

Vintage Press Pty Ltd

TERMS & CONDITIONS OF TRADING

1. These terms and conditions shall apply to and form part of each order for advertising placed with the Publisher. No person may vary these terms and conditions without the approval in writing of the Managing Director or Secretary of the Publisher, and the order shall be construed strictly without taking into account any unauthorized variation. In this document Vintage Press shall be referred to as VP.
2. The Advertiser shall pay the Publisher the total invoice amount for all advertising which shall comprise:
 - a) The amount shown in the Schedule to the order for advertising space used (as varied in accordance with these terms and conditions),
 - b) All other cost or expenses which may be incurred by the Publisher at the instance of the Advertiser in respect of art work, special typesetting, author correction, film positives and otherwise in respect of the order, and
 - c) All Government taxes and/or charges (including GST).
3. Payment in full of the total invoice amount shall be made at the head office of the Publisher and
 - a) Where the Advertiser is an advertising agent, within forty-five (45) days from the invoice date; or
 - b) In all other cases, within thirty (30) days from the invoice date.
- c) Interest will be charged on overdue accounts from the first day of the second month after the month in which the ad was invoiced at the rate of twelve (12) percent per annum or at two (2) percent more than the prime lending rate of Westpac Banking Corporation as published in the Australian Financial Review on that day, whichever is the greater.
- d) The Advertiser agrees to pay the Publisher for any additional expenses incurred in collecting outstanding debts.
- e) A \$20 service fee will be charged to the Advertiser's account every time a cheque is dishonoured.
- f) Credit facilities may be withdrawn on overdue accounts at the company's discretion without notice.
4. Where the Advertiser is an advertising agent and provided that payment is made in accordance with clause 3(a), the Publisher shall pay to the Advertiser on payment of the total invoice amount a commission calculated at the rate of 10% of the total invoice amount.
5. The Advertiser acknowledges that the Publisher in its discretion shall be entitled to do any or all of the following:
 - a) Decline or cancel any advertisement or series of advertisements to which the order relates without stating any reason;
 - b) Postpone the publication of any advertisement at any time or times and from time to time;
 - c) Return or destroy all advertising material which remains in its or its printers possession six months from the last month of publication of the advertisement to which that material relates, without being required to give notice to any person or agency and without in any way being responsible for loss;
 - d) Cut or alter any prints or art work or other materials supplied by the Advertiser in order to conform to mechanical requirements, without being responsible for any loss;
 - e) Place the word "advertisement" on any copy which in the Publishers opinion too closely resembles editorial matter.
6. The publication of any advertisement pursuant to the order is strictly subject to the Publisher's approval.
7. The provision of editorial does not form a part of this agreement and shall be provided at the absolute discretion of the Publisher. The total invoice amount is for the publishing of the advertisement only or as otherwise agreed in accordance with this agreement.
8. The Publisher shall not be liable for any loss or damage to any person arising from the failure for whatever reason of any particular advertisement to appear on any specified date or at all.
9. In the event of contra, if the Advertiser fails to provide all or part of the services offered by it in return for the Publisher's placement of the advertisements in the publication as agreed, the advertiser shall be liable to pay for all the advertisements at the Publisher's usual standard rate plus any damages incurred.
10. The Publisher shall not be liable in any manner for any loss or damage whatsoever to any positives, art work or other materials the property of the Advertiser which may be deposited with the Publisher for the purpose of fulfilling the order, but such materials shall at all times and in respect of all things remain at the risk of the Advertiser.
11. The Publisher will not accept a cancellation of the order whether in whole or in part after the booking deadline date or dates shown in the Schedule. Where, in respect of any series advertising, copy for any issue is not received by the Publisher by the appropriate deadline date, then the Publisher shall be entitled to insert in that issue in its place copy previously used for the purposes of the order and to apply the rate applicable to that advertising.
12. Where the order carries a key number, the Publisher shall take every care to ensure that the order is dealt with correctly but shall not be required to allow any deduction or compensation in the event of an error on publication.
13.
 - a) The rates stated in the Schedule shall apply to all advertisements published pursuant to the order provided that the Publisher shall be entitled to alter those rates or any of them at any time and from time to time.
 - b) If the Publisher shall increase the rates of any of them pursuant to Clause 13(a) then, provided that the Advertiser first pays to the Publisher the total amount due for all past insertions, the Advertiser shall be entitled to cancel the order in respect of all future insertions.
14.
 - a) Series rates shall apply only in respect of orders placed for completion within a term of twelve months after the booking deadline date of the next issue.
 - b) If the Advertiser for any reason shall alter the space in a term order the Publisher shall at its sole discretion be entitled to increase or decrease the applicable rates on the actual space used by the Advertiser.
15. The Advertiser warrants that he places the order as principal and that he shall be personally liable to observe these terms and conditions.
16. Without limiting the generality of Clause 6, the Publisher shall not be required to accept any advertising material, the publication of which may, in its opinion, contravene any provision of the Trade Practices Act, 1974.
