

# ADVERTISERS TERMS AND CONDITIONS

These terms and conditions ('the terms') govern every contract made between *white* for the supply of goods and services by *white* to any person, firm or company ('the Client'). The Goods and/or Services shall be as described on the invoices, quotation, work authorisation, sales order or any other work commencement.

These terms prevail over any written terms and conditions of the Client. Any variation to the terms must be agreed in writing by a director or appointed representative of *white*.

All contracts between *white* and the Client will be governed by NSW/ Australian law and the parties agree to submit to the jurisdiction of the Australian Courts.

## 1. BOOKING PROCESS

- 1.1** Advertiser may cancel all or part of a Booking without penalty if written notice is given before the Cancellation Date. Bookings accepted by *white* after the Cancellation Date may not be cancelled by the Advertiser.
- 1.2** If Advertiser cancels all or part of a Booking after the Cancellation Date, *white* is entitled to payment for the Booking.
- 1.3** If *white* fails to issue a Confirmation Advice relating to any Booking but provides Publishing Services, these terms will bind the Advertiser as if a Confirmation Advice had been issued.

## 2. CONDITIONS RELATING TO PUBLISHING SERVICES

- 2.1** *white* may, at its discretion, refuse to accept any Copy for publication and may at any time cancel or reschedule any Booking.
- 2.2** *white* may, at its discretion, refuse Publishing Services to Advertiser if Advertiser is in breach of these conditions or any agreement between Advertiser and *white*.
- 2.3** Bookings may not be resold or sub-licensed by Advertiser or used other than for Copy referred to in the Confirmation Advice.
- 2.4** *white* make no warranties in relation to proximity of publication of Copy relative to publication of copy relating to competing products or services.
- 2.5** If *white* is unable to perform an obligation under these conditions by reason of an event outside of *white*'s reasonable control, performance of that obligation is suspended.

## 3. COPY LODGEMENT

- 3.1** Advertiser must lodge Copy in accordance with *white*'s Copy Lodgement Requirements.
- 3.2** If Copy is not lodged as required by *white*, *white* is entitled to payment for the Booking and may at its election publish copy previously provided by Advertiser or cancel the Booking.
- 3.3** *white* reserves the right to place the word "advertisement" above or below any Copy which in *white*'s opinion resembles editorial matter.

## 4. INTELLECTUAL PROPERTY

- 4.1** We reserve the right to use any work we produce for you as samples, which we may use or reproduce in any reasonable way for our marketing needs.
- 4.2** All designs we create cannot be altered or used in a different context other than what has been agreed upon unless given written permission by *white*. Any use of this work by the client and/or their assigns is strictly prohibited without written, prior permission by *white*. A fee may be incurred for release of artwork and photography.
- 4.3** All artwork, designs, edits, revisions and work product including logos created by *white* remain the exclusive copyright and intellectual property of *white*.
- 4.4** *white* shall be free to reproduce, use, disclose, display, exhibit, transmit, create derivative works, and distribute any created work unless specifically agreed otherwise.

## 5. WARRANTIES

- 5.1** Advertiser warrants to *white* that Copy and Photo/image lodged with *white*:
  - (a)** complies with all laws, statutes, regulations, codes of practice and any standards applicable to publication of Copy and determined by any relevant regulatory agency or industry self-regulatory body;
  - (b)** complies with any standard or requirement specified by *white* and notified to the Advertiser from time to time;
  - (c)** does not infringe copyright, trademark or other legal rights of any person;
  - (d)** is not false or misleading and is true in substance and in fact;
  - (e)** without limiting the above, does not infringe the Trade Practices Act 1974 (Australia) (as amended); and
  - (f)** does not contain anything which may give rise to any cause of action by a third party against *white*, including without limitation material which is defamatory or obscene or which otherwise causes injury or damage to any person.

## 6. INDEMNITY

- 6.1** Advertiser indemnifies *white*, its employees, agents and affiliates, and their employees and agents against any action, claim, loss or expense arising from publication of Copy or cancellation or failure to publish any Copy and all costs, losses and expenses suffered or incurred by *white*, its employees, agents and affiliates, and their employees and agents as a result of any breach by Advertiser of these conditions or any agreement between Advertiser and *white*.

## 7. LIABILITY

- 7.1** *white* liability to the Client or any other party for the loss (including theft) or destruction of or damage to any film or negatives, digital media or other material belonging to the Client or any other party which are deposited with *white* for processing, whether caused by the negligence of *white*, its employees or agents or otherwise will be limited to the replacement cost of the film, negatives or other materials and *white* will not be liable for the cost of re-taking or re-shooting the material contained in the film, negatives or other material.
- 7.2** *white* will not be liable for any consequential loss or damage incurred by the Client or any other party including loss of profit or income and it is the Client's responsibility to insure against such loss and damage.
- 7.3** *white* will not be liable for any failure to perform, any contract between *white* and the Client which is due to any circumstances beyond *white* control including (but not limited to); inability to secure labor, materials, supplies or transport; power or components; or machine breakdown, theft, vandalism, fire, storm, flood act of God, war, civil disturbance, strikes, lock-outs, or industrial action (of any form).

## 8. DEFAULT & CONSEQUENCES OF DEFAULT

- 8.1** Overdue Balance and Collection Fees: Overdue payments will incur a monthly fee of 2.5% until payment is made. Overdue accounts that are sent to a collection agency will incur a 30% processing and collection fee, in addition to any interest charges and late fees you have already incurred. You will be responsible for all collection costs, including reasonable legal fees.
- 8.2** If the Client defaults in payment of any invoice when due, the Client shall indemnify *white* from and against all *white*'s costs and disbursements including on a solicitor and own client basis and in addition all of *white*'s nominees costs of collection.

## 9. PRIVACY ACT 1988

- 9.1** The Client agrees for *white* to obtain from a credit-reporting agency a credit report containing personal credit information about the Client in relation to credit provided by *white*.
- 9.2** The Client agrees that *white* may exchange information about Client with those credit providers named in the Application for Credit account or named in a consumer credit report issued by a reporting agency for the following purposes:
- (a)** To assess an application by Client;
  - (b)** To notify other credit providers of a default by the Client;
  - (c)** To exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and
  - (d)** To assess the credit worthiness of Client.
- 9.3** The Client consents to *white* being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1) (h) Privacy Act 1988).
- 9.4** The Client agrees that Personal Data provided may be used and retained by *white* for the following purposes and for other purposes as shall be agreed between the Client and Seller or required by law from time to time:
- (a)** provision of Goods and/or Services;
  - (b)** marketing of Goods and/or Services by *white*, its agents or distributors in relation to the Goods and/or Services;
  - (c)** analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Goods and/or Services;
  - (d)** processing of any payment instructions, direct debit facilities and/or credit facilities requested by Client; and
  - (e)** enabling the daily operation of Client's account and/or the collection of amounts outstanding in the Client's account in relation to the Goods and/or Services.
- 9.5** *white* may give, information about the Client to a credit reporting agency for the following purposes:
- (a)** to obtain a consumer credit report about the Client; and or
  - (b)** allow the credit reporting agency to create or maintain a credit information file containing information about the Client.