

Television Commercial Production Contract

Client: _____ Production Company: _____
 Product: _____ Production Contact: _____
 Agency Producer: _____ Director: _____
 Agency Business Mgr.: _____ Editorial Subcontractor: _____
 Special Subcontractor: _____

This agreement is entered into between _____ (hereinafter referred to as the "Agency") as agent for Client, and Production Company (hereinafter referred to as the "Contractor"), for Contractor to produce a filmed and/or videotaped commercial(s) (hereinafter referred to as the "Film" and/or "Tape") in accordance with the scripts and/or storyboards in a manner satisfactory to the Agency under the following terms and conditions:

I. Commercial Number(s), Title(s) and Length(s): _____ _____ _____ _____ _____	II. Description of Job: // Actual Costs, plus fixed-fee or // Firm Bid.
III. Production Schedule: No. Studio Shoot Days: _____ No. Location Shoot Days: _____ Pre-Production Wk/of: _____ Shoot Date: _____ Answer Print or VTR/Master Date: _____	

IV. Production Requirements:

The following materials and elements will be furnished by Agency, Contractor, or Subcontractor, as indicated:

		Agency	Ctr.	Subct.
1.	Casting			
2.	Principal Talent Payments			
3.	Extra Payments			
4.	Client Products			
5.	Color Corrected Packages			

6.	Sets & Props			
7.	Stock Footage			
8.	Stylist			
9.	Wardrobe			
10.	Make-up			
11.	Hairstyle			
12.	Home Economist			
13.	Dailies Screening			
14.	Location			
15.	Animation			
16.	SFX			
17.	Titles & Art			
18.	Original Music			
19.	Stock Music			
20.	Special Insurance (rider attached)			
21.	Other (specify)			

V. Photography

A. Film

// Color // B&W // 35mm // 16mm

B. Videotape

// Color // B&W // 1" // 2" // 3/4"

C. Camera reports, AD reports, and script notes are to be supplied to the agency producer upon completion of photography.

D. The Subcontractor will be _____ or other party mutually agreed upon. The Subcontractor cost is included in VI. Below.

Standard Terms and Conditions for Production of Television Commercials

- 1. Materials and services to be supplied.** Except as otherwise specifically provided herein, you (Contractor) will supply all services and materials required for production of the commercial(s) named herein, including but not limited to, the following: production, technical and directional personnel, photography, sound recordings, studio facilities, locations, casting, wardrobe, animation, talent, screening facilities, and all editorial services necessary to complete and deliver to Agency the commercial elements contracted for herein and/or the completed commercial(s), without any obligation on the part of Agency, except for payment of the agreed-upon contract price stated on the face hereof, upon due performance by you.
- 2. Ownership.** In the event that the work and material which is the subject of this contract is copyrightable subject matter, you and Agency hereby agree that for the purpose of this contract the work and material shall be a work-made-for-hire and the property of Agency as agent for the within-named client. In the event that the work and material which is the subject of this contract is not copyrightable subject matter, or for any reason is determined not to be a work-made-for-hire, then you hereby grant all right, title and interest to said work and material to Agency as agent for the within-named client, and you will promptly execute and deliver such documents as may be requested by Agency in order to accomplish the transfer of all such right, title and interest.
- 3. Agent.** In the making, execution and performance of this contract, Agency is acting solely as agent for the within-named client.
- 4. Independent Contractor.** In the making, execution and performance of this contract, you are an independent contractor and you warrant that the commercial(s) produced under this contract shall be produced in compliance with all Federal, state and local laws. All contracts made by you in furtherance of rendering performance under this contract are entered into by you as principal and not as agent for Agency or the within named client.
- 5. Quality.** It is of the essence to this contract that any commercial(s) produced under this contract in all respects will be of first and Class A esthetic and artistic quality and technically equal to current SMPTE and ASA standards, all subject to Agency approval and acceptance. All pertinent photography and opticals will be within the television safety margin of the motion picture or videotape frame size so as to be visible to the television viewer.
- 6. Agency Supervision and Approval and Price Adjustment.** During the course of the commercial(s) production the duly designated Agency representative will be permitted to be present at any time and at all places during any stage of production. Such production representative will be authorized to approve any and all elements of the production or changes in the production which are subject to or require approval by Agency. You agree to secure Agency approval prior to making any changes in, or variations from, the scripts or storyboards during the course of production. Agency will be notified in advance as to the time and place of all stages of production. At Agency's request, you will submit for its inspection and approval materials completed or in process at each completed stage of the production and will make any reasonable changes, variations or substitutions in the work as requested. If such requests for changes, variations or substitutions will result in additional costs for the production, and are not due to your fault or failure, Agency will pay the additional costs, if you present an estimate thereof, in writing, which estimate is first approved by the Agency's duly designated representative. Without prior written approval Agency will not be liable for any additional costs.
- 7. Warranty.** You warrant that you have full right and power to enter into this Agreement. You further warrant that you will obtain and furnish to Agency prior to the delivery of the completed commercial(s), legal and effective written consents, waivers, releases, copyright assignments,

