

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE USING THIS APP

1. Details

The Community Radio Plus application (**App**) operated by the Community Broadcasting Association of Australia Limited ABN 92 003 108 030 of 44-54 Botany Road, Alexandria NSW 2015 (**CBAA, we, us and our**).

You are a community radio station licensee under the *Broadcasting Services Act, 1992*, that is one of our members and whose content is used in the App (**you or Station**).

2. By using our App you accept these terms

By using our App, you confirm that you accept these terms of use and that you agree to comply with them. If you do not agree to these terms, you must not use our App. If you would like your content removed from the App please notify onlineservices@cbaa.org.au in writing.

3. We may make changes to these terms

We amend these terms from time to time. Every time you wish to use our App, please check these terms to ensure you understand the terms that apply at that time.

4. We may make changes to our App

We may update and change our App from time to time.

5. We may suspend or withdraw our App

We do not guarantee that our App, or any content on it, will always be available, uninterrupted or be error-free. We may suspend or withdraw or restrict the availability of all or any part of our App for business and operational reasons. We will try to give you reasonable notice of any suspension or withdrawal.

6. You must keep your account details safe

If you choose, or you are provided with, a user identification code, password or any other piece of information as part of our security procedures, you must treat such information as confidential. You must not disclose it to any third party.

We have the right to disable any user identification code or password, whether chosen by you or allocated by us, at any time, if in our reasonable opinion you have failed to comply with any of the provisions of these terms of use.

7. How you may use material on our App

The Station will create, maintain, update and publish live audio, time-shifted audio and audio-on demand content, podcasts, RSS feeds and other station data to the App (**Content**). CBAA will use reasonable endeavours to include the Content in the App. CBAA has the right to reject any Content in its absolute discretion. CBAA is not under any obligation to make any particular Content available on its App.

Station will only submit or provide access to original Content produced and prepared by the Station. Third party Content is not permitted on the App.

Station may choose to update its station information (known as metadata) through an online form on the CBAA website (www.cbaa.org.au/updatesystation). CBAA will ensure that the information is updated within 2-3 business days.

8. Licence grants

The Station grants to CBAA and its licensees the irrevocable, and perpetual right to: (a) receive, copy and distribute the Content; (b) modify, translate, adapt and edit the Content to create derivative works (**Modified Content**) and combine the Content and Modified Content with images, photographs, video, audio, animation, text, software or other information of CBAA and/or third Persons; (c) copy, distribute, transmit, make available and publicly display and perform the Content in whole or in part, alone or with other products or services, (d) authorise others to deliver the Content in whole or in part including the right to grant further sublicenses.

The App does not allow podcasts and other audio on demand with music used under licence within the program to be made available for download. Programs with music under licence will only be made available as audio-on-demand with no download capability. Stations who use music under licence in podcasts or audio on demand must ensure they have the correct licences in place with the copyright owner or the relevant collecting societies. CBAA is not responsible for APRA AMCOS and PPCA payments for Content used within the App. Those payments remain the Station's responsibility.

9. Intellectual property rights

We agree that neither CBAA nor Station intends to assign any right, title or interest in any intellectual property by virtue of this Agreement. The Station grants CBAA such licenses as are necessary to enable CBAA to fulfil its obligations, and exercise its rights under this Agreement. The CBAA acknowledges and agrees that the Station will own all rights in the Modified Content to the extent that such rights arise in the Modified Content subject to the CBAA being able to exercise the rights subject of this Agreement in the Modified Content as if it were Content.

Station grants to CBAA a non-exclusive licence to display the Station's trade marks, name, logos and brand. The Station also grants to CBAA the right to grant a sublicense to fulfil the purposes of this Agreement. CBAA grants to the Station a non-exclusive licence to display the CBAA's trade marks and brand in relation to the App only in accordance with the Community Radio Plus brand guidelines made available from time to time.

10. Warranties

The Station warrants that:

- (a) it has the right and ability to enter into this Agreement and grant all the rights to the CBAA;
- (b) the performance by the CBAA of its obligations will not infringe any rights of any party;
- (c) the Content will not be (or contain any representation that is) false or misleading or deceptive;
- (d) any publication, broadcast, transmission or other use of the Content will not breach any applicable law or relevant industry code;
- (e) the Content will not contain anything which is defamatory, offensive, pornographic, abusive or menacing;
- (f) it is responsible for any Content that you submit or contribute, and you (and not us) have fully responsibility for such content, including its legality, reliability, accuracy and appropriateness;
- (g) it will not rebroadcast, distribute, transmit or publish any of the material or Content contained in the App;
- (h) the Content does not contain or promote sexual or pornographic material, violence, or discrimination based on race, sex, religion, nationality, disability, sexual orientation or age; and
- (i) The Content does not promote any illegal activity, or advocate, promote or assist any unlawful act.

11. Limitation of liability

In no event will we, our affiliates or their licensors, service providers, employees, agents, officers or directors be liable for damages of any kind arising out of or in connection with your use, or inability to use, our App, any websites linked to it, any content on our App or such other websites or any services or items obtained through our App or such other websites, including any direct, indirect, special, incidental, consequential or punitive damages.

We do not exclude or limit in any way our liability to you where it would be unlawful to do so. Where our liability cannot be excluded, we limit our liability to the fullest extent permitted by the Australian Consumer Law.

You agree to defend, indemnify and hold us, our affiliates, licensors and service providers, and each of their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors and assigns, harmless from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses or fees (including reasonable attorneys' fees) arising out of or relating to your violation of these terms, warranties, any third party claim or action brought against the CBAA due to your Content, or your use of the App.

12. Do not rely on information on this App

This App is provided on an "as is" and "as available" basis, and we make no representations or warranties, express or implied, regarding the operation or availability of the App. The content on our App is provided for general information only. It is not intended to amount to advice on which you should rely.

13. We are not responsible for viruses

We do not guarantee that our App will be secure or free from bugs or viruses or any other type of malicious code or software.

14. New South Wales law applies to disputes

These terms of use, their subject matter and their formation, are governed by New South Wales law. You and we both agree that the courts in New South Wales will have exclusive jurisdiction.

15. Prohibited uses

You may use the App only for lawful purposes and in accordance with these terms. We may report any misuse or unlawful activity to the relevant law enforcement authorities and we will cooperate with those authorities by disclosing your identity to them. In the event of such a breach, your right to use our App will cease immediately.