17. The Advertiser hereby indemnifies and agrees to hold indemnified the Publisher, its servants and agents and each of them against all liability, claims or proceedings whatsoever which may arise from the publication of any material pursuant to the order, and in particular but without limiting the generality of the foregoing, to indemnify and hold indemnified each and all of them against any action for defamation, slander of title, breach of copyright or infringement of any trade mark, name or description, invasion of privacy or breach of any provision of the Trade Practices Act, 1974.
18. Requested positions within the Magazine are subject to the Publisher's approval. Should the requested position be unavailable, the Advertiser is still liable for the base rate applicable to the advertisement.
19. Contracts may be suspended by VP in the event of any strike, lockout, trade dispute, fire, tempest, breakdown, riot, theft, crime, civic disturbances, war, force majeure, legislation, the inability of VP to procure necessary materials or articles due to any of the foregoing causes or disruptions associated with the advancement of the twenty first century, or any other occurrence preventing or retarding performance of the contract and VP will not be responsible or liable for any delay, default, loss or damage due to any of the above causes or due to any other cause beyond its control.
20. Ownership of Drawings, Negatives, Positives, Software, Data Files, Graphics, Files:
 - a) Drawings, sketches, paintings, photographs, designs or typesettings furnished by VP ; dummies; models or the like devices made or procured and manipulated by VP and negatives, positives, dyes, plates or cylinders made from VP 's original design, or from a design furnished by the Advertiser, remain the exclusive property of VP , unless otherwise agreed in writing by VP .
 - b) Sketches and dummies submitted by VP on a speculative basis remain the property of VP . They must not be used for any purpose other than that nominated by VP . VP is entitled to full compensation from the Advertiser for any unauthorized use of such sketches and dummies.
21. Unless VP and the Advertiser agree otherwise, the copyright in all works of art created by VP is the property of VP . Further, the Advertiser warrants that the Advertiser has copyright in all works of art supplied by the Advertiser to VP for the purposes of the order and indemnifies VP against all liability, losses or expenses incurred by VP in relation to or in any way directly or indirectly connected with any breach of copyright or of any rights in relation to copyright.
22. VP has a right of lien over any supplied materials and/or product whatsoever, and after giving fourteen (14) days notice may in its absolute discretion use or apply or dispose of the supplied materials and/or product so to reduce any debt due to VP or apply the property to compensate for damage.
23. If any invoice and/or cost, expense or any other claim remains unpaid by the Advertiser for a period in excess of seven (7) days (herein to be known as "default") IVP has the following rights:
 - a) to create a charge over the property of the directors of the company invoiced;
 - b) to create a charge fixed and/or floating over the assets of the company invoiced;
 - c) if any individual is invoiced create a charge over the individuals property; and
 - d) if a registered business name is invoiced, create a charge over the individual and/or company trading under the business name, and/or directors of the company; for the total amount due and owing on the invoice and/or any other moneys owed to VP .For the purposes of the rights conferred herein the Advertiser irrevocably appoints VP to be the Attorney of the Advertiser immediately on or at any time after the Advertiser defaults, to exercise in the name of the Advertiser all rights, powers and remedies of VP expressed or implied herein and to do all things required to be done by the Advertiser and to execute all documents and to do all things necessary in regard to such matters.
24. The Advertiser agrees that, if any dispute or difference whatsoever shall arise between the parties with respect to or arising out of this agreement or any part of it, (VP MAGAZINES) may refer the same to the arbitration of a single arbitrator, who shall be a person approved by the Australian Institute of Arbitrators.
25. The Advertiser shall not be entitled to commence or maintain any proceedings in any Court with respect to such dispute or difference unless and until the arbitrator shall have published his final award.
26. The arbitrator shall have all the powers and discretion conferred by the Commercial Arbitration Act 1984 and by law and may in his discretion determine any additional dispute or difference that may be raised by either party by way of further claim, set off, defence or cross-claim subject to any conditions as to costs or otherwise that he may impose.
27. The Advertiser hereby agrees that all or any litigation that arises from this agreement, either for civil claims, damages or breach of contract, shall be subject to the jurisdiction of the appropriate courts in the state of New South Wales and shall be heard in New South Wales.
28. The Publisher reserves the right to use the services of a credit reporting agency should credit facilities be required by the Advertiser.
29. The Advertiser acknowledges that the Publisher may make enquiries in accordance with the Privacy Act 1988 as to the information provided herein in relation to the Advertiser, its directors (if a company) and related entities.
30. This contract constitutes the entire agreement between the parties, and supersedes all communications, negotiations, arrangements and agreements either oral or written, between the parties with respect to the subject matter of this contract unless otherwise agreed in writing between the parties.
31. If any clause of this agreement is determined to be unenforceable for any reason, this shall not effect the enforceability of the rest of the agreement, which shall be read as if that particular clause never formed part of this agreement.