

AUSTRALIAN PHARMACEUTICAL PUBLISHING COMPANY PTY LTD (APPco) ADVERTISING CONFIRMATION – TERMS AND CONDITIONS OF ACCEPTANCE

1. INCORPORATION

1.1 These terms (together with the applicable Cancellation Date and Advertising Material Lodgment Requirements) govern each supply of Services and, except as modified in accordance with clause 1.2, constitute the entire agreement in connection with each supply of Services. All other express or implied terms and conditions, including the terms and conditions of Client, are excluded to the extent permitted by law.

1.2 No variation to these terms, whether in a Booking or otherwise, binds APPco unless expressly and specifically agreed in writing by APPco and Client.

1.3 These terms supersede any terms and conditions that have previously governed any supply of Services and prevail to the extent of any inconsistency between a written or verbal quotation, Booking, Booking Confirmation and these terms.

2. QUOTATIONS

2.1 Any written or verbal quotation provided by APPco to Client, whether in the form of a media kit or otherwise, is a mere invitation to treat and does not constitute a contractual offer. All such quotations lapse 30 days after issue, but APPco may vary or withdraw any such quotation at any time.

3. BOOKING PROCESS

3.1 Client may, at any time, make a Booking. A Booking Confirmation will be issued with respect to the Booking.

3.2 Client may cancel all or part of a Booking without penalty if written notice is given to APPco's Accounts Department by the published 'Booking Deadline', or 10 weeks prior to 'Booking Deadline' for Front Cover Packages and contracted special publications.

3.3 Bookings accepted by APPco after the respective 'Booking Deadline' may not be cancelled by Client without payment for the Booking in full.

3.4 If Client cancels all or part of a Booking after the cancellation dates referred to clauses 3.2 and 3.3, APPco is entitled to payment in full for the Booking. If APPco, at its absolute discretion, approves a 'Delete and Charge' (which allows the Booking to be moved to another issue), payment of 25% of the total advertising value must be paid 30 days from original publishing date with the outstanding balance payable 30 days from revised publishing date. The Delete and Charge will be forfeited if not utilised within the following 12 month period.

3.5 If APPco fails to issue a Booking Confirmation relating to a Booking but provides the Services requested in that Booking, these terms bind the Client as if a Booking Confirmation had been issued.

4. RATES AND PAYMENT

4.1 The applicable rate for any Booking is the rate specified in the Booking Confirmation (or, in the absence of a Booking Confirmation, in the published rate card for the applicable Publication as of the date of the Booking). Client must pay the applicable rate within 30 days from date of invoice.

4.2 Production costs (including those associated with inserts and onserts) are also payable by Client at APPco's standard rates where production costs are incurred on behalf of Client.

4.3 All APPco rates or costs are exclusive of any applicable GST. APPco will issue a tax invoice to Client in relation to any supply that is subject to GST. The amount of GST payable by Client shall be calculated by multiplying the GST exclusive sum payable for Services by the rate of GST applicable at the time of the supply. The terms "GST", "supply" and "tax invoice" used in this clause shall have the same meaning as under the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

4.4 All outstanding amounts overdue by 14 days will incur a 5% interest fee.

5. CONDITIONS RELATING TO SERVICES

5.1 APPco may, in its absolute discretion, refuse to accept any Advertising Material and cancel or reschedule any Booking or Booking Confirmation or refuse to provide any Services.

5.2 A Booking must not be resold or sub-licensed by Client or used other than for Advertising Material referred to in the applicable Booking or Booking Confirmation.

5.3 APPco offers no warranties in relation to guarantees for a specific position or for the proximity of Advertising Material in a Publication relative to Advertising Material relating to competing products or services.

5.4 Where, in connection with the provision of Services, APPco provides creative services to Client, Client acknowledges that APPco does so as agent for Client and that Client is solely responsible for the products of such creative services, including their compliance with applicable laws, regulations and codes of conduct.

6. ADVERTISING MATERIAL LODGMENT

6.1 Client must lodge Advertising Material that complies with the Advertising Material Lodgment Requirements.

6.2 If Advertising Material is not lodged as required by APPco, APPco is entitled to payment for the Booking and may, at its election, use Advertising Material previously provided by Client or cancel the Booking.

6.3 APPco reserves the right to place the word "advertisement", "promotion" or similar wording within or adjacent to any Advertising Material which, in APPco's opinion, resembles editorial material.

6.4 No responsibility is taken by APPco for any Advertising Material or associated materials left uncollected after 3 months from the date of publication of the Advertising Material.

7. WARRANTIES

7.1 Client warrants to APPco that Advertising Material lodged with APPco (whether or not APPco provided creative services in relation to that Advertising Material):

- complies with all laws, statutes, regulations, codes of practice and any standards applicable to publication of the Advertising Material and determined by any relevant regulatory agency or industry self-regulatory body;
- complies with any standard, guideline or requirement specified by APPco and notified to Client from time to time;
- does not infringe copyright, trademark, obligations of confidentiality or other legal rights of any person;
- is not false or misleading and is true in substance and in fact;
- without limiting the above, does not infringe the Trade Practices Act 1974 (Cth) or the Therapeutic Goods ACT 1989 (Cth), the Therapeutic Goods Regulations, the Therapeutic Goods Advertising Code operating in Australia; and

(f) does not contain anything which may give rise to any cause of action by a third party against APPco, including without limitation material which is defamatory or obscene or which otherwise causes injury or damage to any person.

