



# Independent Contractor Service Agreement

Version 1 - 2015/11/27

## Introduction

In partnership with our legal counsel, SAGE has prepared a contract for editors working as independent contractors. This first page provides a brief overview of the most important aspects of completing and signing this document. SAGE recommends that this is read in conjunction with our other documents covering employment.

This contract has been drawn up specifically for post-production professionals acting as independent contractors and who are provisional taxpayers; it does not cover fixed term or full-time employment. We advise you to familiarise yourself with the Labour Relations Act and Basic Conditions of Employment Act and Amendments in order to ensure that the agreement between the two parties is indeed a Contract of Work, and not a Contract of Employment.

This contract has been designed to protect both parties as far as possible, firstly by specifying the job in detail, and secondly by covering a range of problems that may occur after work has begun. It should be adapted to the specific project, to the satisfaction of both parties. It is a very comprehensive document, because it is easier to take out clauses that don't apply. Some producers may not be comfortable with all the clauses, so it is important to ensure that the conditions in the contract are discussed and agreed upon or adapted before signing.

## Other documents covering employment

[Pre-employment checklist](#)

[Employees vs. independent contractors](#)

[SAGE rate card](#)

## Overview

The contract is to be entered into between an editor and a producer, which may be a person or a legal entity.

The contract contains a fair amount of variable information in the annexures, which must be carefully filled out in as much detail as possible. Broadly speaking, the contract formalises:

- The schedule of work.
- The services you will provide.
- The standards you will adhere to.
- The equipment you will use.
- Any insurance you or the producer must take out.
- Your fee, payment schedule and termination fees.
- Any subsequent revisions to the schedule.
- Credits.
- Intellectual property obligations.
- The producer's warranties.
- Indemnities for both the producer and the editor.
- Breach of contract.
- Termination of contract.
- Dispute resolution.
- Official notices.

## What to fill out

Print two copies of the document, then:

- Complete all details for both producer and editor.
- Complete and sign the final page with the producer.
- Initial every page.
- Complete Annexure A (see right for details).
- Retain a blank copy of Annexure B (the schedule revision form) for possible future use.

## Intellectual property

Clause 12 of the agreement provides protection for both parties regarding any intellectual property they may use as part of their work.

## Deductions

This agreement is identified as an independent contractor contract—not an employment contract. Thus, PAYE and UIF will not be payable by the producer. The producer may require a letter from the editor confirming this.

## Early termination

This agreement generally embodies the 'pay or play' principle, which refers to a guarantee of some payment even if, through no fault of the editor, the contract does not play out to completion.

Clause 18 covers two scenarios for termination:

The editor terminates due to breach by the producer. In this case, the **Break fee** will be payable by the producer.

The producer terminates due to breach by the editor. In this case, the editor will only be paid what is due up to that point.

## Creative control

Clause 5.2 essentially notes that creative control rests with the Producer.

## Annexure A

Annexure A contains all the variable project-related information for the contract. Some explanations:

The **Creation** is a brief description of the project you will be working on, as specific as possible.

The **Brief** is the description of all the work (both creative and technical) that the producer has asked you to do.

The **Credit format** specifies your credited name, its prominence, plus any extra information you require, like the S.A.G.E. acronym (where awarded by SAGE).

The **Break Fee** is the fee to be paid should the producer be in breach of this agreement.

**Excess time** and the **Excess time rate** are negotiable by you. We recommend consulting the SAGE rate card.

Both the **Brief** and the **Schedule** should be filled in, rather than attaching any separate documents. This will help avoid the possibility of conflicting parameters.

## Agreement for the provision of editing services as an independent contractor

between

The Producer	
Name	
Company name	
Registration no. / Identity no.	
VAT registration no.	
Principal address	
Contact email	
Contact telephone	
Contact fax	

and

The Editor	
Name	
Identity no.	
VAT registration no. (if applicable)	
Principal address	
Contact email	
Contact telephone	
Contact fax	

