

Car Park Advertising Terms and Conditions

1. DEFINITIONS

- a) **Advertiser** means any person, firm or company who acting as Principal gives an Order.
- b) **Advertising Agency** means any person, firm, company or outdoor specialist recognised as an Advertising Agency by the Media Owner and who acting as an agent gives an Order.
- c) **Advertisement Copy** means any advertising media intended for display by the Media Owner.
- d) **Agreement** means a legally binding agreement between the Parties consisting of a Booking Confirmation and/or any other terms agreed in writing/email between the Parties from time to time.
- e) **Booking Confirmation** means the documents headed "Booking Confirmation" and/or "Advertising Contract" which shall be sent to the Principal by the Media Owner.
- f) **Display Period** means the industry standard period of display of an advertisement or the period over which the Advertising Agency or Principal has purchased the media.
- g) **Display Period Date** means the date from which the specified Advertisement Copy will be displayed.
- h) **Fee** means the consideration for the display of Advertising Copy. The Booking Confirmation will specify the Fee once the Media Owner confirms the Order.
- i) **Media Owner** means Ayres Media Group, and any of its related parties.
- j) **Order** means an order submitted by the Principal to the Media Owner for the display of Advertisement Copy (which is subject always to the Terms and Conditions).
- k) **Payment terms** means prior to the Posting Period.
- l) **Parties** means the Media Owner and Principal and Agent.
- m) **Posting Period** means the period specified in the Booking Confirmation within which the Media Owner will post Advertisement Copy.
- n) **Principal** means any Advertiser or Advertising Agency and shall include their successors in title and agents who give an Order to the Media Owner and as such is liable for payment of display of Advertisement Copy.
- o) **Production Specifications** means the last published document headed Production Specifications published by the Media Owner in relation to the Site ordered.
- p) **Site Owner** means the person, firm or company with whom the Media Owner has a concession to display advertising on their property.
- q) **Sites** means the locations at which the Media Owner may display Advertisement Copy.
- r) **Terms and Conditions** means the terms and conditions set out in this document.
- s) **Working Day** means any day from Monday to Friday inclusive except any Bank Holiday or Public Holiday.

2. APPLICATION OF THESE TERMS AND CONDITIONS

- a) The Principal shall be ultimately responsible for the payment of Fees and shall be deemed to have full authority in all matters connected with the placing of the order and the approval or amendment of Advertising Copy. A media agency or specialist media buyer shall be regarded for all purposes as the Principal. For the avoidance of doubt, every order accepted by the Media Owner will be for a specified Advertiser and any change to the Advertiser must be agreed in writing by the Media Owner.
- b) The Terms and Conditions together with any additional terms set out in the Booking Confirmation will be legally binding on the Media Owner and the Principal in respect of each Order submitted by the Principal one (1) Working Day after the date of the Booking Confirmation unless:
 - I. the Principal notifies the Media Owner of an objection to the Booking Confirmation within such period; or
 - II. a shorter timescale is agreed in writing between the Parties.
- c) For the avoidance of doubt, failure by the Principal to return a signed Booking Confirmation to the Media Owner will not prejudice the terms of the Agreement. Any performance by the Media Owner will be deemed to be on these terms and conditions.
- d) Any Orders accepted shall only be used for displaying the Advertisement Copy supplied in relation to the Booking Confirmation.

3. DISPLAY OBLIGATIONS

- a) The Media Owner will (subject to Clause 2 above) unless otherwise agreed in writing, display Advertisement Copy at the number of Sites as stipulated in the booking confirmation, in accordance with the Posting Period and subject to Clause 4, and from time to time as necessary renew them with Advertisement Copy to be provided by or at the expense of the Principal. The Media Owner reserves the right to amend the display impressions frequency and length at its discretion. The total time of the Advertisement Display is guaranteed to satisfy the time purchased over the Display Period.
- b) When the Principal is entitled under the Booking Confirmation to a change of Advertisement Copy on display at a given Site and stipulates a date upon which such a change should be commenced, the Media Owner shall complete such change within any period specified in the Posting Period as if the stipulated date were the Display Period Date for a new campaign, provided the Media Owner has received the relevant Advertisement Copy in accordance with Clause 4 below.
- c) The Fees include the maintenance of display of Advertisement Copy at Sites in good condition provided the Media Owner has been supplied with any necessary replacement Advertisement Copy requested by the Media Owner from time to time in accordance with Clause 4.
- d) The Media Owner will only provide photographs of displayed Advertisement Copy at Sites if expressly agreed in the Booking Confirmation.

