

## **Cox Australia Media Solutions Pty Ltd ("CAMS AU") Private Party Terms and Conditions**

These are the terms and conditions for registering and using carsguide.com.au, autotrader.com.au and/or kbb.com.au (the "Services") to advertise motor vehicles for sale. You are only entitled to use the Services, and take advantage of the offers provided through the Services, if You are a private party advertiser as determined in accordance with these terms and conditions. Cox Australia Media Solutions Pty Ltd ACN 150 757 574 ("CAMS AU") operates the Services.

### **1 GENERAL TERMS & CONDITIONS**

#### **1.1 Using the Services**

- a. When using any of the Services, You agree to be bound by these Terms & Conditions.
- b. You are responsible for all fees and charges You incur when accessing and using any of the Services. These may include the fees and charges of internet service providers, telecommunications carriers and other third parties.
- c. CAMS AU may modify these Terms & Conditions from time to time. It is Your responsibility to remain familiar with these Terms & Conditions and to understand the changes. Notification of changes to these Terms & Conditions will be posted on the Services or sent via electronic mail, as CAMS AU may determine in its discretion acting reasonably. If You do not agree to any modifications, You should terminate Your use of the Services. Your continued use of any of the Services now, or following the posting of notice of any changes to these Terms & Conditions, will constitute a binding acceptance by You of these Terms & Conditions, or any subsequent modifications.
- d. You may not register on behalf of anyone else and You may not allow any one else to use Your registration details to access and use any of the Services.
- e. You will maintain the security of Your password. You are responsible for all activity on the Services that occur using Your password including activity generated by a third party using Your password with or without Your permission.
- f. Fraudulent use of a credit card by You will automatically absolve CAMS AU from any liability. CAMS AU will co-operate with any law enforcement agency with respect to the fraudulent use of the credit card and provide all relevant details pertaining to Your transactions conducted on any Service. At the time of notification of the fraudulent activity, all Advertisements charged to the notified credit card will be cancelled immediately.

#### **1.2 Privacy Policy**

- a. By using any of the Services, You agree to the terms of CAMS AU's Privacy Policy. You agree that:
  - i. CAMS AU cannot ensure the security or privacy of information You provide through the internet and Your email messages; and
  - ii. CAMS AU cannot ensure the security or privacy of information submitted or stored on any Service due to any technical limitations (including viruses or hacking) in the hardware or software comprised in any Service.
- b. Unless You tell CAMS AU otherwise, You agree that CAMS AU may send electronic mail to You, through the Services, by email or SMS or other electronic delivery platform, for the purpose of informing You about:
  - i. changes or additions to products or any Service;
  - ii. other related or similar products and services or products and services in which You may be interested, in addition to any other matters referred to in CAMS AU's Privacy Policy;
  - iii. the pending charge to Your credit card around the time it will appear on Your statement, where You have made a purchase by credit card;
  - iv. the pending expiry of Your subscription and an offer of renewal, where You have subscribed to a Service and Your subscription is nearing its expiry date; and
  - v. available offers, including offers to assist You in completing Your ad/subscription, where You have started completing an advertisement/ subscription application onto any of CAMS AU Services but not completed it.

- c. To the extent permitted by law, You release CAMS AU from any and all liability in connection with this clause 1.2, including the use of Your information by other parties.

### **1.3 Proprietary Information**

- a. The Services contain information that is proprietary to CAMS AU. CAMS AU asserts full copyright protection in all elements of the Services.
- b. You acknowledge that CAMS AU retains the copyright in any artwork or text prepared by CAMS AU or any of their employees or any of the Services, and agree not to use such artwork or text for any purpose other than advertising on any Service.
- c. You warrant that all material which You provide to CAMS AU for use in an Advertisement (whether or not CAMS AU will use that material to create new artwork or text) is owned or licensed by You and that its use by CAMS AU or any third parties as permitted by CAMS AU will not breach the rights of any other person.

### **1.4 No Warranties**

- a. The Services are distributed on an "as is" basis. CAMS AU does not warrant that the Services will be uninterrupted or error-free. There may be delays, omissions, and interruptions in the availability of the Services. To the extent permitted by law including under the Competition and Consumer Act 2010 (Cth), including the Australian Consumer Law, or equivalent State or Territory legislation, CAMS AU makes no warranties of any kind whatsoever regarding any Service, either express or implied.

## **2 REQUIREMENTS TO USE ANY CAMS AU SERVICE**

### **2.1 In order to place an Advertisement, You must:**

- a. be 18 years or over;
- b. set up an account on the relevant Service/s with CAMS AU;
- c. provide only Australian contact numbers;
- d. be a private or non-commercial advertiser;
- e. You will not be considered a private or non-commercial advertiser by CAMS AU if You:
  - i. are a licensed dealer and intend to sell the car featured in Your Advertisement from Your dealership; or
  - ii. advertise for sale any car as an agent for its owner;
  - iii. advertise for sale more than four (4) cars within any 12 month period;
- f. complete and submit the online application form; and
- g. pay the prescribed advertising fee.

