

STANDARD CONTRACT FOR ADVERTISING PERFORMANCES IN VISUAL (ON CAMERA) COMMERCIALS (not applicable to extras)

JOB NUMBER

PART 1

Note: This contract is valid only if signed for and on behalf of the ARTIST, the PRODUCER and the CLIENT. Terms and conditions set out in Part 2 on the reverse page shall apply and form part of this contract. Complete all applicable items and delete where indicated.

1. THE ARTIST (AGENT)

ADDRESS POSTCODE PHONE

2. THE PRODUCER (Production House or Advertising Company)

3. THE CLIENT (Advertiser)

4. THE PRODUCT OR SERVICE

5. LOCATION OF WORK

6. THE PERIOD OF ENGAGEMENT

Table with 3 columns: Number of working hours/days, Commencing, Concluding

7. ROLE TO BE PLAYED BY THE ARTIST

8. DETAILS OF WORK

*Specify television, radio, cinema, press, posters, point of sale, billboards etc.,

Table with 3 columns: Media*, Type of work, Number x Length of Commercials

9. NEGOTIATED PERFORMANCE FEE \$.....

10. WORK OUTSIDE THE PERIOD OF ENGAGEMENT (Cross out where inapplicable)

Table with 2 columns: Inclusion in fee, Rate of payment

11. LIMITATION OF USE (a)

Period of usage shall operate from the first day of transmission and if no period is specified there shall be a three year limit with roll-over - See Part 2 Section C

period of usagemonths/years (not exceeding 3 years) Not concluding later than/...../..... (insert if applicable)

(b) MEDIA: As in item 8 above.

(c) *Area (Australia only)..... (*specify national, state, district, city etc.,)

12. USE OF THE ARTIST'S NAME:

The Producer SHALL/ SHALL NOT have the right to use the Artist's name in connection with the Product or Service.

13. SPECIAL CONDITIONS (not to be inconsistent with the other terms in this contract)

DATED THIS DAY OF 20

Signed by or on behalf of the ARTIST

DATED THIS DAY OF 20

Signed by or on behalf of the PRODUCER and the CLIENT

CONTRACT FOR VISUAL ADVERTISING PERFORMANCES: PART 2

WHEREAS: The PRODUCER has been engaged by or on behalf of the CLIENT to produce the Advertising Material and the PRODUCER hereby engages the ARTIST in the production of the Advertising Material.

THE ARTIST, THE PRODUCER AND THE CLIENT AGREE AS FOLLOWS:

In this contract the expressions used in Part 2 shall have the same meaning as given to them in Part 1. The expression "ADVERTISING MATERIAL" shall mean the finished advertising material featuring the work of the Artist detailed in Part 1 Item 8 "DAY" shall mean "a period of 24 hours" for the purposes of Clauses 6, 7 and 8.

A. DEFINITIONS:

In this contract the expressions used in part 2 shall have the same meaning as given to them in Part 1. The expression "advertising material" shall mean the finished advertising material featuring the work of the Artist detailed in Part 1 Item 8 "DAY" shall mean a period of 24 hours for the purposes of Clauses 6,7 and 8.

B. CONDITIONS OF ENGAGEMENT:

1. **THE ENGAGEMENT:** The Producer engages the Artist and the Artist agrees to perform the work, as set out in Part 1.
2. **PAYMENT:** Payment for the work shall be made within 7 days following the Saturday of the week in which the work is performed.
3. **WORK OUTSIDE THE PERIOD OF ENGAGEMENT:**
 - (a) Where the Artist is employed by the Producer, additional payment for Overtime, Wardrobe Call, Re-Takes and or post synchronisation will not be less than the current Award Rate. Such payment may be included in the Negotiated Performance Fee (see Part 1 Item 10) provided that this does not have the effect of reducing the total payment below the current Award Rates.
 - (b) Unless otherwise stipulated in Item 13, the Artist shall be obliged to work as required overtime, post-synchronisation, postponements and re-takes which shall be at a mutually agreed time and shall not be unreasonably delayed by either the Producer or the Artist.
 - (c) If either party, after reasonable effort, is unable to fulfil its obligations under the preceding sub-clause the engagement shall be concluded at the time indicated in Item 6 of Part 1. In this event and where the advertising material cannot be used, the Artist shall be paid the cancellation fee in lieu of all other payments made or due under this contract.
4. **ALLIANCE MEMBERS:** This Artist warrants that he/she is a financial member of the Media Entertainment and Arts Alliance ("Alliance").
5. **APPLICABLE AWARD:** Where the Artist is employed by the Producer the terms of the Broadcasting and Recorded Entertainment Award 2010 as amended shall apply and form part of this Contract as if it were set out herein.
6. **CANCELLATION:** If the engagement is cancelled through no fault of the Artist the Artist shall be paid a cancellation fee of 50% of the negotiated performance fee or \$500 whichever is the lesser provided that no cancellation fee shall be paid where the engagement is cancelled at a date prior to half the lead time or five (5) days before the commencement of the engagement whichever is the earlier. Lead time is that time between the contracting date and the commencement of the period of engagement.
7. (a) **POSTPONEMENT - NON WEATHER:** If the engagement is postponed for any reason apart from unsuitable weather the Artist shall be paid a postponement fee of 50% of the negotiated performance fee or \$500 whichever is the lesser, provided that no postponement fee is payable if 3 days notice is given.
- (b) **POSTPONEMENT - WEATHER:** If the engagement is postponed as a result of unsuitable weather, the Artist shall be paid the following proportion of the negotiated fee: First Postponement: No payment; Second, Fourth, Sixth, etc 25% of the Negotiated Performance Fee or \$250 whichever is the lesser; Third, Fifth, Seventh, etc, 50% of the Negotiated Performance Fee or \$500 whichever is the lesser.

