

DOGS NEW SOUTH WALES - ADVERTISING TERMS AND CONDITIONS

1. ADVERTISING BOOKINGS

- 1.1 Neither these Terms nor any written or oral quotation by the Publisher represents an offer to Publish Advertising Material. If an Advertiser makes a Booking with the Publisher (whether or not accompanied by a completed Booking Form), then making the Booking constitutes an offer by the Advertiser which may (but need not) be accepted by the Publisher as provided in clause 1.2.
- 1.2 A binding contract in relation to a Booking is formed only when the Publisher notifies the Advertiser of acceptance of the Booking or accepts the Advertising Material for Publication. The terms of that contract are those contained in the Booking Form (if applicable) and these Terms, and is referred to in these Terms as "this contract".
- 1.3 If a Booking is accepted as provided in clause 1.2, then, subject to these Terms, the Publisher must use reasonable endeavours to Publish the Advertising Material in the form lodged by an Advertiser and in accordance with the instructions contained in the Booking Form.
- 1.4 A Booking Form must be lodged at least seven Business Days prior to the Deadline. If a Booking Form is lodged after this date, the relevant Advertising Material will be held over for Publication in the next following edition of the Magazine.

2. ADVERTISING FEE

- 2.1 The Advertiser must pay the Publisher the Fee at the rate chargeable by the Publisher at the time the Booking is made. However, the Publisher may in its discretion agree to accept a Booking on the basis that the Fee will be invoiced to the Advertiser, in which case the Advertiser must comply strictly with the terms of the invoice.
- 2.2 An Advertiser must pay an additional amount equal to any GST payable by the Publisher in respect of the Publication of Advertising Material. The Publisher will provide an Advertiser with a tax invoice or adjustment note (as applicable) in a form which complies with GST legislation.
- 2.3 The Publisher's Fee rate or rates may be varied at any time by the Publisher without notice.
- 2.4 If for any reason payment of the Fee is not made when a Booking Form is lodged, and the Publisher fails to issue an invoice for the Fee payable in relation to the Publication of Advertising Material, then the Advertiser must pay the Fee in accordance with the Publisher's usual terms of trade at the time.
- 2.5 The Advertiser must pay the Fee notwithstanding:
 - (a) the fact that the Publisher exercises its right under clause 3.2; or
 - (b) any error in or omission from the Advertising Material.

3. PUBLICATION REQUIREMENTS

- 3.1 All Advertising Material must be submitted in accordance with the Publisher's specifications, standards or requirements as notified from time to time and is subject to the approval of the Publisher in respect of format, material and layout. The Publisher is not required to consider for Publication any Advertising Material which does not meet the Publisher's specifications, standards or requirements in any respect, or if it considers that Advertising Material is for any other reason unsuitable.
- 3.2 The Publisher may in its absolute discretion:
 - (a) vary the format, material or layout of Advertising Material;
 - (b) vary the placement of Advertising Material within Dogs NSW Magazine or on the Website;
 - (c) cancel or reschedule any Booking.
- 3.3 The Publisher must use reasonable endeavours to notify the Advertiser of the exercise of the Publisher's right under clause 3.2. If the Publisher cancels a Booking under paragraph 3.2(c), it must refund the Fee paid for that Booking.
- 3.4 The Publisher may place the word "advertisement" above any Publication of Advertising Material that in the opinion of the Publisher resembles editorial matter or is not clearly an advertisement.

- 3.5 The Publisher makes no representation in relation to the proximity of Advertising Material Published in the Magazine or on the Website relative to copy or material relating to competing products or services.
- 3.6 It is the Advertiser's responsibility to collect Advertising Material submitted to the Publisher. Subject to the Advertiser having paid all amounts payable by it to the Publisher, the Advertising Material will be available for collection after one month after the date of its Publication. The Publisher has no responsibility for Advertising Material in its custody and control, and is not responsible for any loss or damage to Advertising Material, even if caused by the Publisher's negligence.
- 3.7 The Publisher may decline to Publish Advertising Material if the relevant Advertiser is in breach of these Terms or any other agreement between the Advertiser and the Publisher.

4. LIABILITY AND INDEMNITY

- 4.1 To the extent permitted by law, the Publisher excludes all implied conditions, warranties and representations in relation to the Publication of Advertising Material and these Terms.
- 4.2 The Publisher's liability for:
 - (c) breach of an implied condition, warranty or representation which cannot by law be excluded; or
 - (d) any failure to Publish, or any error or omission in the Published Advertising Material, which is (in either case) the fault of the Publisher,is limited to the re-Publication of the Advertising Material affected by the breach or error, or the payment of the Fee for the re-Publication, at the election of the Publisher.
- 4.3 Except to the extent set out in clause 4.2, the Publisher excludes all liability to the Advertiser for any loss, liability, damages, costs or expenses suffered or incurred by the Advertiser in connection with these Terms or any Publication of Advertising Material, whether that liability arises in contract, tort (including by the Publisher's negligence) or under statute, and whether or not the Publisher should have been aware of the possibility of such liability. The Publisher is in no circumstances to be liable for any indirect or consequential losses, including loss of profits, loss of revenue and loss of business opportunity.
- 4.4 Except to the extent that the Publisher is liable under clause 4.2, the Advertiser indemnifies the Publisher, and each of its agents and contractors, and each of their respective officers and employees, in relation to any actions, claims, loss, damages, liability, costs and expenses suffered or incurred by any such person arising out of:
 - (a) any breach of contract or negligent or unlawful act or omission of the Advertiser in connection with the Advertising Material;
 - (b) the Advertiser's breach of these Terms (including a breach of a warranty under clause 5) or of any other agreement between the Advertiser and the Publisher; or
 - (c) the fact of the Publication of Advertising Material.