### **2.2 In using any Service You must:**

- a. comply with the terms and conditions set out in this Agreement;
- b. provide all information for Your Advertisement (including any photographs) in the form required by CAMS AU from time to time;
- c. describe the advertised car accurately;
- d. comply with any relevant CAMS AU advertising policy;
- e. if You are not the owner of any materials (for example, images or written descriptions of items) which You wish to include in Your Advertisement, obtain written permission from the owner of those materials to include them in Your Advertisement;
- f. if requested, provide CAMS AU with proof of ownership of the car and/or proof that the car is in Australia;
- g. remove Your Advertisement if the advertised item is:
  - i. sold; or
  - ii. withdrawn by You from sale.

### **3 PUBLICATION OF ADVERTISEMENTS ON CAMS AU**

#### **3.1 Your obligations**

- a. In using any Service You must not place an Advertisement:
  - i. for any car:
    1. not located in Australia;
    2. that is not immediately available for sale - such as an Item which You seek to auction or rent;
    3. that You are not the owner of;
    4. that You do not have the right to sell;
  - ii. that includes an offer of or referral to any services, for example finance;
  - iii. that does not comply with all relevant laws;
  - iv. that infringes the intellectual property rights of any person including any company or organisation;
  - v. that is illegal, fraudulent, obscene, offensive, defamatory, or in any way unsuitable for people under the age of eighteen (18) years;
  - vi. that is misleading or deceptive (for example by including photos or text in Your Advertisement that do not match the car);
  - vii. that comprise anything which may adversely reflect on any Service or CAMS AU or any website on which Your Advertisement is published;
  - viii. that includes references or links to other websites or HTML enhancement text;
  - ix. that offers more than one primary item in a single Advertisement; or
  - x. that includes Your personal contact details (landline number, mobile number and/or email address) in any comments section of the Advertisement;
- b. You must not alter or amend an Advertisement to describe or offer an item that is different to the item included in the original Advertisement.
- c. You must not submit any international contact numbers in Your account information for any Service or Your Advertisement.
- d. You must ensure that photographs submitted with Advertisements for publication must:
  - i. be current photographs of the actual car for sale, such that the car is shown in the same condition as it is anticipated that it will be delivered to the buyer;
  - ii. if the car is registered include at least one image in which the registration is clearly visible;
  - iii. not include any images of people;
  - iv. not be digitally altered;
  - v. not contain any watermarks; and
  - vi. be in jpeg format and a maximum of 3MB

#### **3.2 CAMS AU rights to amend or not to publish**

- a. CAMS AU is not bound to publish Your Advertisement until it is approved by CAMS AU. CAMS AU accepts Your Advertisement for publication only when CAMS AU publishes Your Advertisement. CAMS AU will advise You if Your Advertisement is not accepted for publication.
- b. If Your Advertisement contains content that CAMS AU deems inappropriate to include in an Advertisement, CAMS AU may refuse to publish Your Advertisement or remove any such content from the Advertisement before or after publication.
- c. If accepted, CAMS AU will publish Your Advertisement on the terms and conditions of this Agreement and with any amendments required by or authorised by these Terms and Conditions.
- d. The acceptance by CAMS AU of Your Advertisement does not create any relationship of agency between You and CAMS AU.
- e. You accept and acknowledge that the acceptance of Your Advertisement does not provide any representation, warranty or guarantee that Your item will be sold through any Service.

- f. CAMS AU may republish Your Advertisement on such other websites, search engines, applications and print or other media as determined by CAMS AU from time to time in its absolute discretion.
- g. CAMS AU may refuse to publish, withdraw or terminate the publication of Your Advertisement (or any part of Your Advertisement) if:
  - i. CAMS AU determines, in its absolute opinion without notice, You are not entitled to place the Advertisement (for example, because You are not a private advertiser or You do not own the item being advertised); or
  - ii. You breach this Agreement; or
  - iii. You have not logged on to the administration pages of Your Advertisement for more than 21 days; or
  - iv. CAMS AU determines, in its absolute discretion without notice, that such refusal, withdrawal or termination is appropriate.
- h. Despite anything in this Agreement, CAMS AU has absolute editorial control in relation to the publication of Your Advertisement, including, but not limited to the format, position and placement of Your Advertisement.
- i. CAMS AU may in its absolute discretion add to, edit or remove information within Your Advertisement including without limitation the Vehicle Identification Number (VIN) and/or registration number.

### **3.3 Cancellation And Withdrawal of Advertisements**

- a. Once Your Application is submitted to CAMS AU it cannot be cancelled.
- b. An Advertisement may be removed at any time after publication. Subject to clause 3.5d, all advertising fees remain payable and if paid, You will not be entitled to a refund.

### **3.4 Intellectual Property Rights**

- a. You hereby grant to CAMS AU in respect of all copyright materials included in Your Advertisement or materials otherwise submitted by You to CAMS AU, a perpetual, royalty free and irrevocable licence to use, reproduce, adapt, commercialise or otherwise utilise in any manner those materials and the Advertisement and to permit others to do the same.