## 1. Interpretation and preliminary

1. The headings of the clauses in this Agreement are for the purpose of convenience and reference only and will not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause of this Agreement.
- 1.1. Unless a contrary intention clearly appears, words importing –
  - 1.1.1. any gender includes all genders;
  - 1.1.2. the singular include the plural and vice versa; and
  - 1.1.3. natural persons include created entities (corporate or unincorporate) and the state and vice versa;
- 1.2. the following terms will have the meanings assigned to them in this clause 1.3, namely –
  - 1.2.1. “Agreement” means this agreement and all annexures to this Agreement;
  - 1.2.2. “Break Fee” means the fee specified in Annexure A;
  - 1.2.3. “Brief” means the details of the creative concept involved in the Creation, as set out in Annexure A;
  - 1.2.4. “Confidential Information” means –
    - 1.2.4.1. any information disclosed by the Disclosing Party to the Receiving Party in the course of implementing this Agreement, including, but not limited to, information regarding the Disclosing Party’s products, services, prices and costs, contracting practices, trade secrets, know-how, inventions, development plans, techniques, processes, programs, schematics, software, data, customer lists, financial information, sales and marketing plans, business opportunities, personnel data, research and development activities;
    - 1.2.4.2. and any other information which the Receiving Party knows or reasonably ought to know is confidential, proprietary or trade secret information of the Disclosing Party.
  - 1.2.5. “the Creation” means the creation for which the Editor will render the Services, as set out in Annexure A;
  - 1.2.6. “Credit Format” means the format of the editor’s credit for the Editor in relation to the Creation, as set out in Annexure A;
  - 1.2.7. “the Disclosing Party” means a Party that discloses Confidential Information;
  - 1.2.8. “the Editor” means the person described as such on the cover page of this Agreement;
  - 1.2.9. “the Editor’s Account” means the bank account of the Editor, the details of which are set out in Annexure A;
  - 1.2.10. “the Editor’s Fee” means the financial compensation payable by the Producer to the Editor for the provision of the Services, as set out in Annexure A;
  - 1.2.11. the “Editor’s Intellectual Property” means any Intellectual Property that is or was specifically provided or to be provided by the Editor to the Producer in terms of this Agreement and which is incorporated or used in the Creation or otherwise used by the Editor in the performance of the Editor’s obligations in terms of this Agreement;
  - 1.2.12. “Equipment” means the equipment made available by the Producer, as set out in Annexure A;
  - 1.2.13. “Excess Time” means any work done in excess of the hours set out in Annexure A;
  - 1.2.14. “Excess Time Rate” means the fee set out in Annexure A;

- 1.2.15. "Invoicing Date(s)" means the date(s) set out in Annexure A;
- 1.2.16. "Intellectual Property" means, in respect of either Party, the following in any location or jurisdiction worldwide –
- 1.2.16.1. all inventions (whether patentable or unpatentable and whether or not reduced to practise), all improvements to such inventions, and all patents, patent applications, and patent disclosures, together with all revisions, extensions and reexaminations of such patents;
  - 1.2.16.2. all trademarks, service marks, trade dress, logos, trade names and corporate names, (including all internet and intranet names, addresses and icons), together with all translations, adaptations, derivations and combinations and including all associated goodwill, and all applications, registrations, and renewals in connection therewith;
  - 1.2.16.3. all works capable of copyright, all copyright, and all applications, registrations and renewals in connection therewith, including drawings;
  - 1.2.16.4. all trade secrets and business information (including ideas, research and development, knowhow, formulas, compositions, production processes and techniques, technical data, designs, drawings, specifications, customer and supply lists, pricing and cost information, and business and marketing plans and proposals);
  - 1.2.16.5. all computer software (including all relevant data and related documentation);
  - 1.2.16.6. all other proprietary rights,
- in each case whether registered or unregistered and including applications for the grant of any such rights;
- 1.2.17. "Insurance" means the insurance cover set out in Annexure A, if applicable;
- 1.2.18. "Location" means the location set out in Annexure A;
- 1.2.19. "Parties" means the Editor and the Producer, and "Party" will mean either one of them as required by the context;
- 1.2.20. "Payment Date(s)" means the date(s) set out in Annexure A;
- 1.2.21. "Prime Rate" means the publicly quoted basic rate per annum ruling from time to time at which the bank at which the Editor's Account is held lends on overdraft to its best grade customers on an unsecured basis, compounded monthly in arrear;
- 1.2.22. "Producer" means the person or entity described as such on the cover page;
- 1.2.23. "Receiving Party" means a Party that receives Confidential Information;
- 1.2.24. "Schedule" means the schedule for completion of the Services, as set out in Annexure A;
- 1.2.25. "Schedule Revision Form" means the revised schedule for completion of the Services, as set out in Annexure B;
- 1.2.26. "Services" means the services described in Annexure A;
- 1.2.27. "Signature Date" means the date of the last signature of this Agreement;
- 1.2.28. "Term" means the period between the Signature Date and the date of termination of this Agreement, as contemplated in clause 2.2;

