

## **TERMS AND CONDITIONS OF APPLICATION**

### **1. INTRODUCTION**

- a. Your use of the OAS is subject to the Terms and Conditions of Use- CAD Online Application System ('OAS Terms'). In addition to being bound by the OAS Terms, and by submitting an application on the OAS, you agree to be bound by these Terms and Conditions of Application. If you do not agree to these Terms and Conditions of Application, you must cease the application process now.
- b. The Applicant consents to CAD's Classification Number being provided to Free TV Australia Limited & any commercial television station that requests it. CAD's Classification Number will also be provided by CAD to any other party nominated by the Applicant.
- c. CAD does not provide legal advice & its services must not be relied upon as a substitute for the advertiser and/or other Applicant obtaining legal advice.
- d. The Applicant must immediately notify CAD of any alteration to a commercial after a Classification Number has been given. Any subsequent alteration to a commercial may render the Classification Number invalid including the adding of closed captions unless the Applicant ensures that any added closed captions do not obliterate any essential visual information such as disclaimers & pricing & other superimposed details. Any such obliteration may cause the advertisement to be misleading & will render the Classification Number invalid.
- e. CAD provides its classification & any other services subject to the warranty, representation & indemnity below. Please refer to the Classification Handbook for further information.

### **2. PAYMENT TERMS**

- a. When applying for classification, a cost estimate will be provided to you. You acknowledge that this is an estimate only and the final charge will be determined once CAD classification is completed.
- b. You are responsible for payment in full of any applications submitted using your OAS registration details.
- c. A failure by you to pay any amounts owed within the agreed time period may result in the withdrawal of issued CAD numbers and/or a delayed release of pending CAD numbers until amounts owed are fully paid.
- d. All fees are listed on the Free TV website and may be updated from time to time. Where applicable, GST will apply.

### **3. SERVICES**

- a. CAD Services vary in price depending on the type of application (e.g TVC or infomercial), whether the content is 'Simple' or 'Complex' and the type of service selected (e.g. new, revision, tag).
- b. An application for a Simple TVC may become Complex and vice versa, based on the complexity of claims and the time taken to review. The cost of any changes to a TVC's application category may be adjusted at CAD's sole discretion.
- c. If an application is submitted outside of CAD's usual business hours, the relevant turnaround time commences once usual business hours commence.
- d. CAD will use its best endeavours to provide you with the service you have selected within the corresponding timeframe. If CAD is unable to respond to you within these timeframes, your fee will be adjusted to the corresponding timeframe in which CAD is able to respond to you.
- e. You acknowledge that CAD will not be liable to you or any other person for any loss, cost, damage or expense that may be incurred as a result of CAD's failure to meet the timeframes indicated.
- f. If you do not submit all of the required information necessary for CAD to review the application, which may include, but is not limited to, substantiation, correct scripts or final vision, you acknowledge that CAD may request this of you and that this may inevitably extend the turnaround time associated with the application. Should this occur, you will still be required to pay the cost associated with the type of service you initially requested.

### **4. PRIORITY SERVICES**

- a. By selecting 'Rush Hour', 'Red Hot' or 'Priority Processing' services when submitting your application, you acknowledge that priority will be given to that

application and accordingly, once selected, you will be charged and are required to pay the corresponding, expedited fee.

- b. Rush Hour service applications must be submitted between 2pm and 4pm AEST on the day of submission to receive approval before 6pm. Please note that approval is subject to CAD receiving all relevant material for the application.
- c. Red-Hot service applications must be submitted before 2pm AEST on the day of submission in order to receive a response within three (3) hours.
- d. Priority Processing service applications will receive approval within twenty-four (24) Business Hours. If an application is submitted outside of CAD's normal business hours, the relevant turnaround time commences once usual business hours commence. Approval is subject to CAD receiving all relevant material for the application.
- e. Response times for expedited services commence once all material is supplied to CAD. For example, if you request a Red-Hot service at 1pm but do not submit your script until 3pm, the turnaround time for that Red-Hot service will start at 3pm. As the three-hour turnaround exceeds business hours, a CAD Number will be issued the following day.

## **5. WARRANTY, REPRESENTATION AND INDEMNITY**

- a. The Applicant:
  - i. warrants and represents to CAD and to any person to whom CAD provides its classification that:
    1. the commercials and the broadcast of the commercials, including all statements and representations, both express and implied, and all materials and information supplied to CAD in connection with this application are true and accurate, both visually and aurally, and comply with all relevant laws and relevant Codes of Conduct including, without limitation, the *Competition and Consumer Act 2010* (Cth), the *Fair Trading Acts* of each state and territory of Australia, the betting, racing and unlawful gambling Acts of each state and territory of Australia including where required, a compliant integrity agreement with a sports controlling body, the *Copyright Act 1968* (Cth), the law of defamation and the *Privacy Act 1988* (Cth);
    2. it will inform CAD of any relevant changes in fact or in law which may affect any of the warranties given above;
    3. it has read and accepts the terms of the Classification Handbook.
  - ii. indemnifies CAD and any person to whom CAD provides its classification, against any claim, cost or expense (including without limitation, all legal costs, on a solicitor/client basis) arising from a breach of the foregoing warranty.
- b. Any organisation or employee of an organisation that accepts these Terms and Conditions of Application warrants and represents that it is authorised to give the warranty, representation and indemnity for and on behalf of the Applicant.

## **6. LIMITATION OF LIABILITY**

In providing its classification and information services, CAD does not give any representation or warranty as to the completeness, accuracy or relevance of any information given and accordingly shall not be liable to you or anyone else for any loss whatsoever which may result from Your use of CAD's services.

## **7. MATERIAL SUBMITTED TO CAD**

- a. The Applicant consents to the way CAD uses and discloses the material provided to CAD when submitting an application for a Classification Number.
- b. Material provided to CAD will be treated on a confidential basis. In all circumstances where material may become known to a third party, there are confidentiality arrangements in place.
- c. CAD may disclose material to third parties under the following circumstances:
  - i. For the purpose of obtaining advice or information (including from regulators and industry bodies);
  - ii. For the purposes of CAD, Free TV and Free TV Members to administer, monitor, evaluate and improve our services and the OAS and for management functions and reporting purposes;

- iii. As required by law or reasonably requested by a government or regulatory body;
- iv. Where it is necessary or desirable for consideration of the application;
- v. In the context of legal or regulatory proceedings (including any regulatory investigation);
- vi. If the material:
  - 1. is also in the possession of the third party without any breach of confidentiality;
  - 2. enters the public domain;
  - 3. is discussed publicly by you and your actions have released us from our duty of confidentiality in such a way that requires us to respond publicly; or
  - 4. otherwise ceases to be confidential (for example through the broadcast of the advertisement forming part of the application).
- d. With your consent, which you agree not to unreasonably withhold.

## **COLLECTION STATEMENT**

CAD collects your personal information to enable us to classify the commercial/s submitted with this application. By accepting these Terms and Conditions of Application and, in conjunction with the OAS Terms in which you have accepted, you acknowledge that all of the personal information provided by you is true and correct at the time of application. We may need to provide your personal information to people outside of CAD for the purposes of providing our services to you. We generally require these people and companies to whom we disclose your personal information to protect your personal information in the same way we do. You have a right to access most of the personal information we hold about you. If you want to know more about our approach to privacy or to access your personal information, please contact CAD by using any of the below details. You can also view our Privacy Statement available at [www.freetv.com.au/Content/Common/pg-Privacy-Policy.seo](http://www.freetv.com.au/Content/Common/pg-Privacy-Policy.seo) or otherwise at [www.freetv.com.au](http://www.freetv.com.au)

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