4. SUPPLY OF MATERIAL

- a) All Advertisement Copy (subject to any other terms in the Booking Confirmation) is to be delivered carriage paid and shall be supplied to the Media Owner at the place(s) and within the time specified by the Media Owner. All Advertisement Copy shall be produced and supplied to the Media Owner in accordance with the Production Specifications of the particular Sites.
- b) In the event that the Parties agree that the Media Owner will undertake production of Advertisement Copy, then the Principal shall adhere to the Production Specifications and provide all detail necessary to allow such production to take place within the necessary timeframe.
- c) The Media Owner shall be supplied with Advertisement Copy in accordance with the Production Specifications so as to enable the Media Owner to maintain the display in good condition.
- d) Should the Principal fail to deliver Advertisement Copy in accordance with this Clause 4 the Media Owner is not obliged to display the undelivered Advertisement Copy but the Principal shall, nonetheless, be liable to pay the corresponding Fees. The Media Owner will use reasonable endeavours to display the undelivered Advertising Copy but without any commitment to meet the Display Period Date.
- e) A part delivery of the Advertisement Copy or a delivery not meeting the Production Specification or the provisions of this Clause 4 shall be deemed to be no delivery for the purposes of this Clause.
- f) Delivery of Advertisement Copy shall not be deemed to have been if any proposed bespoke posting instructions have not been finalised and given to and received by the Media Owner.
- g) Any Advertising copy used during a campaign shall be disposed of in such manner as the Media Owner shall decide, unless agreed otherwise at the time of Booking Confirmation.
- h) The Advertiser expressly permits the Media Owner to photograph the Advertising copy on all Sites and use such photographs in any and all marketing materials.

5. INVOICING AND CHARGES

- a) Invoices will be issued at the start of the Display Period Date to the Principal.
- b) Payment of Fees is due in accordance with the Payment Terms. If Fees are not paid in accordance with the Payment Terms the Media Owner may, without prejudice to any other remedy it may have and without prejudice to Principal's obligation to pay the Fees, refuse to display any Advertisement Copy or withdraw currently displayed Advertisement Copy.
- c) Original invoices shall be sent to the Principal for payment by the Principal unless otherwise expressly agreed between the Parties in writing. Where the Media Owner has been notified by the

Principal in writing that a third party has been appointed by the Principal, invoices will be sent to the Principal's third-party and shall clearly identify the Principal for whom the third-party is acting.

d) In the event of failure to comply with any of the provisions of this Clause 5 the Media Owner reserves the right to require any other Order to be dealt with in accordance with revised payment terms.

e) In respect of any Fees not received by the Media Owner in accordance with the Payment Terms the Principal will be liable to pay to the Media Owner in full.

6. WARRANTIES, LIABILITY AND INDEMNITY

a) The Principal warrants and undertakes that:

- i. all Advertisement Copy shall abide by the advertising codes laid down from time to time by the Media Council of Australia.
- ii. they will be responsible for obtaining and paying for all necessary licenses and consents for the posting and/or displaying and/or reproduction of any Advertisement Copy or copyright material contained in or the appearance of any person in his Advertisement Copy; and
- iii. no Advertisement Copy will breach the copyright or other intellectual property rights or be defamatory of any third party.

c) The Principal will indemnify and keep the Media Owner indemnified against all actions, proceedings, costs, damages, expenses, penalties, claims, demands and liability (including legal fees) incurred and arising from any breach of the above warranties or in any manner whatsoever.