7.2 Client warrants to APPco that Client is acting in its own right, as principal, and not as agent for, or otherwise on behalf of, any other party in relation to Client's dealings with APPco.

8. INDEMNITY

Client indemnifies APPco, its officers, employees, agents and affiliates (and their employees and agents) against any action, claim, loss, expense or cost, suffered or incurred, whether directly or indirectly, by APPco, its officers, employees, agents and affiliates (and their employees and agents) as a result of any breach by Client of these terms (including the warranties in clause 7) or otherwise (including in connection with recovering any amounts owed to APPco by Client) arising from publication of Advertising Material or cancellation of or failure to publish any Advertising Material or otherwise in connection with such advertising.

9. LIABILITY

9.1 APPco (and its officers, employees, agents and affiliates) is not liable under these terms or otherwise in law for any indirect, special, economic or consequential loss or damage suffered or incurred by Client (or any other person) or loss of revenue, profit, goodwill, data or opportunity or loss of anticipated saving whether caused by negligence or otherwise and whether or not APPco was aware or should have been aware of the possibility of such damage.

9.2 To the extent permitted by law, all representations, conditions and warranties, whether based in statute, common law or otherwise, are excluded. Liability of APPco for any breach of a term or condition whether implied by law or otherwise is limited, at APPco's option, to the supply of the Service (or part thereof) again or the payment for the cost of having the Service (or part thereof) supplied again.

9.3 APPco is not liable for any delay or failure to perform the Services which is due to any Natural Disaster, revolution, unlawful act against public order or authority, breakdown of plant, industrial dispute, government or legal restraint or any event not within the reasonable control of APPco.

10. CREDIT

10.1 APPco may, at any time and in its absolute discretion, cancel, alter or suspend any credit terms (if applicable) when, in APPco's opinion, the financial condition of Client or the status of Client's account requires it and Client agrees to pay on demand all sums owing in connection with any credit facility in the event the credit facility is suspended or cancelled.

10.2 If APPco grants any credit facility to Client, Client agrees that a demand purporting to be signed on behalf of APPco identifying unpaid amounts is conclusive evidence that such amounts are payable and unpaid.

10.3 Client agrees that:

- each Booking it makes shall be deemed to include a representation that it is solvent and able to pay all of its debts as and when they fall due; and
- when any Booking is made, Client shall inform APPco of any facts which might reasonably affect any decision to accept the Booking and/or grant credit. Any failure to do so shall be deemed to create an inequality of bargaining position, the taking of an unfair advantage of APPco and to be unconscionable, misleading and deceptive.

11. GENERAL

11.1 These terms and any agreement between Client and APPco are governed by the laws of New South Wales and each party submits to the jurisdiction of courts exercising jurisdiction in that State.

11.2 These terms bind APPco and Client and their respective successors.

11.3 The invalidity or unenforceability of any provision of these terms does not affect the validity or enforceability of the remaining provisions.

12. RECOVERY OF LEGAL COSTS AND COLLECTION EXPENSES

12.1 In the event of non-payment of APPco's Tax Invoice, APPco reserves the right to commence collection action and stop delivery of goods and services.

12.2 The Client shall indemnify APPco in respect of, and must pay to APPco on demand, any costs and expenses incurred by APPco in enforcing any Charge, Guarantee, Mortgage, or Other Security, given by the Customer to APPco, INCLUDING AND NOT LIMITED TO Collection Costs and Expenses, and Legal Costs incurred as a result of non-payment of APPco's Tax Invoices, court or tribunal issue fees, solicitor costs and expenses on a solicitor/client basis, witness expenses, barrister's fees, expert witness fees if required, adjudicator's expenses, and the like.

12.3 The Client agrees and acknowledges that such collection expenses do not constitute a penalty but APPco's genuine and anticipated expenses incurred in the event that legal and/or collection action is commenced.

13. PRIVACY ACT 1988

The Client authorises and understands that APPco (including any of its related bodies corporate or associated businesses):

may give to and seek any credit providers that may be named in this credit application and any credit providers that may be named in a credit reporting agency information about the customer's credit arrangements; and that this information can include any information about the customer's credit worthiness, credit standing, credit history or credit capacity that credit providers are permitted to give or receive from each other under the Privacy Act 1988. The customer understands the information may be used for the following purposes:

- to assess an application by the client for credit;
- to notify other credit providers of a default by the client;
- to exchange information with other credit providers as to the status of this credit application/loan where the client is in default with other credit providers
- to assess the client's credit worthiness.

From time to time our Terms & Conditions are updated, please see www.appco.com.au for our most recent Terms & Conditions.

APPco