

These terms apply to all advertising provided to any person or entity ('Customer') by Fairfax Media Limited ABN 15 008 663 161 or its subsidiaries (all of which are referred to as 'Fairfax').

## 1. Publication of Advertising

1.1 Subject to these Terms, Fairfax will use its reasonable endeavours to publish advertising submitted by Customers ('Advertising') in the format submitted by the Customer and in accordance with the placement instructions of the Customer. 'Advertising' includes images submitted for publication and content or information relating to published Advertisements.

1.2 Customer grants Fairfax a worldwide, royalty-free, non-exclusive, irrevocable licence to publish, and to sub-licence the publication of, the Advertising in any form and in any medium. Fairfax may publish print Advertising online or vice versa. Customer warrants that it has the right and authority to grant Fairfax the licence referred to in this clause 1.2.

## 2. Right to Refuse Advertising

2.1 Neither these Terms nor any written or verbal quotation by Fairfax represents an offer to publish Advertising. A binding contract for Advertising will only be formed between Fairfax and Customer when Fairfax accepts the Advertising in writing or generates a tax invoice for that Advertising.

2.2 Fairfax reserves the right to refuse or withdraw from publication any Advertising at any time without giving reasons (even if the Advertising has previously been published by Fairfax).

## 3. Right to vary Format, Placement or Distribution

3.1 Fairfax reserves the right to:

- (a) vary the placement of Advertising within a particular print title or internet site;
- (b) change the format of print Advertising (including changing colour to black and white); and
- (c) distribute interstate or regional editions of a paper without including all inserts or classified sections.

3.2 Except in accordance with clause 12, Fairfax will not be liable for any costs, expenses, losses or damages incurred by a Customer arising from Fairfax's failure to publish Advertising in accordance with a Customer's request.

3.3 If Fairfax changes the press or the press configuration for the printing of a publication, Fairfax reserves the right to shrink or enlarge the size of the Advertising by up to 10% without notifying the Customer and without change to the rates for that Advertising.

## 4. Submission of Advertising

4.1 Customer warrants to Fairfax that the Advertising and the publication by Fairfax of the Advertising does not breach or infringe:

- (a) the Trade Practices Act (Cth), Fair Trading Acts (State) or equivalent legislation;
- (b) any copyright, trade mark, obligation of confidentiality or other personal or proprietary right;
- (c) any law of defamation, obscenity or contempt of any court, tribunal or royal commission;
- (d) State or Commonwealth anti-discrimination legislation;

(e) the Privacy Act (Cth);

(f) any financial services law as defined in the Corporations Act 2001(Cth); or

(g) any other law or applicable code (including any common law, statute, delegated legislation, rule or ordinance of the Commonwealth, or a State or Territory).

4.2 Customer warrants that if Advertising contains the name or photographic or pictorial representation of any living person and/or any copy by which any living person can be identified, the Customer has obtained the authority of that person to make use of his/her name or representation or the copy.

4.3 Advertising for publication that contains contact details for the Customer must contain the full name and street address of the Customer. Post office box and email addresses alone are insufficient.

4.4 If a Customer submits Advertising that looks, in Fairfax's opinion, like editorial material, Fairfax may publish the Advertising under the heading 'Advertising' with a border distinguishing it from editorial.

4.5 Fairfax will endeavour to take reasonable care of Advertising material in its custody and control, but will not be responsible for any loss or damage to Advertising material.

4.6 Advertising submitted electronically must comply with Fairfax's specifications. Fairfax may reject the Advertising material if it is not submitted in accordance with such specifications.

4.7 Advertising material delivered digitally to Fairfax will only be accepted if the file includes the correct Fairfax booking identification number.

4.8 If Customer is a corporation and the Advertising contains the price for consumer goods or services, Customer warrants that the Advertising complies with section 53C of the Trade Practices Act (Cth) and therefore contains, as a single price, the minimum total price the consumer must pay to acquire the goods or services to the extent quantifiable at the time of the Advertising.

4.9 Customer must not resell Advertising space to any third party without Fairfax's consent.

4.10 If Advertising promotes a competition or trade promotion, Customer warrants that it has obtained all relevant permits and authorisations for the competition or promotion and indemnifies Fairfax against any claim or liability incurred by Fairfax in connection with the competition or promotion.

