

These terms and conditions ("Terms") apply to all advertising services provided to any person ("Customer") by Business News Pty Ltd ABN 73 009 193 041 trading as WA Business News or any of its subsidiaries (all of which are referred to as "WABN").

### 1. Publication of Advertising

1.1 Subject to these Terms, WABN 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.

1.2 WABN may, in its discretion and without further cost to the Customer, re-publish Advertising in other WABN publications and media. For example, WABN may publish print Advertising on-line, or vice versa. Customer warrants WABN is entitled to publish the Advertising anywhere in the world in any medium.

### 2. Right to Refuse or Withdraw Advertising

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

2.2 Even if a contract has been formed in accordance with the above clause, WABN 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 WABN).

### 3. Right to Vary Format and Placement

3.1 The Customer acknowledges that the positioning and colour of print Advertising is subject to space and colour availability at the time of printing, and will be at the discretion of WABN.

3.2 WABN reserves the right to:

- (a) vary the placement of Advertising within a particular print title or Internet site; and
- (b) change the format of print Advertising (including but not limited to changing a format from colour to black and white).

3.3 WABN will endeavour to notify the Customer of any such changes. However, except in accordance with clause 12, WABN will not be liable for any costs, expenses, losses or damages suffered or incurred by a Customer arising from WABN's failure to publish Advertising in accordance with a Customer's request.

3.4 Without limiting the discretion of WABN concerning position and colour of any Advertising:

- (a) WABN will attempt to position Advertising or provide colour in accordance with the Customer's preferred position or colour loading charges;
- (b) any liability for publishing Advertising not in accordance with the Customer's preferred position or colour request will be limited to crediting the Customer for the relevant loading charges; and

(c) bookings which are in any way conditional will not be accepted.

### 4. Submission of Advertising

4.1 Customer warrants to WABN that 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); or
- (f) any other law (including but not limited to any common law, statute, delegated legislation, rule and ordinance of the Commonwealth or any State or Territory).

4.2 Customer warrants that in respect of Advertising that 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 Customer warrants that any Advertising of a financial service complies with the relevant legislation and its publication by WABN does not give rise to any breach by WABN under that legislation.

4.4 The Customer must not submit Advertising for publication that contains contact details for the Customer if those contact details do not include the full name and street address of the Customer. Post office box and email addresses alone are insufficient.

4.5 If, in WABN's opinion, a Customer submits Advertising that looks like editorial material, WABN may publish the Advertising under the heading "Advertising" and with a border distinguishing it from nearby editorial.

4.6 The Customer must collect Advertising material submitted to WABN immediately after publication. WABN 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 (even if caused by WABN's negligence).

4.7 The Customer authorizes WABN to dispose of any Advertising material (including but not limited to illustrations, artwork) not collected by the Customer within 14 days of publication. The Customer acknowledges that that WABN accepts no liability for the return of any Advertising material submitted to WABN.

4.8 If the Customer submits Advertising material electronically, the material must comply with WABN specifications, which are available upon request. WABN may reject the Advertising material if it is not submitted in accordance with such specifications.

4.9 The Customer acknowledges that it is its responsibility to ascertain the WABN specifications for Advertising material, which may change from time to time without notice. No claims for errors will be considered where material is

supplied to WABN which does not comply with such specifications.

**4.10** If Advertising has been booked in advance, the Advertising material must be submitted by the deadlines specified in the Ratecard. If Advertising material is not submitted by the specified deadlines, WABN reserves the right to:

- (a) treat the Advertising as having been cancelled; or
- (b) place any previous Advertising submitted by the Customer within the publication at the quoted rate.

## **5. Classified Advertising**

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

**5.2** WABN 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) confirm the Advertising at least 60 days before the Advertising is scheduled to appear, by submitting a signed 'Advertising Confirmation' form to WABN;
- (b) Existing customers with the option to renew must exercise their request in writing no later than 60 days prior to the expiry of the current online advertising schedule.
- (c) cancel online Advertising in writing at least 60 days before the Advertising is scheduled to appear. WABN reserves the right to charge the Customer for online Advertising cancelled on less than 30 days notice; and
- (d) submit creative materials and a click-through URL to WABN at least 5 working days (5 working days for non-.gif material) before the Advertising is scheduled to appear.

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

**6.3** Subject to clause 12, WABN is not liable for any loss, damages or liabilities arising from but not limited to, a failure of the World Wide Web or any telecommunications structure.

## **7. Errors**

**7.1** The Customer must promptly:

- (a) check proofs of Advertising provided to the Customer by WABN; and
- (b) notify WABN of any errors in the proofs or any published Advertising.

**7.2** WABN does not accept responsibility for any errors in print Advertising placed over the telephone.

**7.3** WABN does not accept responsibility for any errors in Advertising material received electronically from third parties.

