

COSTS DEED

THIS DEED is made on the _____ day of _____ 20____

BY:

OF:

(“the Complainant”)

IN FAVOUR OF:

Australian Association of National Advertisers (ACN 003 179 673) of PO BOX 5110 BRADDON
ACT 2612 (“Ad Standards”)

TERMS

1. DEFINITIONS

1.1 The following definitions apply in this deed, unless the context requires otherwise:

“**Additional Costs**” means costs, expenses and charges additional to the Initial Costs being those notified in writing by Ad Standards to the Complainant, if in the reasonable discretion of Ad Standards, the determination of the Complaint becomes more complex, procedural matters required greater attention or substantially more documentation than was initially expected is received plus any applicable GST;

“**Industry Jury**” means the Ad Standards Industry Jury;

“**Complaint**” means the written complaint lodged by the Complainant with Ad Standards which contains the details of the complaint which the Complainant wishes the Industry Jury to resolve, a copy of which is attached to this deed;

“**Costs**” means the Initial Costs and the Additional Costs;

“**GST**” means goods and services tax imposed under the GST Law;

“**GST Law**” has the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) as amended from time to time;

“**Initial Costs**” means the initial costs, expenses and charges to determine the Complaint estimated by Ad Standards prior to Ad Standards acting on the Complaint plus any applicable GST;

“**Industry Jury Members**” mean the persons appointed by Ad Standards to hear and determine the Complaint and, if any of those Industry Jury members are partners in a partnership or an employee employed by a partnership, any of the partners in that partnership;

“Procedural Guidelines” means the Industry Jury procedural guidelines prepared by Ad Standards, as may be amended from time to time;

“Tax Invoice” has the same meaning as in the GST Law; and

“Taxable Supply” has the same meaning as in the GST Law.

2. AGREEMENT

2.1 The Complainant agrees:

- (a) to abide by the terms set down in the Procedural Guidelines;
- (b) to pay the Initial Costs estimated by Ad Standards prior to Ad Standards acting on the Complaint;
- (c) to pay the Additional Costs to Ad Standards as and when notified by Ad Standards to the Complainant;
- (d) that any failure by the Complainant to pay the Costs will result in Ad Standards having the right to terminate any rights of the Complainant in relation to the Complaint and any other complaint the Complainant may make to have the Complaint determined by the Industry Jury both at the time and any time in the future, or to allow any such complaint to lapse until payment has been made;
- (e) that in the event that Ad Standards is required to pay GST in respect of any Taxable Supplies made by Ad Standards under this deed, the Complainant shall pay the applicable GST in addition to the Costs;
- (f) that the GST referred to in clause 2.1(e) is to be calculated by multiplying the GST exclusive of Costs by the prevailing GST rate.

2.2 Ad Standards agrees to issue a valid Tax Invoice for the purposes of the GST Law for any Taxable Supply made under this deed.

3. COMPLAINANT’S WARRANTY

3.1 The Complainant expressly warrants that at the time of lodging the Complaint:

- (a) they have read and are aware of the procedures of Ad Standards set down in the Procedural Guidelines;
- (b) the advertisement the subject of the Complaint is not the subject of litigation (actually commenced) or an order by a Court or government agency or other body whose decisions are legally enforceable.

3.2 If any manner of action, suit, arbitration or proceedings in relation to the advertisement the subject of the Complaint in relation to those matters set out in Section 1 of the AANA Code of Ethics is commenced by any person, the Complainant must immediately notify Ad Standards and Ad Standards will discontinue the review of the Complaint.

3.3 The Complainant agrees that if any manner of action, suit, arbitration or proceedings in relation to the advertisement the subject of the Complaint in relation to those matters set out in Section 1 of the AANA Code of Ethics is commenced:

- (a) by the Complainant, the Complainant will forfeit all Initial Costs associated with Ad Standards' review of the Complaint and will also be liable to pay any Additional Costs;
 - (b) by the advertiser whose advertisement is the subject of the Complaint, or is settled, Ad Standards will deduct all costs incurred to the date of discontinuance of Ad Standards' review of the Complaint, including any forfeit amounts stipulated in the Procedural Guidelines, and refund the balance. If the costs to the date of the discontinuance exceed the Initial Costs the Complainant will be liable to pay the Additional Costs incurred by Ad Standards up to the date of discontinuance.
- 3.4 The Complainant warrants that it is registered for GST purposes.

4. WITHDRAWAL

- 4.1 The Complainant can withdraw the Complaint at any time during Ad Standards' review of the Complaint by complying with the procedures set out in the Procedural Guidelines.
- 4.2 In the event that the Complainant withdraws its Complaint, Ad Standards will refund to the Complainant that portion of the Costs not incurred by Ad Standards in determining the Complaint up to the date Ad Standards receives confirmation in writing from the Complainant that the Complaint has been withdrawn, less any forfeit amounts stipulated in the Procedural Guidelines.
- 4.3 If the Complainant withdraws from the Industry Jury's review of the Complaint and Ad Standards' costs in relation to the Complaint exceed the amount paid by the Complainant, the Complainant will be liable to pay to Ad Standards the amount of the Additional Costs incurred by Ad Standards.

5. GENERAL PROVISIONS

- 5.1 This deed is governed by and construed in accordance with the laws in force in New South Wales and the parties irrevocably submit to the non-exclusive jurisdiction of the Courts of that State.
- 5.2 If the whole or any part of the provisions of the provisions of this deed is void, unenforceable or illegal, it shall be severed and the remainder of this deed shall have full force and effect.

EXECUTION

Executed as a deed.

[Company with two directors]

Signed, sealed and delivered by the
Complainant in accordance with section 127
of the Corporations Act 2011 (Cth) by:

Signature of director/company secretary

Signature of director

Print name

Print name

[Company with sole director]

Signed, sealed and delivered by the
Complainant in accordance with section 127 of
the Corporations Act 2011 (Cth) by:

Signature of sole director and sole company
secretary who states that they are the sole
director and sole secretary of the Complainant

Print name