- 1.2.29. "VAT" means value-added tax levied in terms of the Value Added Tax Act, No. 89 of 1991;
- 1.3. If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in the definition clause, effect will be given to it as if it were a substantive provision in the body of the Agreement;
- 1.4. When calculating days for any purpose in this Agreement, the number of days will be calculated exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day will be the next succeeding day which is not a Saturday, Sunday or public holiday;
- 1.5. expressions defined in this Agreement will bear the same meanings in annexures to this Agreement which do not themselves contain their own conflicting definitions;
- 1.6. the termination of this Agreement will not affect those provisions of this Agreement that expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such termination, notwithstanding that the clauses themselves do not expressly provide for this;
- 1.7. the rule of construction that a contract will be interpreted against the Party responsible for the drafting or preparation of the contract, will not apply;
- 1.8. any reference in this Agreement to any other agreement or document will be construed as a reference to such other agreement or document as same may have been, or may from time to time be, amended, varied, novated or supplemented.

## 2. Term

This Agreement will —

- 2.1. commence on the Signature Date; and
- 2.2. terminate on the earlier of the date on which —
- 2.2.1. the Services are complete, in accordance with the Schedule; or
- 2.2.2. this Agreement is terminated in accordance with clause 17.

## 3. Appointment

- 3.1. With effect from the Signature Date, the Producer appoints the Editor to provide the Services —
- 3.1.1. on a "pay or play" basis, as further amplified by the terms of this Agreement; and
- 3.1.2. as an independent contractor.
- 3.2. The Editor hereby accepts the appointment referred to in clause 3.1.

## 4. Service

For purposes of this Agreement, the Editor will render the services specified in Annexure A, in accordance with the Brief.

## 5. Service standards

- 5.1. At all times during the Term, the Editor will perform the Services —
- 5.1.1. conscientiously and to the full limit of the Editor's talents and capabilities;
  - 5.1.2. at the Location and/or such other location as the Editor and the Producer may agree, acting reasonably; and
  - 5.1.3. in accordance with the Producer's reasonable instructions and directions in all matters.
- 5.2. Unless agreed otherwise in writing, the Parties agree that the Producer will have the final say in all matters relating to the Creation, provided that the Producer is acting reasonably and in accordance with the terms of this Agreement.

## 6. Equipment

In rendering the Services, the Editor shall be entitled to use the Equipment if any, at the time and places specified in Annexure A.

## 7. Insurance

If agreed, the Parties shall take out and maintain the Insurance for the Term.

## 8. Financial compensation — the editor's fee

- 8.1. In consideration for, and as a reciprocal obligation of, the provision of the Services by the Editor, the Producer will pay the Editor's Fee to the Editor, in accordance with the provisions of this clause 8.
- 8.2. If the Editor is required at any time by the Producer to work Excess Time in performance of the Services, the Producer shall be liable to pay financial compensation to the Editor calculated at the Excess Time Rate.
- 8.3. The invoice for the Editor's Fee will —
- 8.3.1. be transmitted by the Editor to the Producer on the Invoicing Date(s);
  - 8.3.2. reflect, at minimum —
    - 8.3.2.1. the full amount of the Editor's Fee (which shall reflect all Excess Time calculated in accordance with clause 8.2, if applicable);
    - 8.3.2.2. all disbursement costs incurred by the Editor;
    - 8.3.2.3. the VAT levied on the amount referred to in clause 8.3.2.1, if applicable.
- 8.4. Payment in respect of any invoice contemplated in clause 8.3 will be made by the Producer —
- 8.4.1. on the relevant Payment Date(s); and
  - 8.4.2. without set-off or deduction of any kind, and net of any bank charges of any kind; and
  - 8.4.3. into the Editor's Account by way of electronic funds transfer in immediately available funds.