## 5. Classified Advertising

5.1 Fairfax will publish classified Advertising under the classification heading that it determines is most appropriate. Classified Advertising headings are for the convenience of readers and are determined at the discretion of Fairfax.

5.2 Fairfax will publish classified display Advertising sorted by alphabetical caption and, where space permits, with related line Advertising.

## 6. Online Advertising

6.1 For online banner and display Advertising, the Customer must:

- (a) cancel online Advertising in writing at least 30

days before the publication date; and

(b) submit creative materials and a click-through URL to Fairfax at least 3 working days (5 working days for non-gif material) before the scheduled publication date.

Fairfax reserves the right to charge the Customer for online Advertising cancelled on less than 30 days notice or if creative materials are not submitted in accordance with clause 6.1(b).

6.2 All online Advertising (including rich media) must comply with Fairfax's advertising specifications, which are available on request.

6.3 Fairfax will measure online display and banner Advertising (including impressions delivered and clicks achieved) through its own ad-serving systems. Results from Customer or third party ad-servers will not be accepted for the purposes of Fairfax's billing and assessment of Advertising.

6.4 Subject to clause 12, Fairfax is not liable for any loss, damages or liabilities arising from a failure of the internet or any telecommunications structure.

6.5 Customer acknowledges that Fairfax may at its discretion include additional features or inclusions such as third party advertisements within online classified Advertising.

## 7. Errors

7.1 The Customer must promptly check proofs of Advertising (if these are provided to the Customer by Fairfax) and notify Fairfax of any errors in the proofs or in published Advertising.

7.2 Fairfax does not accept responsibility for any errors submitted by the Customer or its agent, including errors in Advertising placed over the telephone.

7.3 If a Customer wishes to make a claim on Fairfax for credit, re-publication or any other remedy in respect of Advertising, the Customer must send the claim in writing to Fairfax no later than 14 days after the date of publication of the Advertising.

7.4 Fairfax will only investigate complaints during normal office hours (9am to 5pm, Monday to Friday excluding public holidays).

## 8. Advertising Rates and GST

8.1 The Customer must pay for Advertising at the rates in the relevant ratecard, unless otherwise agreed, at the casual rate. Ratecard rates may be varied at any time by Fairfax without notice.

8.2 Customer must pay GST at the same time as it pays for the Advertising. Fairfax will provide Customer with a tax invoice or adjustment note (as applicable).

8.3 The Customer's eligibility for discounts and rebates will be based on the Customer's GST-exclusive advertising spend.

## 9. Credit

9.1 Fairfax may grant, deny or withdraw credit to a Customer at any time in its discretion.

9.2 The Customer must ensure that its Customer account number is available only to those of its employees authorised to use it. The Customer acknowledges that it will be liable for all Advertising requested with the quotation of the Customer's account number.

## 10. Payment

10.1 The Customer must pay for Advertising:

- (a) by pre-payment, if required by Fairfax;
- (b) if Advertising on account, within 7 days after the date of the invoice; and
- (c) within 30 days of invoice date if a commercial account has been established with Fairfax.

10.2 The Customer must pay:

- (a) for print Advertising in accordance with the size of the Advertising material lodged by the Customer, or the Advertising space ordered by the Customer, whichever is greater; If Customer fails to provide the copy or material for space that is booked, Customer will still be charged unless a cancellation is approved by Fairfax;
- (b) the full price for Advertising even if Fairfax has exercised its right to vary the format or placement of the Advertising and even if there is an error or omission in the Advertising (unless the error or omission was the fault of Fairfax); and
- (c) any electronic transmission costs.

## 11. Failure to Pay and other Breach

11.1 If a Customer fails to pay for Advertising in accordance with **clause 10** or if a Customer suffers an Insolvency Event as defined in **clause 11.2**,

Fairfax may (in its discretion and without limitation):

- (a) cancel any provision of credit to the Customer;
- (b) require cash pre-payment for further Advertising;
- (c) charge interest on all overdue amounts at the rate 2% above the National Australia Bank Overdraft Base Rate;
- (d) take proceedings against the Customer for any outstanding amounts;
- (e) recover from the Customer all costs of action taken by Fairfax to recover amounts owing, including without limitation, mercantile agency and legal costs on a full indemnity basis;
- (f) cease publication of any further Advertising on behalf of the Customer and terminate any agreement in relation to Advertising not yet published; and
- (g) exercise any other rights at law.

