

## AUSTEREO STANDARD ADVERTISING TERMS & CONDITIONS

The following terms apply to any person who successfully applies for a direct credit account with Austereo Pty Ltd (A.B.N 85 007 914 641), Perth FM Radio Pty Ltd (ABN 22 077 569 110), Consolidated Broadcasting System (WA) Pty Ltd (ABN 17 008 670 460), Radio Newcastle Pty Ltd (ABN 57 000 225 525) ("Austereo") and/or places advertising with any radio station owned and/or controlled by Austereo ("Austereo Radio Station") or on any Austereo controlled website who or which is not a Qualifying Advertising Agent ("Advertiser"). Advertisers who are Qualifying Advertising Agents should refer separately to the Qualifying Standard Advertising Agency Terms and Conditions for the terms on which they purchase advertising from Austereo.

### VARIATION OF TERMS AND CONDITIONS

1. Austereo may alter these terms and conditions at any time by prior notification to the Advertiser and such variation will have effect in relation to any advertising booking made or advertising broadcast or published subsequent to the provision of that notice. No variation to these terms will be effective unless same is in writing and signed by or on behalf of Austereo by a manager duly authorised on its behalf.

### PAYMENT

2. The following terms apply with respect to payments by the Advertiser to Austereo.
  - 2.1 The Advertiser will be directly liable for payment for all advertising ordered by the Advertiser and must pay in full for all such advertising five (5) days before the date the advertising is scheduled for broadcast or publication.
  - 2.2 Any Advertiser with an approved direct credit account must pay its account in full before the last business day of the month following the month during which the advertising was broadcast and/or published. However, any advertising bookings extending beyond the approved credit limit must be paid for prior to broadcast and/or publication.
  - 2.3 The Advertiser agrees that payment by credit card will not be accepted except with the prior approval of Austereo, which reserves the right to charge a service fee in respect of such payments, being a percentage of the relevant invoice value as nominated by Austereo. Any payment by credit card of an overdue invoice will attract a 2.5% service charge in respect of such payments.
  - 2.4 The Advertiser acknowledges that it must pay the full price for any advertising notwithstanding that Austereo has exercised its right to vary the format or placement of the advertising in accordance with clause 16 or any error or omission in the advertising, unless the error or omission was the fault of Austereo.
  - 2.5 The Advertiser shall pay to Austereo in accordance with these terms and conditions all amounts by way of Goods and Services Tax (GST) relating to services supplied in accordance with a tax invoice presented by Austereo. It is acknowledged that prices quoted by Austereo for services are exclusive of GST unless clearly expressed to the contrary with a written invoice or quote.

### BREACH

3. If the Advertiser fails to pay for any advertising in accordance with the due date for payment or if the Advertiser breaches its obligations under these terms and conditions or any other agreement in place between Austereo and the Advertiser then Austereo may in addition to any other rights or remedies it may have:
  - 3.1 require immediate payment of all moneys owing by the Advertiser to Austereo on any account;
  - 3.2 require cash pre-payment before broadcast or publication of any further advertising on behalf of the Advertiser;
  - 3.3 by notice in writing suspend or cancel any credit account the Advertiser may have with Austereo;
  - 3.4 recover from the Advertiser all costs relating to any action taken to recover monies from the Advertiser (such costs will include but are not limited to any mercantile agent's costs and any legal costs and disbursements on a solicitor/client basis);
  - 3.5 (where the Advertiser has failed to pay monies due and payable to Austereo) charge the Advertiser penalty interest at a rate equivalent to the 90 day bill rate as published in the daily national press plus 2% from the date for payment until actual payment calculated on daily rests and compounded monthly; and
  - 3.6 cease any further advertising on behalf of the Advertiser and terminate any agreement in relation to advertising not yet broadcast or published.
4. For the avoidance of doubt, the Advertiser will be deemed in breach of this Agreement if the Advertiser at any time commits any act of bankruptcy or insolvency or ceases or threatens to cease carrying on the Advertiser's business or if Austereo has insured against the Advertiser's insolvency and such insurer refuses, cancels or withdraws such insurance cover.