- 8.5. Should the Producer fail to make any payment in terms of this Agreement on the due date for such payment, the amount due under such payment will accrue interest at the Prime Rate from the due date of payment until the date of payment in full by the Producer of such amount.
- 8.6. The Parties agree that any and all taxes and/or deductions imposed or assessed on or in respect of a Party by reason of this Agreement or its performance shall be for the account of that Party.

## 9. Revisions to schedule

- 9.1. If the Editor is unable to render the Services in accordance with the Schedule —
- 9.1.1. for any reason(s) beyond the reasonable control of the Editor; or
- 9.1.2. due to any breach of this Agreement by the Producer,
- the Editor shall immediately notify the Producer in writing of such fact, and in this event the Parties agree that they will meet and review the Schedule at the earliest opportunity.
- 9.2. If, within 2 (two) days of the date on which the notice contemplated in clause 9.1 is transmitted by the Editor (or such later date as the Editor and Producer may agree in writing) the Producer and the Editor —
- 9.2.1. are able to agree on revisions to the Schedule, the Parties shall complete the Schedule Revision Form, and such revisions will take effect on the date on which the Schedule Revision Form is signed by both the Producer and the Editor and such revisions will supersede and replace the prior Schedule; or
- 9.2.2. are unable to agree on revisions to the Schedule, this Agreement may, at the written election of the Editor, be terminated on the expiration of the 2 (two) day period referred to in clause 9.2, in which event the Producer shall be liable to pay the Break Fee.
- 9.3. The provisions of clauses 8.4.2, 8.4.3, 8.5 and 8.6 shall apply, with the necessary changes for context, to the payment of the Break Fee by the Producer, as contemplated in clause 9.2.2.

## 10. Intellectual property compensation — credits

- 10.1. Unless agreed otherwise in writing between the Editor and the Producer, the Editor will receive an editor's credit in the main title on any format of the Creation (subject to any customary distributor exclusions) in the Credit Form.
- 10.2. The Producer will determine in its sole discretion the manner of presenting and the size of credits referred to in clause 10.1, provided that the Editor's credit shall be similar in visibility to other key creative personnel engaged on the Creation.

## 11. Relationship between the parties

- 11.1. It is the intention of the Parties that the Editor will render the Services to the Producer as an independent contractor. Accordingly, the Parties agree that neither Party is an employee, agent, representative, or partner of the other Party.
- 11.2. Neither Party shall have any right, power, or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other Party without the express prior written consent of the other Party.

## 12. Intellectual property

Subject to clause 12.3, the Editor agrees that all right, title and interest in and to the Creation will vest in the Producer throughout the world in perpetuity, including, but not limited to, all rights throughout the world of —

- 12.1. any theatrical, television, video, multimedia or internet product or version of the Creation;
- 12.2. all Intellectual Property inherent in any product or version of the Creation referred to in clause 12.1, and without obligation to pay any fees, royalties or other amounts except those expressly provided for in this Agreement.
- 12.3. The Producer unconditionally and irrevocably agrees that—
  - 12.3.1. all right, title and interest in and to the Editor's Intellectual Property vests in, and is proprietary to, the Editor;
  - 12.3.2. the Producer shall not at any time, under any circumstances, acquire any right, title, or interest in or to the other Editor's Intellectual Property;
  - 12.3.3. the Producer shall take all reasonable precautions to safeguard the Editor's Intellectual Property from unauthorised disclosure, reproduction or use at any time by any person other than the Producer;
  - 12.3.4. at no time may the Editor's Intellectual Property be assigned, sub-licensed or otherwise transferred or made available to third parties for any purpose without the express written consent of the Editor.

## 13. Warranties

- 13.1. The Producer represents and warrants to the Editor that he —
  - 13.1.1. has the right to enter into this Agreement, and to perform his obligations in terms of this Agreement, and that the Producer is not subject to any other obligations or disabilities which will or might interfere with the Producer fully complying with this Agreement;
  - 13.1.2. has not made, and will not make any grant or assignment which might interfere with or compromise compensation granted and due to the Editor in terms of this Agreement;
  - 13.1.3. has secured all necessary financing to make all payments in terms of this Agreement, and complete the post-production as budgeted.
- 13.2. The warranties given in this clause 13 are given on the basis that they are —
  - 13.2.1. unconditional and irrevocable;
  - 13.2.2. effective from the Signature Date and at all times during the Term;
  - 13.2.3. are material and have induced the Editor to enter into this Agreement.