**7.4** If a Customer wishes to make a claim on WABN for credit, re-publication or any other remedy in respect of Advertising, the Customer must send the claim in writing to WABN no later than 14 days after the date of the tax invoice or date of publication of the Advertising (whichever is earlier).

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

## **8. Advertising Rates and Taxes**

**8.1** The customer must pay for advertising and production in accordance with the rates in WABN's Ratecard (and, unless otherwise agreed, at the standard rates).

**8.2** The rates in the Ratecard:

- (a) may be varied at any time by WABN without notice; and
- (b) are exclusive of taxes, duties or GST ('Taxes'), unless the Ratecard specifies that GST or other Taxes are included.

**8.3** The Customer must pay an additional amount equal to any Taxes payable by WABN in respect of Advertising or production. WABN will provide Customers with a tax invoice or adjustment note (as applicable) in a compliant form for GST purposes.

**8.4** The Customer's eligibility for discounts and rebates will be based on the Customer's GST-exclusive Advertising spend, which will be subsequently adjusted for applicable GST.

**8.5** If the Customer and WABN have agreed a reduced rate ('Reduced Rate') in contemplation of a specified volume of Advertising within a specified period of time and the Customer does not use or pay for the specified volume within the specified period of time, WABN may charge the Customer with a fee equal to, but not greater than, the difference between the Reduced Rate and the standard rate set out in the Ratecard.

**8.6** If a Customer withdraws Advertising without providing further Advertising to be placed on the Customer's behalf in that edition of the publication, WABN may assess the amount of space which may be used by other Customers and accordingly charge the Customer for any discounted space. Any such amounts may be set off against payments already made for such Advertising by the Customer.

**8.7** Cancellations of Advertising on specified pages (front page, pages 3, 5, 7, 9 back page, gusto, property, general news) received within 60 days of the publication date will incur a cancellation fee equal to 100% of the price of the cancelled Advertising.

**8.8** Cancellations of Advertising on non-specified pages (run of paper) received within 30 days of the publication date will incur a cancellation fee equal to 100% of the price of the cancelled Advertising.

## **9. Credit**

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

## **10. Payment**

**10.1** The Customer must pay for Advertising:

- (a) by pre-payment, if so required by WABN; and
- (b) on account, within 14 days after the date of the invoice.
- (c) Credit card payments for amounts greater than \$450 are subject to a 1.5% processing fee for Visa, M/Card, B/Card and 3% for Amex and Diners Club.

**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;

- (b) the full price for Advertising notwithstanding;
- (i) the fact that WABN has exercised its right to vary the format or placement of the Advertising; and
- (ii) any error or omission in the Advertising (unless the error or omission was the fault of WABN).

### 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, WABN may (in its discretion and without limitation):

- (a) charge a Customer a late payment fee of \$15.00 per week on overdue accounts;
- (b) cancel any provision of credit to the Customer;
- (c) require cash pre-payment for further Advertising;
- (d) charge interest on all overdue amounts at the rate 2% above the National Australia Bank Overdraft Base Rate;
- (e) take proceedings against the Customer for any outstanding amounts;
- (f) recover from the Customer all costs relating to any action taken by WABN to recover amounts owing for Advertising, including without limitation any mercantile agency costs and legal costs on a full indemnity basis;
- (g) cease publication of any further Advertising on behalf of the Customer and terminate any agreement in relation to Advertising not yet published; and
- (h) 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 into any arrangement with its 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) a receiver, manager, liquidator or administrator is appointed to any of its property or assets; or
  - (v) any petition is presented for the winding up of the Customer.

**11.3** WABN 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 WABN shall be prima facie evidence and proof of the amount owed by the Customer to WABN.

### 12. Liability

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

**12.2** WABN 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** WABN 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 WABN, to (at WABN's option) re-supply of the Advertising services affected by the breach, or payment of the cost of re-supply.

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

**12.5** The Customer indemnifies WABN 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** WABN collects a Customer's personal information to provide the Advertising services to the Customer and for invoicing purposes. WABN 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, WABN 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 WABN Privacy Officer at Level 1, 82 Beaufort Street, PERTH WA 6000. More information about privacy and accessing personal information is in WABN's privacy policy which is accessible at [www.wabusinessnews.com.au/privacypolicy.php](http://www.wabusinessnews.com.au/privacypolicy.php).

### 14. General

**14.1** These Terms represent the entire agreement of the Customer and WABN in relation to Advertising and cannot be varied except in writing by an authorised officer of WABN. No purchase order or other document issued by the Customer will vary these Terms.

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

**14.3** WABN may serve any notice or court documents on a Customer by forwarding them by pre-paid post or facsimile to the last known address of the Customer.

**14.4** These Terms are governed by the laws of the state of Western Australia, and each party submits to the non-exclusive jurisdiction of the courts of that State.

**For any queries pertaining to the terms & conditions of advertising please contact:**

WA Business News | Level 1, 82 Beaufort Street | Perth 6000 | T: 08-9288 2100 | F: 9227 6503