### CHANGES

5. The Advertiser must immediately advise Austereo in writing of (as applicable):
  - 5.1 any changes to its constitution, memorandum or articles of association;
  - 5.2 any change of ownership of its shares or allotment or issue of any new shares;
  - 5.3 any change in its directors, principal officers, partners or proprietors;
  - 5.4 any other changes in capital, membership or control;
  - 5.5 any proposal to cease carrying on business or if a partnership or firm any change in the partnership;
  - 5.6 any proposal to form a different company, partnership or entity with any other parties;
  - 5.7 the Advertiser becoming or being in jeopardy of becoming the subject of any form of insolvency administration;
  - 5.8 the existence of any significant litigation against the Advertiser;
  - 5.9 cancellation of any debtor insurance policy;
  - 5.10 loss or gain of a client representing in excess of 10% of the prior year's billing;
  - 5.11 a material change in any information provided by or on behalf of the Advertiser to Austereo as part of or in connection with the Advertiser's application to Austereo to have in place a credit account (if any).

### FINANCIAL INFORMATION

6. Austereo reserves the right to request financial information and/or require the provision of bank guarantees, letters of credit from the Advertiser. The Advertiser must provide promptly any financial and other information that Austereo reasonably requests from time to time including balance sheet and profit and loss accounts, client lists and debtor insurance status for each financial year or such other period as may be required by Austereo.
7. The Advertiser must comply with such requirements as Austereo may advise as to the maintenance of adequate working capital or tangible asset cover for its liabilities or any other matter which may affect the capacity of the Advertiser to be able to meet its financial commitments to Austereo.

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## CANCELLATION

8. Any cancellation of an advertisement by the Advertiser (for whatever reason) requires written notice to Austereo of at least thirty (30) business days before the advertisement or the first of them is due for broadcast or publication and Austereo reserves the right to require full payment for any advertising cancelled within that notice period. The parties acknowledge that:
  - 8.1 (delete & charge) advertising cancelled within the 30 day cancellation period and before the expiration of 24 hours (a multiple day weekend is considered 24 hours for this purpose) of the scheduled broadcast or publication will be cancelled in the month of cancellation, with advertising to the value of the cancelled schedule being deferred to a later period but within 12 months of the cancellation (placement of deferred advertising is at the discretion of Austereo); and
  - 8.2 (drop & charge) advertising Schedules cancelled within 24 hours (a multiple day weekend is considered 24 hours for this purpose) of the schedule broadcast or publication will be cancelled and billed in the month of cancellation.

## REJECTION OR WITHDRAWAL OF BOOKING

9. Austereo reserves the right at any time and for any reason (including excessive file size, offensive content or any other reason at Austereo's discretion) to reject a booking, to amend, to withdraw or to refuse to broadcast advertising material on any one or more Austereo radio stations or publish advertising material on any Austereo controlled websites (even if the advertising has been previously published or broadcast by Austereo). Furthermore, Austereo reserves the right to suspend or terminate any advertising campaign at its discretion.