5. WARRANTIES

- 5.1 The Advertiser warrants in favour of the Publisher that the Advertising Material:
 - (a) is not false or misleading and is true in substance and in fact;
 - (b) does not breach or infringe the Trade Practices Act 1974 (C'th), the Fair Trading Act 1987 (NSW) or any equivalent legislation;
 - (c) does not breach or infringe any law, statute, delegated legislation, regulation, code of practice, rule or ordinance of the Commonwealth or any State or Territory (including laws in relation to obscenity, defamation, privacy and discrimination);
 - (d) does not constitute contempt of any court, tribunal or royal commission;
 - (e) does not infringe the copyright, trademark, intellectual property right, obligation of confidentiality, personal or proprietary right, or any other legal right of any person;
 - (f) complies with any standards applicable to the publication of advertising material and determined by any relevant regulatory agency or industry self-regulatory body; and
 - (g) does not contain anything which may give rise to any cause of action by a third party against the Publisher, including material

which is defamatory or obscene or which otherwise causes injury or damage to any person.

5.2 The Advertiser warrants in favour of the Publisher that in respect of Advertising Material which contains:

- (a) the name or photograph or pictorial representation of any person or any other material by which a person can be identified; or
- (b) a quotation by or a statement attributable to a person, then the Advertiser has obtained the authority of that person (or their estate, if applicable) to use the person's name or representation or to use the quotation or statement (as the case requires) in the Advertising Material.

5.3 The Advertiser warrants and agrees that each person on whose behalf Advertising Material is submitted to the Publisher agrees to be bound by this contract as if each such person had entered into this contract in addition to the Advertiser.

5.4 The warranties contained in this clause 5 do not merge on the formation of this contract or on the Publication of Advertising Material, but continue as conditions of this contract for the benefit of the Publisher.

5.5 The Advertiser acknowledges that it has not relied on any advice given or representation made by or on behalf of the Publisher in connection with the Publication of Advertising Material (whether as to content, permission to Publish, or otherwise).

6. PRIVACY

6.1 The Publisher collects an Advertiser's personal information for the purposes of the Publication of Advertising Material and, where relevant, for the purpose of invoicing the Advertiser. The Publisher will disclose such personal information (including to its related bodies corporate and credit reporting agencies) only where the purpose of such disclosure is related to the Publication of Advertising Material.

6.2 The Publisher may disclose personal information to a debt collection agency for the purpose of recovering payment from the Advertiser of an outstanding Fee.

7. GENERAL

7.1 If the Publisher is unable (in a timely manner or otherwise) to perform an obligation under these Terms by reason of an event outside of the Publisher's control (including but not limited to the failure of the World Wide Web or a telecommunications facility), performance of that obligation is suspended for the duration of the inability.

7.2 When a contract is formed in accordance with clause 1.2, the relevant Booking Form (if applicable) and these Terms together comprise the entire agreement between the Advertiser and the Publisher in relation to the Publication of the Advertising Material submitted for Publication.

7.3 The Publisher may at any time and from time to time amend any or all of these Terms. Any Booking made after the time that an amendment under this clause 7.3 is notified to the Advertiser (and the contract applicable to that Booking) will be governed by these Terms as amended.

7.4 Any right of the Publisher (including the right to give or withhold a consent or approval) may be exercised in the sole and absolute discretion of the Publisher and, if exercised, may be exercised unconditionally or subject to such conditions as the Publisher thinks fit.

7.5 These Terms and this contract are governed by and are to be interpreted in accordance with the law of and applicable to New South Wales. The parties irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of that State and the courts hearing appeals from them.

8. INTERPRETATION

8.1 In these Terms, except where the context otherwise indicates:

- (a) "**Advertising Material**" means advertising, promotional or other material submitted by an Advertiser to the Publisher for Publication, including but not limited to photography, artwork, inserts, band-ons, business reply cards, tip-ons, samples and scents;

- (b) "**Advertiser**" means a person (including an agency) who submits Advertising Material for Publication and any other person on whose behalf the Advertising Material is submitted;
 - (c) "**Booking**" means a booking with the Publisher for the Publication of Advertising Material;
 - (d) "**Booking Form**" means an advertising booking form in the form to which these Terms are attached or as provided by the Publisher from time to time;
 - (e) "**Business Day**" means a day on which banks are open for business in New South Wales;
 - (f) "Dogs NSW" means the Royal New South Wales Canine Council Limited (ACN 062 986 118) trading as Dogs NSW
 - (g) "**Deadline**" means in relation to the Website or to a particular edition of the Magazine the last date (as notified by the Publisher from time to time) upon which an Advertiser may make a Booking;
 - (h) "**Fee**" means the amount payable by an Advertiser for the Publication of Advertising Material, as notified by the Publisher from time to time;
 - (i) "**GST**" has the same meaning as in the A New Tax System (Goods & Services Tax) Act 1999;
 - (j) "**Magazine**" means the Dogs NSW and includes the Canine Gazette and any other inserts and attachments;
 - (k) "**Publication**" means publication of Advertising Material in the Magazine or on the Website, and "**Publish**" has a corresponding meaning;
 - (l) "**Publisher**" means Dogs NSW and its agents and contractors from time to time;
 - (m) "**these Terms**" means these Advertising Terms and Conditions, as from time to time in effect;
 - (n) "**Website**" means the internet website of Dogs NSW;
 - (o) the word "**includes**" is not a word of limitation; and
 - (p) the word "**person**" includes a body corporate, partnership, association, body politic, and governmental or statutory body.
- 8.2 Headings are to be ignored in the interpretation of these Terms.