the non-exclusive jurisdiction of the courts of that State.

#### 15.2 Notices

Any notice must be in writing to the address of the addressee as stated in the Booking Order.

#### 15.3 Public statements

Neither party may issue a press release or other public statement in relation to the agreement without the prior written consent of the other.

#### 15.4 No Agency

The agreement will not create a joint venture, legal partnership, employment or agency relationship between you and us.

#### 15.5 Assignment

Neither party may transfer or assign this agreement without the other party's prior written consent (not to be unreasonably withheld).

#### 15.6 Force Majeure

Neither party will be liable for its failure to perform any of its obligations under the agreement due to any contingency beyond its reasonable control.

#### 15.7 Privacy

We may collect your personal information in order to provide the Services to you and for invoicing purposes. The collection, use or disclosure of any personal information provided to us by you in connection with your use of the Services is subject to our Privacy Policy.

### 16 Distribution

16.1 We use a third party supplier for the household distribution of free publications and do not make any representation or warranty about the performance of this service.

16.2 Any representations by us about distribution numbers or distribution areas/coverage are estimates only. We do not provide refunds of advertising costs in the event of fluctuations in distribution numbers or areas/coverage as these can vary from week to week.