## ADVERTISING CONTENT

10. Subject to these terms and conditions, Austereo will use its reasonable endeavours to publish and/or broadcast advertising submitted by the Advertiser in the format submitted by the Advertiser and in accordance with the Advertiser's placement instructions. However, the Advertiser acknowledges that Austereo reserves the right to vary the placement or formatting of any advertising submitted by the Advertiser to Austereo or developed for the Advertiser by Austereo.
11. In entering this Agreement with Austereo, the Advertiser acknowledges Austereo may, without further cost to the Advertiser, republish or rebroadcast advertising in other publications and media controlled or operated by Austereo or that of any Austereo media partner.
12. Austereo will endeavour to notify the Advertiser of any changes made to advertising under clause 10, however except in accordance with clause 31, Austereo will not be liable for any costs, expenses, losses or damage suffered or incurred by a Customer arising from Austereo's failure to publish or broadcast advertising in accordance with the Advertiser's request.
13. The Advertiser will ensure that all advertising submitted to Austereo complies with any applicable laws, regulations and advertising or broadcasting codes or standards as are in place from time to time.
14. The Advertiser warrants that in respect of advertising that contains the name or photographic, cinematographic or pictorial representation of any living person and/or any copy by which any living person can be identified, the authority of that person to make use of their name and/or image has been obtained.
15. The Advertiser warrants that in respect of advertising for a financial service, that advertising complies with the relevant legislation and its publication or broadcast by Austereo does not give rise to any breach by Austereo under applicable legislation.
16. The Advertiser acknowledges that if the Advertiser submits any advertising material that looks like editorial material, Austereo may cause the advertising to be published under the heading "advertising" and with a border distinguishing it from nearby editorial.
17. Any advertising material submitted by the Advertiser must comply with any Austereo specifications and guidelines (available on request). Austereo may reject any advertising material not complying with such specifications.
18. All advertising or information relating to advertising submitted by the Advertiser to Austereo must be submitted in such form and in accordance with such timeframes as determined by Austereo and in the absence of any agreement by the parties to the contrary, according to the following deadlines:
  - 18.1 for scripts, no later than 5.00pm (in accordance with the time in the State of broadcast) three working days before the first broadcast date;
  - 18.2 for ready to broadcast material, no later than one full working day prior to the first broadcast date;
  - 18.3 for online advertising, five full working days (seven full working days for non gif material) prior to the scheduled publication date,and the deadlines in this clause apply to any mid campaign changes to advertising creative material.
19. Austereo reserves the right to require full payment for any scheduled advertising which was not broadcast or published due partly or solely to a failure to meet the deadlines described in clause 18.
20. Any advertising submitted to Austereo incorporating copyright material owned and/or controlled by a person other than Austereo must be submitted cleared by all copyright owners and ready for broadcast and/or publication.
21. The Advertiser must promptly:
  - 21.1 check proofs of any advertising material provided to the Advertiser by Austereo;
  - 21.2 notify Austereo of any errors in the proofs or any published or broadcast advertising.
22. Austereo does not accept responsibility for any errors in advertising placed over the telephone or in material received electronically from third parties.

## INDEMNITY

23. The Advertiser will indemnify and keep indemnified Austereo against all claims, demands, proceedings, damages, costs, expenses, losses or any other liability whatsoever arising wholly or partly, directly or indirectly from or in connection with the broadcast or publication of any advertising submitted by the Advertiser including but not limited to any breach of any law or regulation or for any breach of any legal, equitable or other rights of any person, firm, corporation or entity.

## LIABILITY

24. Neither Austereo nor its employees or agents shall be liable for any loss, damage or liability suffered as a result of:
  - 24.1 the sound quality or delay of matter transmitted to or from a station by means of landline, telecommunication or on-line;
  - 24.2 copy changes or a failure to broadcast or publish arising from cancellation, default by an Advertiser (or advertiser) with respect to any term of this agreement;
  - 24.3 minor discrepancies or minor schedule variations;
  - 24.4 schedule variances necessitated by broadcasts of news or events of national importance, directions of competent authorities or broadcast or publication of urgent, safety or emergency material;
  - 24.5 in respect of online advertising, failure of the world wide web or any telecommunications structure;