## 14. Indemnity

- 14.1. The Producer hereby indemnifies the Editor and holds the Editor harmless from and against any and all liability, losses, damages, and expenses (including legal fees on an attorney-client basis) arising out of any breach by the Producer of any warranty made by the Producer in terms of this Agreement.
- 14.2. The indemnities given in this clause 14 are given on the basis that they are —

14.2.1. unconditional and irrevocable;

14.2.2. effective from the Signature Date and at all times during the Term.

## 15. Confidentiality

15.1. The Parties acknowledge and agree that in the course of implementing this Agreement, either Party may receive certain non-public information.

15.2. Accordingly, the Receiving Party agrees —

15.2.1. that the Confidential Information is proprietary to the Disclosing Party and may be disclosed to the Receiving Party solely for the purpose of fulfilling the Receiving Party's obligations in terms of this Agreement;

15.2.2. that the Confidential Information may not be used for any other purpose whatsoever and in particular not to obtain any commercial advantage over the Disclosing Party; and

15.2.3. not to copy, use for the Receiving Party's benefit or disclose the Confidential Information to any person whomsoever unless agreed to by the Disclosing Party in writing;

15.2.4. to return to the Disclosing Party all documents and copies of any documents (irrespective of whether the Receiving Party or another prepared or produced them) which the Receiving Party may have obtained from the Disclosing Party;

15.2.5. acknowledges that monetary damages will not be a sufficient remedy for breach of the undertakings given in this clause 15 and accordingly, without prejudice to any other rights and remedies available to the Disclosing Party, agree that the Disclosing Party will be entitled to relief by way of interdict, specific performance or otherwise;

15.2.6. that this clause 15 will survive the termination of this Agreement.

## 16. Breach

If either Party breaches any material provision or term of this Agreement (other than those provisions which contain their own remedies or limit the remedies in the event of a breach) and fails to remedy such breach within 7 (seven) days of receipt of written notice requiring it to do so (or if it is not reasonably possible to remedy the breach within 7 (seven) days, within such further period as may be reasonable in the circumstances (the onus of demonstrating such reasonableness being on the Party in breach) provided that the Party in breach also furnishes evidence within the period of 7 (seven) days, reasonably satisfactory to the other Party, that it has taken whatever steps are available to it, to commence remedying the breach) then the aggrieved Party will be entitled without notice, in addition to any other remedy available to it at law or under this Agreement, including obtaining an interdict, to cancel this Agreement or to claim specific performance of any obligation whether or not the due date for performance has arrived, in either event without prejudice to the aggrieved Party's right to claim damages.

## 17. Termination

17.1. This Agreement may only be terminated by —

17.1.1. the Editor in accordance with clauses 16 or 9.2.2;

17.1.2. the Producer —

- 17.1.2.1. if the Editor is guilty of, or there are reasonable grounds for suspecting that the Editor is guilty of, any gross negligence or breach of any law or regulations applicable to the Services;
- 17.1.2.2. in accordance with clause 16;
- 17.1.3. either Party, if the other Party (to the extent applicable) —
  - 17.1.3.1. takes any steps in contemplation of being placed under provisional or final liquidation or judicial management or business rescue; or
  - 17.1.3.2. attempts a compromise or composition with its creditors;
  - 17.1.3.3. considers or passes a resolution for its voluntary winding-up; or
  - 17.1.3.4. has a final judgment of any court, sounding in money to the equivalent value of R 50, 000.00 or more, granted against it that remains unsatisfied for a period of 7 (seven) days after it has been granted;
  - 17.1.3.5. has any of its property, movable or immovable, attached in execution or by any process of any court; or
  - 17.1.3.6. makes default or threatens to make default in the payment of liabilities generally; or
  - 17.1.3.7. commits any act or omission which is an act of insolvency in terms of the Insolvency Act, No. 24 of 1936.