11.2 A Customer suffers an **'Insolvency Event'** if:

- (a) the Customer is a natural person and the Customer commits an act of bankruptcy;
- (b) the Customer is a body corporate and the Customer:
  - (i) cannot pay its debts as and when they fall due;
  - (ii) enters an arrangement with creditors other than in the ordinary course of business;
  - (iii) passes a resolution for administration, wind up or liquidation (other than for the purposes of re-organisation or reconstruction);
  - (iv) has a receiver, manager, liquidator or administrator appointed to any of its property or assets; or
  - (v) has had a petition presented for its winding up.

11.3 Fairfax reserves the right to withhold any discounts or rebates if the Customer fails to comply with its payment obligations.

11.4 A written statement of debt duly signed by an authorised employee of Fairfax shall be prima facie evidence and proof of the amount owed by the

Customer to Fairfax.

## 12. Liability

12.1 The Customer acknowledges that it has not relied on any advice given or representation made by or on behalf of Fairfax in connection with the Advertising.

12.2 Fairfax excludes all implied conditions and warranties from these terms, except any condition or warranty (such as conditions and warranties implied by the Trade Practices Act and equivalent State acts) which cannot by law be excluded (**'Non-excludable Condition'**).

12.3 Fairfax limits its liability:

- (a) for breach of any Non-Excludable Condition (to the extent that liability for such breach can by law be limited); and
- (b) for any other error or omission in published Advertising caused by Fairfax:

at Fairfax's option, to re-supply of the Advertising or payment of the cost of re-supply.

12.4 Subject to **clauses 12.2** and **12.3**, Fairfax excludes all other liability to the Customer for any costs, expenses, losses and damages incurred by the Customer in connection with these Terms and any Advertising published by Fairfax, whether that liability arises in contract, tort (including by Fairfax's negligence) or under statute. Without limitation, Fairfax will in no circumstances be liable for any indirect or consequential losses, loss of profits, loss of revenue or loss of business opportunity.

12.5 The Customer indemnifies Fairfax and its officers, employees, contractors and agents (the **'Indemnified'**) against any costs, expenses, losses, damages and liability suffered or incurred by the Indemnified arising from the Customer's breach of these Terms and any negligent or unlawful act or omission of the Customer in connection with the Advertising.

## 13. Privacy

13.1 Fairfax collects a Customer's personal information to provide the Advertising to the Customer and for invoicing purposes. Fairfax may disclose this personal information to its related companies, to credit reporting agencies and other third parties as part of provision of the Advertising. Where a Customer has an overdue account, Fairfax may disclose personal information to debt collection agencies to recover the amount due.

13.2 Customers may gain access to their personal information by writing to the Fairfax Privacy Officer at GPO Box 506, Sydney, 2001. More information about privacy is in Fairfax's privacy policy accessible at [www.fxj.com.au](http://www.fxj.com.au).

## 14. Confidentiality

14.1 Each party must treat as confidential, and will procure that its advertising agents, other agents, contractors and representatives ("Agents") treat as confidential:

- (a) the terms of this Agreement (including terms relating to volumes and pricing);
- (b) any information generated for or pursuant to the performance of this Agreement, including

without limitation all data relating to advertising schedules, budgets, forecasts, booked advertising, prices or volumes;

- (c) any other information that ought in good faith to be treated as confidential given the circumstances of disclosure or the nature of the information;
- (d) any information derived wholly or partly for any information referred to in (a) to (c) above; unless disclosure is required by law.

14.2 Each party agrees to take all reasonable precautions to prevent any unauthorised use, disclosure, publication or dissemination of the confidential information by or on behalf of itself or any third party.

## 15. General

15.1 These Terms, together with any other written agreement between the Customer and Fairfax relating to these Terms, represent the entire agreement of the Customer and Fairfax for Advertising. They cannot be varied except in writing by an authorised officer of Fairfax. No purchase order or other document issued by the Customer will vary these Terms.

15.2 Fairfax will not be liable for any delay or failure to publish Advertising caused by a factor outside Fairfax's reasonable control (including but not limited to any act of God, war, breakdown of plant, industrial dispute, electricity failure, governmental or legal restraint).

15.3 Fairfax may serve any notice on a Customer by sending it by pre-paid post or facsimile to the last known address of the Customer.

15.4 These Terms are governed by the laws of the State in which the billing company for the Advertising is located and each party submits to the non-exclusive jurisdiction of that State.