C. CONDITIONS OF USE:

1. THE TRANSMISSION, EXHIBITION, DISPLAY OR ANY OTHER USE OF THE ADVERTISING MATERIAL PRODUCED UNDER THIS CONTRACT SHALL BE LIMITED AS FOLLOWS:
 - (a) **TYPE, NUMBER, MEDIA AND LENGTH:** As stipulated in Item 8 of Part 1.
 - (b) **TIME AND AREA:** As stipulated in Item 11 of Part 1 Area is restricted to Australia unless otherwise specified in Item 13.
 - (c) **ROLL OVER:**
 - (i) Where the contracted period of usage (Part 1 Item 11(a) is less than 3 years, then, subject to the Artists' written consent the advertising material may be used beyond the original and any further contracted period The Artist shall be paid an additional fee equivalent (on a pro rata basis) to the original negotiated fee, such payment to be made prior to commencement of extended use.
 - (ii) Where the contracted period is for 3 years then the use of the advertising material may be continued for a further period of up to 3 years subject to the following
 - (1) The fee for the further period shall be equivalent (on a pro rata basis) to the original negotiated fee.
 - (2) The Producer or the client will cause payment of this fee to be sent to the Artist's last known address by registered mail together with a statement setting out the provisions of this Contract governing the grounds on which the Artist may withhold this consent.
 - (3) The Artist may withhold his consent to continued use but only on grounds of the legitimate professional concern of the Artist.
 - (4) If the Artist wishes to withhold his/her consent after payment has been tendered in accordance with sub-clause (ii), he/she shall return the payment to the client or the client's advertising Agency together with a written statement setting out the grounds of his/her legitimate professional concern within 28 days of payment having been posted.
 - (5) If the post office notifies non-receipt of payment by the Artist within 28 days of it having been posted, the payment shall instead be made to the Artist care of the Alliance with a covering letter to the Alliance.
 - (6) The Alliance shall forward payment to the Artist who shall have 14 days from the date payment was made to the Alliance to return payment together with a written statement as indicated above. If the Alliance is unable to locate the Artist it may make representations as to legitimate professional concern on his/her behalf if it considers that the advertising material ought no longer to be used.
 - (7) Non-return of the payment within the times provided in (4) or (6) will be deemed to constitute consent by the Artist to the further use proposed.
 - (8) Any payment made to an Artist who cannot be contacted will be held on trust by the Alliance.
 - (9) If the Client disputes the Artist's contention that continued exposure of the advertising material would be a source of legitimate professional concern to the Artist, the parties shall refer the matter to the Federal Secretary at the time being of Media Entertainment and Arts Alliance and the President at the time being of the Advertising Federation of Australia or their nominees who shall consult and finally determine whether the advertisement may continue in use having regard to the Memorandum of Understanding to which their Associations and the Film and Television Production Association of Australia are signatories, dated July 30, 1979, or appoint an independent arbitrator to make such a determination having regard to the same Memorandum.
 - (10) These roll-over provisions shall operate on the expiry of each period of extended use.
 - (11) In the event that the roll-over option has been exercised and the advertising material is not used in any 12 months period after the initial three years then the advertising material shall not be used without the further consent of the Artist.
 - (12) The roll-over option shall be initiated no sooner than two months prior to the expiry of the time limitation, and will expire if not initiated prior to the expiration of the time limitation.
2. **DUBBING:** The Producer shall have the right to "dub" the Artist's voice provided that in accordance with industry practice the "dubbed" words are identical to the words spoken by the Artist and not likely to subject the Artist to public ridicule or demean the Artist so as to lower his professional standing.

D. PROPERTY IN THE ADVERTISING MATERIAL

Notwithstanding any other term or condition of the Contract, all property and copyright in the Advertising Material and all parts thereof shall belong exclusively to the Client or the Client's assignee or nominee.

- E. **PARTIES BOUND:** The parties agree that any limitations on use of advertising material contained in this Contract are entered into by the Producer as agent of the Client, and shall not be otherwise binding on the Producer or any other person or company.