patent and licenses, authorizations and other agreements in form and substance requested by Agency or approved by Agency covering all persons, work and materials used by you in connection with the commercial(s) (except persons, matter and materials supplied to you by Agency) to insure the right of the within-named client to free, unlimited and unrestricted broadcast exhibition and use in any way or place worldwide of said commercial(s) or any part thereof, without limitation, including, but not limited to the right to substitute, "double" and "dub" voices, acts, poses, sound effects by or with others in any language for any cast members either alone or in connection with other matter, in any media and by any means now known or hereafter devised, for any and all purposes including trade, publicity and advertising without limitation as to time, products use or otherwise, by Agency, its clients, sponsors, exhibitors, broadcasters and others authorized by Agency or the within named client, except with respect to limitations imposed by applicable union agreements. You warrant that the commercial(s) when delivered to Agency will be free and clear of any and all claims, liens, mortgages and any other encumbrances of any kind or character (except with respect to the scripts and materials furnished by Agency and with respect to limitations imposed by applicable union agreements) and that the commercial(s) will not infringe upon the personal rights including civil rights or privacy, of any person or group, or violate any Federal, state or local law, ordinance or regulation.

8. **Indemnification.** You will indemnify and hold Agency, the within named client, nominees, successors, licensees and assigns and all broadcasters, exhibitors and other users of the commercial(s) and any elements thereof, as authorized by Agency and/or the within-named client, harmless from and against any and all damages, expenses, claims, suits, judgments, penalties, and costs including reasonable counsel fees and all costs of any kind, which may be obtained against, imposed upon, accrued against, or be suffered by Agency, or any of the foregoing by reason of your breach of any of the warranties or covenants herein contained and from any injury to persons and loss or damage to property arising out of or resulting from your negligent acts, failure to act or willful misconduct or from any use by Agency of the commercials furnished by you hereunder. Agency will similarly indemnify you with respect to the scripts and material furnished by Agency.
9. **Union Agreement.** You agree to comply with all rules, regulations, and requirements of any applicable collective bargaining agreement with any union representing performers, technicians and other personnel employed by you or in any way participating in the production of the commercial(s). Under no circumstances, however, will your compliance be deemed an agreement by either Agency or its within-named client to become a signatory to any such collective bargaining agreement. You will indemnify and hold Agency and the within-named client and other authorized users harmless from and against any and all damages, expenses, claims, suits, judgments, penalties and costs including reasonable counsel fees and all losses of any kind arising out of your actual or alleged breach of such agreements.
10. **Screen Actors Guild (SAG) and American Federation of Television and Radio Artists (AFTRA).** As an integral part of this Agreement you hereby agree that all players employed by you hereunder will be paid the minimum wage and be given all rights set forth in the current SAG or AFTRA contract, whichever is applicable, in every respect, as if you were directly a party and signatory of said contract. It is further expressly agreed for the benefit of SAG or AFTRA, whichever has jurisdiction, and the players affected thereby that the respective Guild or Federation is hereby given the full right and power on its own behalf and on behalf of said players to enforce all rights and conditions contained in the aforementioned contract against you as if this Agreement were entered into directly with SAG or AFTRA by you.