d) The Media Owner shall have the right to refuse to display or to continue to display any Advertisement Copy which does not or which in the Media Owner's opinion may not comply in all respects with the Principal's warranties and undertakings detailed in Clause 6(a) above. In such event the Media Owner shall not be liable to the Principal for any damage loss or expense whatsoever and in addition to any remedy and/or damages and/or loss that may be claimed by the Media Owner against the Principal, the Fees corresponding to display of such Advertisement Copy will be due in full notwithstanding that the Advertisement Copy has not been displayed.

e) The Media Owner reserves the right not to display Advertisement Copy or to remove a display of Advertisement Copy at any time if in its absolute discretion, the Media Owner believes the Principal and the Advertising Copy is not in compliance with the warranties in Clause 6(a) above. In such event the Media Owner shall not be liable to the Principal for any damage loss expense whatsoever.

f) The due performance of any Agreement is subject to suspension, variation or cancellation by the Media Owner (in whole or in part) owing to Acts of God, strikes, lockouts, legal restrictions, power supply failures, or the loss of any Sites which were included in the Agreement or for any other reason beyond the Media Owner's control. In the event of suspension, variation or cancellation for any of the foregoing reasons the Media Owner shall be entitled to be paid by the Principal the full Fees corresponding to the Sites in question up to and until the time at which such suspension, variation or cancellation occurs but the Media Owner shall not be liable to pay any damages losses or expenses to the Principal as a result or in respect of such suspension, variation or cancellation.

g) The Media Owner shall not be liable for loss of or damage to any Advertisement Copy supplied to the Media Owner in the event of any form of fire, lightning, storms and tempest.

h) The Media Owner reserves the right not to display Advertisement Copy or to remove a display of Advertisement Copy at any time if in its absolute discretion, the Media Owner believes the Order was placed at a Fee below the Media Owners acceptable consideration due to any technical, administrative or human error whatsoever. In such event the Media Owner shall not be liable to the Principal for any damage loss expense whatsoever.

7. TERMINATION

a) The Agreement is non-transferable and is subject to the following cancellation penalties of the booking value:

50% within 14 days prior to the start of the Display Period Date

80% within 7 days prior to the start of the Display Period Date

0% if terminated prior to 14 days of the start of the Display Period Date (excludes setup fees)

b) The Media Owner may terminate the Agreement forthwith by notice in writing to the Principal if:

- i. the Principal shall become bankrupt or commit an act of bankruptcy or make any assignment for the benefit of his creditors or enter into any arrangement with his creditors or being a company shall become insolvent or if any petition for the winding up or administration of the company is presented or if any other step is taken for the purposes of the appointment of an administrator or an administrative receiver of the company or if any steps are taken or negotiations commenced by the company or by any of its creditors with a view to proposing any kind of compositions, compromise or arrangement involving the company and its creditors; or
- ii. the Principal ceases or in the Media Owner's reasonable opinion threatens to cease to carry on business;
- iii. if any monies to be paid by the Principal to the Media Owner shall be in arrears for 30 days; or
- iv. if there has been a breach by the Principal of any terms of the Agreement; or
- v. in the circumstances described in Clause 12.

8. CONSEQUENCES OF TERMINATION

a) Following termination of the Agreement the Principal will pay to the Media Owner forthwith all outstanding Fees.

b) Any termination of the Agreement and payment of Fees due shall be without prejudice to any other right of action or remedy which the Media Owner may have under the Agreement or at law.

c) In the event of termination under Clause 7, the Media Owner may continue to display any Advertisement Copy and may enter into any agreements with third parties as considered appropriate to secure payment for continuing such display.

d) In the event of a termination by the Media Owner in accordance with Clause 12 the Media Owner shall be entitled to be paid by the Principal the full rate for the Sites in question up to and until the time at which the display is discontinued together with any other Fees due and owing by the Principal to the Media Owner but the Media Owner shall not be liable to pay any damages losses or expenses to the Principal as a result or in respect of such suspension, variation or cancellation.