## 18. Effect of termination of this agreement

The Parties agree that —

- 18.1. if this Agreement is terminated —
  - 18.1.1. by the Editor in accordance with clause 17.1.1 or clause 17.1.3, then from the date of such termination —
    - 18.1.1.1. the Editor shall cease rendering the Services;
    - 18.1.1.2. each Party shall return to the other any Confidential Information of the other Party in a format reasonably acceptable to other Party;
    - 18.1.1.3. the Producer shall be obliged to make payment of the Break Fee;
  - 18.1.2. by the Producer in accordance with clause 17.1.2 or clause 17.1.3, then from the date of such termination —
    - 18.1.2.1. clauses 18.1.1.1 and 18.1.1.2 shall apply;
    - 18.1.2.2. the Producer shall be obliged to make all payments to the Editor in respect of the Editor's Fees accrued up to the date of termination.

## 19. Dispute resolution

- 19.1. Save in respect of those provisions of the Agreement which provide for their own remedies which would be incompatible with arbitration, a dispute which arises in regard to —
  - 19.1.1. the interpretation of; or

- 19.1.2. the carrying into effect of; or
- 19.1.3. any of the Parties' rights and obligations arising from; or
- 19.1.4. the termination or purported termination of or arising from the termination of; or
- 19.1.5. the rectification or proposed rectification of
- this Agreement, or out of or pursuant to this Agreement, (other than where an interdict is sought or urgent relief may be obtained from a court of competent jurisdiction), will be submitted to and decided by arbitration.
- 19.2. That arbitration will be held –
- 19.2.1. with only the Parties and their representatives present;
- 19.2.2. within 50 (fifty) kilometres of the Location.
- 19.3. It is the intention that the arbitration will, where possible, be held and concluded in 21 (twenty one) Business Days after it has been demanded. The Parties will use their best endeavours to procure the expeditious completion of the arbitration.
- 19.4. The arbitration will be subject to the arbitration legislation for the time being in force in South Africa.
- 19.5. The arbitrator will be an impartial admitted attorney whether practising or non-practising of not less than 10 (ten) years standing appointed by the Parties or, failing agreement by the Parties within 14 (fourteen) days after the arbitration has been demanded, at the request of either of the Parties will be nominated by the President for the time being of the Law Society that has jurisdiction over the area in which the Editor's principal address is located, upon which the Parties will immediately appoint such person as the arbitrator. If that person fails or refuses to make the nomination, either Party may approach the High Court of South Africa to make such an appointment. To the extent necessary, the court is expressly empowered to do so.
- 19.6. The Parties will keep the evidence in the arbitration proceedings and any order made by any arbitrator confidential.
- 19.7. The arbitrator will be obliged to give his award in writing fully supported by reasons.
- 19.8. The arbitrator will have the power to give default judgment if any Party fails to make submissions on due date and/or fails to appear at the arbitration.
- 19.9. The arbitrator's award will be final and binding on the Parties to the dispute.
- 19.10. The costs of any venue, arbitrator's remuneration, recording, transcription and other costs and expenses ancillary to the hearing will be borne by the Parties in equal shares and will be recoverable, as costs in the cause under the provisions of any award.
- 19.11. The Parties, together with the arbitrator will agree from time to time on the arbitrator's remuneration, which will be paid by the Parties in equal shares, upon receipt of invoices.

## 20. Notices

- 20.1. The Parties choose as their address for all purposes under this Agreement, whether in respect of court process, notices or other documents or communications of whatsoever nature (including the exercise of any option), the addresses set out on the cover page of this Agreement.
- 20.2. Any notice or communication required or permitted to be given in terms of this Agreement will be valid and effective only if in writing which will include giving notice by fax or e-mail.