Within three (3) days after the performance of any talent, you will furnish Agency's designated representative with the following for each person employed by you in each commercial: Original SAG or AFTRA employment contracts completely filled out and signed by you and the talent; appropriately completed and signed Federal and State Withholding Report forms; Production Time Reports, and Commercial Audition Report Forms. All contracts used by you must be approved by Agency as to form. Without limiting the foregoing, it is agreed that Agency's

standard employment contract for television commercials, including time card and withholding certificate, when used for the employment of all performers in each commercial produced hereunder is deemed approved. For any players hired by you and paid according to the wage scales of a collective bargaining agreement other than SAG or AFTRA, or players paid by you at negotiated rates not part of any collective bargaining agreement, you agree to furnish to Agency executed releases substantially in the forms requested by Agency, and a list of all such talent in each commercial, the role each person played and the amount paid by you to each person.

You further agree to be liable for any penalty payments resulting from late or improper payments or session fees, except when payment of session fees is the obligation of Agency and you have delivered the appropriate contracts, reports and forms within the time limit specified above. You further agree to be liable for any penalty payments resulting from the hiring of persons "not covered" or "not in good standing" under the SAG and AFTRA contracts or for whom you failed to comply with the appropriate "preference" or "Union Security" requirements.

11. **Contract Cancellation.** Agency will have the right to cancel this Agreement by written notice to you at any time prior to Agency's acceptance of the completed product. In the event of such cancellation, you will repay to Agency all payments theretofore made to you under this Agreement, will deliver to Agency all completed and uncompleted films, tapes and materials produced hereunder and Agency will be liable to pay you in lieu of the agreed price hereunder, a sum which will reimburse you for the reasonable direct costs and expenses which you have incurred in the normal, efficient routine of production to the date of cancellation including any authorized third party's charges incurred by you on Agency's behalf, plus a negotiated sum not to exceed 30% of such direct costs and expenses to cover overhead, profit, directors and creative fees. For purposes of calculating 30% of direct costs and expenses, it is expressly understood that such direct costs and expenses will not include amounts for overhead, profit, directors and creative fees. In no case will Agency pay you more than the agreed price hereunder.
12. **Insurance.** You agree that you have, or will obtain from an insurance carrier acceptable to Agency, and you will, at your own expense, maintain insurance covering all picture and sound track elements created during this commercial production. Such insurance will be in an amount sufficient to cover the replacement cost of such elements against all hazards or risks customarily insured against in the motion picture production industry and on terms and conditions approved by Agency. It is also understood that you carry, at your own expense, the following insurance: Comprehensive General Liability Endorsement, Contractual Liability, Business Auto Liability, Workers Compensation, Employers Liability, and Professional Liability, all with limits on the Insurers Coverage in no event less than \$1,000,000 with respect to injury or death to any one person, not less than \$5,000,000 with respect to injuries to or death of any number of persons in any one occurrence, and not less than \$1,000,000 in respect of damage to or loss of use of property in any one occurrence, or in the alternative a \$5,000,000 Combined Single Limit Liability, to cover any injury or damage to persons, including, but not limited to, all performers, whether principals or extras engaged by you, or to any property arising out of or in any way connected with the production of the herein-named commercial(s). Agency and its client shall be named as additional insureds to protect their interests on such insurance policies. All such policies shall further waive any right of contribution from insurance held or owned by Agency or its client. A certificate of insurance evidencing such coverage shall be provided to Agency upon request and must provide that such insurance may not be materially altered or canceled on less than fifteen days prior written notice to Agency.
13. **Regulatory.** You are cognizant of the requirements of the Federal Trade Commission and other regulatory organizations relating to demonstration techniques employed in television commercials. You agree, warrant and represent that in the production of the commercial(s) you will not use any mock-ups or substitute materials or employ trick photography without written disclosure thereof to Agency and without first having obtained Agency's specific written approval. You will not engage in any deceptive practice in the production of the commercial(s) and will indemnify and hold

harmless Agency and the within-named client with respect to any and all costs, including counsel fees, which may arise from a violation of your obligations hereunder.