9. VALIDITY

If any provision of these Terms and Conditions or the Agreement is held by any court or other competent authority to be void or unenforceable in whole or part, the other provision of these Terms and Conditions and/or the Agreement and the remainder of the affected provisions shall continue to be valid.

10. NOTICES

a) All notices under this Agreement will be in writing.

b) Notices shall be deemed to have been duly given:

- i. when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or
- ii. when sent, if transmitted by fax or e-mail; or
- iii. on the fifth business day following mailing, if mailed by national ordinary mail, postage pre-paid; or

- iv. on the tenth business day following mailing, if mailed by airmail, postage pre-paid, in each case addressed to the most recent address, e-mail address, or facsimile number notified to the other party in writing.

11. NOVATION

Neither the Media Owner nor the Principal may assign, transfer, charge or part with all or any of its rights and/or obligations under the Agreement.

12. REMOVAL FOR PURPOSES OF SITE OWNER'S UNDERTAKING

If the Site Owner at any time in its absolute discretion requires the display of Advertisement Copy at his property to be pre-approved or interrupted or discontinued then the Media Owner may not install or interrupt or discontinue such display of Advertisement Copy without prior notice to the Principal and upon any such action of the Site Owner the Media Owner may terminate the Agreement whether wholly or in part notwithstanding anything therein contained. In the event of such termination, the Media Owner's liability is limited as outlined in Clause 8(d) above.

13. ORDER OF PRECEDENCE

In the event of any conflict between the Terms and Conditions and a Booking Confirmation, the provisions of the Booking Confirmation shall prevail.

14. JURISDICTION AND GOVERNING LAW

These Terms and Conditions shall be governed by and construed in accordance with Australian Law and the Parties agree to the jurisdiction of the Australian Courts in relation to any conflict.

15. AGENCY/PARTNERSHIP

The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement.

16. VARIATION

The Media Owner reserves the right to revise these Terms and Conditions from time to time. The Media Owner will post any revised Terms and Conditions on the Ayres Media Group website and the Principal should check this website for notice of any such revisions. The Principal's continued placement of an Order after such revision has been made will be deemed an acceptance by the Principal of the Terms and Conditions existing at the time.

17. ENTIRE AGREEMENT

The Agreement contains the whole agreement between the Parties relating to the subject matter hereof and supersedes any and all prior agreements, arrangements and understandings between the Parties relating to that subject matter. Accordingly, all prior agreements, whether or not agreed or offered and all conditions and warranties whether express or implied, statutory or otherwise and all representations, statements, negotiations, understandings, and all undertakings either written or oral are superseded by the Agreement (save only in respect of liabilities which have accrued in respect of any such prior agreements which are so superseded) and the parties hereby acknowledge that no reliance is placed on any such representation made but not embodied in these documents.

18. COMMISSIONS

The Principal confirms that it is satisfied that all parties with whom it deals with (including advertisers and agencies it deals with directly) in the outdoor advertising market are aware of the fee and rebate arrangements which operate within that market.

19. WAIVER

No delay, neglect, or forbearance on the part of either party in enforcing against the other party any term or condition of the Agreement shall either be or be deemed to be a waiver or in any way prejudice any right of that party under the Agreement. No right, power or remedy in the Agreement conferred upon or reserved for either party is exclusive or any other right, power or remedy available to that party.

20. CONFIDENTIALITY

a) Each party will maintain the confidentiality of the other party's Confidential Information and shall not, without the prior written consent of the other, use, disclose, copy or modify the other party's Confidential Information other than as necessary for the performance of its rights and obligations under the Agreement. "Confidential Information" shall mean in relation to the other party, information (whether in oral, written or electronic form) belonging or relating to that party, its business affairs or activities which is not in the public domain and which:

- i. is marked as confidential or proprietary;
- ii. the receiving party is advised is of a confidential nature; or
- iii. due to its character or nature, a reasonable person in a similar position under similar circumstances would treat as confidential.

b) The Media Owner's Confidential Information will include the Fees payable under the Agreement.