### **3.5 Payment**

- a. You must pay the advertising fee at the rate and in the manner set out in the process contained on the relevant Service.
- b. The advertising fee is payable despite the termination of this Agreement or failure to publish an Advertisement which is caused by You or which is due to Your breach of these Terms and Conditions.
- c. You will not be entitled to a refund or credit if CAMS AU withdraws or terminates the publication of Your Advertisement if You were not entitled to place that Advertisement or You are otherwise in breach of this Agreement.
- d. Notwithstanding the above, CAMS AU may in its discretion consider refund requests on a case by case basis.

## **4 WARRANTIES AND INDEMNITIES**

### **4.1 Your Warranties**

You represent and warrant to CAMS AU that:

- a. You are the owner of all items included in Your Advertisements and You have the right to sell those items;
- b. You are entitled to publish the Advertisement and all materials contained in the Advertisement, including text and images;

- c. You have the authority to grant to CAMS AU the licence contained in these Terms and Conditions;
- d. all contact and other details You have provided to CAMS AU are accurate; and
- e. Your use of any of the Services will comply with the terms and conditions set out in this Agreement, the law and any other requirements or directions issued by CAMS AU from time to time.

#### **4.2 Your indemnity**

You indemnify CAMS AU against all actual or threatened loss, damage, actions, claims and / or demands (including the cost of defending or settling any actions, claims and demands) which may be incurred or suffered by or instituted against CAMS AU arising out of:

- a. a breach of this Agreement (including a breach of any representation or warranty contained in this Agreement) by You;
- b. any wilful, unlawful or negligent act or omission by You;
- c. the publication by CAMS AU or any other person of Your Advertisement;
- d. Your use of the Services; and
- e. the sale or offering for sale of any item contained in Your Advertisement.

#### **4.3 CAMS AU's Liability to You**

- a. To the fullest extent permitted by law, all guarantees and implied and express warranties in respect of any goods or services provided by CAMS AU are HEREBY EXCLUDED.
- b. To the fullest extent possible:
  - i. Your use of any Service is Your sole responsibility and You do so at Your own risk;
  - ii. You agree not to hold CAMS AU liable for things other users of any Service post or do;
  - iii. All content on the Services of CAMS AU may be changed at the sole discretion of CAMS AU and without notice;
  - iv. CAMS AU will have no responsibility or liability in relation to any loss or damage that You incur, including damage to Your software or hardware, arising from Your use of or access to any Service;
  - v. CAMS AU does not warrant that functions contained in any Service, such as hyperlinks, will be uninterrupted or error free, that defects will be corrected or that any Service or a server that makes it available, are free of viruses or bugs;
- c. To the fullest extent permitted by law, CAMS AU will only be liable to You:
  - i. Pursuant to any guarantee, right or contractual term that arises, is created or is implied by operation of law and cannot be excluded PROVIDED THAT, to the full extent permitted by law, any such liability of CAMS AU is limited, at CAMS AU's option, to (A) replacing or repairing the relevant goods, (B) supplying goods equivalent to the relevant goods, (C) supplying the relevant services again or (D) paying the cost of such replacement, repairs or supply; or
  - ii. Subject always to clause 4.3(c)(ii) if Your claim arises from or in connection with any deliberate breach of these terms and conditions or fraud by CAMS AU.
- d. To the fullest extent permitted by law, and despite clause 4.3(b), CAMS AU will not be liable to You:
  - i. for claims arising out of or in connection with this Agreement or the publication of Your Advertisement whether arising in contract, tort (including negligence), indemnity, strict liability, breach of warranty or statute; and
  - ii. for loss of use, production, profit, revenue, business, data, contract or anticipated savings or for delay or for any financing costs or increase in operating costs or any economic loss for any indirect or consequential loss or damage.

#### **4.4 Other relevant issues**

- a. For the purposes of this clause 4, the term CAMS AU will mean CAMS AU, its officers, employees, contractors and agents, whether individually or collectively.
- b. This clause 4 will survive the expiration or termination of this Agreement.

#### **5 MISCELLANEOUS**

- 5.1 These conditions of use and all other conditions, notices and disclaimers which appear on any Service are governed by and construed in accordance with the laws of New South Wales.
- 5.2 If You do not agree with these conditions of use or any modifications to them, Your only recourse is to immediately discontinue Your use of the Services.
- 5.3 Once You have registered on any Service, You may terminate Your registration and account for the Service at any time by contacting CAMS AU on the Service "contact us" page.

#### **6 DEFINITIONS**

1. **Advertisement:** Means an advertisement placed on a Service under these terms and conditions.
2. **Advertiser:** A person that utilises a Service to create and place an Advertisement.
3. **Agreement:** any agreement between You and CAMS AU for the publications of an Advertisement in accordance with these terms and conditions.
4. **Package (also called on Offer):** Means a combination of features that may contain one or more of the following features - Advertisement Type; Advertisement Style; a fixed cost for all defined Package components or a fixed price on a variable component eg. \$x-xx/line.
5. **You:** The person entering into this Agreement in whose name the account is conducted.