14. **Return of Properties and Insurance.** It is agreed that you will return all properties, products, and materials supplied to you by Agency upon the completion of production and that you will not have any right, title and interest therein. You agree to have all properties, products and materials covered by insurance against all loss, damage, hazard and risk, in an amount sufficient to cover the replacement thereof.
15. **Auditing.** You agree that Agency, at its request, will have the right to audit the costs you have charged Agency. You therefore agree to provide all cost information, invoices and other relevant information related to such productions, upon reasonable notice by Agency, at your place of business during normal business hours.
16. **Delinquent Supplier Payments.** Agency reserves the right in cases of delinquent payments by you to suppliers performing work on or furnishing material for this production to: (a) Pay such suppliers directly, irrespective of any set off, or counter claims you may have against the supplier(s), an amount equal to the money owed such supplier(s) for work the supplier has furnished or is furnishing for this production and such payment will be deemed payment to you and will reduce the contract price herein by the amount of any such payment, and, at Agency's election, have such supplier(s) deliver such commercials and all materials relating thereto directly to Agency, and you hereby expressly authorize such delivery, or (b) terminate this Agreement without further obligation to you and you will immediately deliver to Agency all then-existing components of the commercial(s) and all materials related thereto.
17. **Nondisclosure.** You agree that all work to be performed by you herein will be treated by you in the strictest confidence and will not be disclosed to anyone other than persons authorized by Agency to receive such information. You further agree, at Agency's request, to require those you employ for this production to sign appropriate agreements not to discuss or disclose information about the product or the production.
18. **Bankruptcy.** If at any time prior to the complete performance hereof by you, there will be filed by or against you a petition in bankruptcy, insolvency or reorganization, or for the appointment of a receiver or trustee of all or part of your property, or should you make an assignment for the benefit of creditors, no further payments will be due to you from Agency hereunder. In the event of any of the foregoing events occurring, at Agency's option and upon written notice to you, this Agreement will forthwith terminate and you will immediately deliver to Agency all elements or parts of any commercial(s) fully or partially completed by you, any and all materials contained in such commercial(s), and Agency will have no further obligation to you.
19. **Waiver.** The failure of any party to this Agreement to exercise any rights granted herein upon the occurrence of any of the contingencies set forth in this Agreement will not constitute a waiver of any such rights upon the recurrence of any such contingency.
20. **Applicable Law.** This Agreement and all matters or issues collateral thereto will be governed by the laws of the State of _____ applicable to contracts made and performed entirely therein.
21. **Assignment of Contract.** This Agreement may not be assigned by either party without the written consent of the other except that the within-named client at any time will have the right to designate itself or any advertising agency or firm in the place and stead of Agency and upon such designation being made, the contract will be read and construed as if the Client's name or the name of the advertising agency or firm so designated by the Client were substituted for "Agency", wheresoever the same shall appear in this Agreement.

22. **Equal Employment Opportunity Company.** In connection with your performance hereunder, you agree not to discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin.
23. **Publicity.** You agree not to use the name of Agency, the within named client or the product(s) or service(s) advertised in the commercial(s) in any advertising, publicity, or promotional purposes without Agency's prior written consent.
24. **Arbitration.** All disputes between the parties concerning any matter relating to this Agreement shall be subject to arbitration under the Commercial Rules of the American Arbitration Association. Arbitration shall be the exclusive forum available to the parties and all hearings shall take place in the City of _____, State of _____. [N.B.: Arbitration clause is optional, delete if not desired]