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- 24.6 any delay or failure to publish or broadcast advertising caused by a factor outside Austereo's reasonable control (including but not limited to any Act of God, war, breakdown of plant, industrial dispute, electricity failure, governmental or legal restraint);
- 24.7 failure to broadcast or publish arising other than under 30.1 to 30.6 but in this event the Advertiser will not be liable to pay the station as if the advertisement was broadcast or published;
- 24.8 any errors in the proofs or any published advertising.
25. The Advertiser acknowledges that it has not relied on any advice given or representation made by or on behalf of the Advertiser by Austereo in connection with the advertising.
26. Austereo excludes all implied conditions and warranties from these terms except any condition or warranty (such as conditions or warranties implied by the Trade Practices Act and equivalent State acts) which cannot by law be excluded ("Non-Excludable Warranties").
27. Austereo limits its liability:
- 27.1 for breach of all Non-Excludable conditions or warranties (to the extent that liability for such breach can by law be limited); and
- 27.2 for any other error or omission in published or broadcast advertising caused by Austereo,
- to (at Austereo's option) re-supply of the advertising services affected by the breach or payment of the cost of re-supply.
28. Subject to clauses 26 and 27, Austereo excludes all other liability to Austereo for any costs, expenses, losses and damages suffered or incurred by Austereo in connection with these terms and any advertising published or broadcast by Austereo whether that liability arises in contract, tort (including by Austereo's negligence) or statute. Without limitation, Austereo will in no circumstances be liable for any indirect or consequential losses, including loss of profits, loss of revenue and loss of business opportunity.

### SERVICE OF NOTICES

29. The Advertiser agrees that service of any notices or court documents may be effected by forwarding same by pre-paid post or facsimile to the last known address of the Advertiser.

### ACCOUNT QUERIES

30. Account queries must be submitted in writing by the Advertiser to the relevant Austereo radio station(s) on or before the last day of the month following broadcast or publication of the advertising to which the query relates.

### WAIVER

31. A waiver by Austereo of any power, condition or term herein will not operate to prejudice Austereo from relying on that power, condition or term at any later date or any other occasion.

### COPYRIGHT AND CONFIDENTIALITY

32. All rights (including but not limited to copyright) in advertisements or advertising copy or advertising and/or creative proposals produced or written for an advertiser or the Advertiser by Austereo, its employees or agents vest entirely in Austereo and the Advertiser hereby assigns all rights that it may have therein to Austereo and to the extent they have any such rights will procure that its agents and employees assign the same to Austereo. Prior written clearance from the relevant Austereo radio station General Manager (which clearance may be withheld in the General Manager's discretion), will be required for any use of such material otherwise than on Austereo radio stations or Austereo controlled websites. The Advertiser must keep confidential any creative proposal supplied to it by Austereo and will not, without written clearance from Austereo, use or exploit such proposal except for the advertising and promotional campaign placed with Austereo as intended by the proposal.

### STATION LOGO

33. The Advertiser will not use and will not permit use of any Austereo radio station or network logo or name in any promotional material without written consent of the relevant Austereo radio station(s) in each case.

### GOVERNING LAW

34. The law of New South Wales applies to these terms and conditions and the Advertiser consents to any proceedings arising out of these terms and conditions being instituted and heard by the Courts of that State.

### PRIVACY

35. The Advertiser acknowledges that circumstances may arise where Austereo provides the Advertiser with the personal information of Austereo customers from time on behalf of the Advertiser's clients. The Advertiser must, and must use its best endeavours to procure that its clients, comply with the National Privacy Principles contained in the Privacy Act 1988 (Cth), the Spam Act 2003 (Cth), the Australian eMarketing Code of Practice and any other codes, regulations or legislation (as amended) in place from time to time relating to the use of a person's personal information.
36. Austereo collects the Advertiser's personal information (and where applicable, that of its clients) to provide the advertising services to the Advertiser and for invoicing purposes. Austereo 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 an Advertiser has an overdue account, Austereo may disclose personal information to debt collection agencies to recover the amount due.
37. Persons may gain access to their personal information by writing to the Privacy Officer at GPO Box 4442 Sydney 2000. More information about privacy and accessing personal information is in Austereo's privacy policy which is accessible at [www.austereo.com.au](http://www.austereo.com.au)

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