- 20.3. Any Party may by notice to any other Party change the physical address referred to in clause 20.1 to another physical address where postal delivery occurs in South Africa or its postal address or its fax number or e-mail address, provided that the change will become effective on the 7th (seventh) Business Day from the receipt of the notice by the addressee.
- 20.4. Any notice to a Party –
- 20.4.1. sent by prepaid registered post (by airmail if appropriate) in a correctly addressed envelope to it at the address referred to in clause 20.1 to which post is delivered will be deemed to have been received on the 7th (seventh) Business Day after posting (unless the contrary is proved);
  - 20.4.2. delivered by hand to a responsible person during ordinary business hours at the physical address referred to in clause 20.1 will be deemed to have been received on the day of delivery; or
  - 20.4.3. sent by fax to its chosen fax number stipulated in clause 20.1, will be deemed to have been received on the date of despatch (unless the contrary is proved); or
  - 20.4.4. sent by e-mail to its chosen e-mail address stipulated in clause 20.1, will be deemed to have been received on the date of despatch (unless the contrary is proved).
- 20.5. Notwithstanding anything to the contrary contained in this clause 19 a written notice or communication actually received by a Party will be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at the address referred to in clause 20.1.

## 21. Governing law and submission to jurisdiction

- 21.1. This Agreement and any matter arising will be governed by and interpreted in accordance with the laws of South Africa.
- 21.2. For the purpose of all or any proceedings in terms of this Agreement, the Parties consent to the jurisdiction of the magistrates' court having territorial jurisdiction, notwithstanding that such proceedings are otherwise beyond its jurisdiction. This clause will be deemed to constitute the required written consent conferring jurisdiction upon the said court pursuant to section 45 of the Magistrates' Court Act, No. 44 of 1944, provided, nevertheless, that either Party will have the right at its sole option and discretion to institute proceedings in any other competent court.

## 22. Entire agreement

- 22.1. This Agreement together with its annexures contains the entire agreement between the Parties relating to the subject matter of this Agreement. This Agreement takes effect in substitution of any previous agreement or agreements whether written or oral between the Producer and the Editor and any such agreement(s), if not already lapsed, will be deemed to have been terminated by mutual consent as from the date of commencement of this Agreement.
- 22.2. No addition to or variation, deletion, or agreed cancellation of any provision of this Agreement will be of any force or effect unless in writing and signed by the Parties.
- 22.3. No waiver of any of the provision of this Agreement will be binding for any purpose unless it is given in writing and signed by the Party giving the same. Any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of any Party in exercising any right, power or privilege under this Agreement will constitute or be deemed to be a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

22.4. Any provision in this Agreement which is or may become illegal, invalid or unenforceable in any jurisdiction affected by this Agreement may be severed from the balance of this Agreement, without invalidating the remaining provisions of this Agreement.

22.5. To the extent permissible by law no Party will be bound by any express or implied or tacit term, representation, warranty, promise or the like not recorded in this Agreement, whether it induced the contract and/or whether it was negligent or not

**23. General**

23.1. Each Party will bear its own costs incidental to the negotiation, drafting and settlement of this Agreement.

23.2. This Agreement may be executed in several counterparts, each of which will together constitute one and the same instrument.

23.3. Neither of the Parties will be entitled to cede their rights or nor delegate their obligations to any third party without the prior written consent of the other Party.

23.4. No part of this Agreement will constitute a stipulation in favour of any person who is not a Party to the Agreement unless the provision in question expressly provides that it does constitute a stipulation.

**The producer**

For: \_\_\_\_\_

Name: \_\_\_\_\_ Signed: \_\_\_\_\_

Date: \_\_\_\_\_ Place: \_\_\_\_\_

**The Editor**

Name: \_\_\_\_\_ Signed: \_\_\_\_\_

Date: \_\_\_\_\_ Place: \_\_\_\_\_

### Basic details

Reference	Details	
Creation		
Brief		
Credit Format		
Editor's Account	Bank	
	Account number	
	Branch code	
Break Fee		
Excess Time		
Excess Time Rate		

### Insurance

Insurance to be taken out by the Editor, if any	Insurance to be taken out by the Producer, if any

### Equipment

Description	Place where equipment will be available	Times at which equipment will be available



### Schedule revision form

Service(s)	Completion date OR time required	Location	Editor's fee	Invoice date	Invoice payment date

### The producer

For: \_\_\_\_\_

Name: \_\_\_\_\_ Signed: \_\_\_\_\_

Date: \_\_\_\_\_ Place: \_\_\_\_\_

### The Editor

Name: \_\_\_\_\_ Signed: \_\_\_\_\_

Date: \_\_\_\_\_ Place: \_\_\_\_\_