

STANDARD CONDITIONS

Governing Contracts for Spot Broadcasting, Adopted 1946 by National Association of Broadcasters

PAYMENT

- (a). The advertiser agrees to pay, and the broadcasting station agrees to hold the advertiser solely liable for payment for the broadcasts covered by this contract, unless expressly otherwise agreed in writing.
- (b). The advertiser agrees to pay for broadcasts covered by this contract, at the office of the broadcasting station or of its authorized representative, on or before the last day of the month following that in which the broadcasting is done unless otherwise stipulated on the face of this contract; or, when cash discount is allowed but payment date not specified on the face of the contract, on the fifteenth of the month following.
- (c). In all cases date of payment is material and unless otherwise stipulated the postmark date on the envelope properly addressed to the broadcasting station or to its representative shall be considered the date when payment was made.
- (d). Station's invoices for broadcasts covered by this contract shall be in accordance with the station's log and shall so state on each such invoice, and shall be deemed to be correct unless proved otherwise.
- (e). Invoices should be rendered not less than monthly.
- (f). Upon request of the agency, affidavits or certifications of performance are to be furnished by the station to the advertiser at the time of billing. Unless requested prior to billing, the request for and the furnishing of such affidavits or certifications shall not act as a condition precedent to the payment or the time of any payment called for hereunder.
- (g). The station reserves the right to cancel this contract at any time upon default by the advertiser in the payment of bills, or other material breach on the part of the advertiser of any of the conditions herein; and upon such cancellation all broadcasting done hereunder and not paid shall become immediately due and payable. In case of delinquency in payment, due in the opinion of the station to impaired credit or if the station believes reasonably that the advertiser's credit has been impaired, the station shall have the right to change the requirements as to the terms of payment for further broadcasts under this contract as it may see fit, by giving the advertiser written notice addressed to the advertiser's last known business address.

In the event of a cancellation by reason of a material breach by the advertiser, the advertiser shall pay to the station, as liquidated damages, a net sum equal to the actual out-of-pocket cost to the station incurred through the cancellation of this contract, together with the amount owing at the earned rate, for broadcasts performed hereunder prior to such cancellation.

(h). In event of a cancellation by reason of a material breach by station, the station shall pay to the advertiser, as liquidated damages, a net sum equal to the actual out-of-pocket cost to the advertiser incurred through cancellation of the contract.

2. TERMINATION AND RENEWAL

(a). This contract may be terminated by either party by giving the other twenty-eight (28) days' prior written notice; provided that no such notice shall be effective until twenty-eight (28) days after start of broadcasts hereunder. It is provided further that this contract insofar as it covers broadcasts of less than five minutes duration, may be terminated by either party giving the other fourteen (14) days' prior written notice, but no such notice shall be effective until fourteen (14) days' after the start of broadcasts hereunder. If advertiser so terminates this contract, it will pay station at earned rate according to station's rate card on which this contract is based. If station so terminates this contract, advertiser will then either agree with station on a satisfactory substitute day or time for continuance of broadcasts covered by this contract at the card rates on which this contract is based for such substitute time, or, if no such agreement can be reached, advertiser will pay station according to the rates specified herein for all broadcasts previously rendered by station; that is, the advertiser shall have the benefit of the same discounts which the advertiser would have earned had it been allowed to complete the contract. In the event of termination hereunder, neither party shall be liable to the other party otherwise than as specified in this paragraph, and in paragraph 6 hereof.

(b). The broadcast time (or times) covered by this contract may be renewed by advertiser provided there is no interruption in the continuity of the broadcasts, by giving the station twenty-eight (28) days' written notice prior to the expiration of this contract or any extension thereof. It is agreed further that this contract, insofar as it covers broadcasts of less than five minutes duration, provided there is no interruption in the continuity of the broadcasts, may be renewed by advertiser giving the station fourteen (14) days' written notice prior to the expiration of this contract or any extension thereof. Failure to exercise this option to renew within the time and in the manner provided voids all advertiser's rights to such renewal.

3. INABILITY TO BROADCAST

(a). Should the station, due to public emergency or necessity, legal restrictions, labor disputes, strikes, boycotts, secondary boycotts, Acts of God (whether or not such Acts of God have occurred frequently or habitually or are of a common or seasonal occurrence in the general locality of such broadcasting), or for any other reason, including but not restricted to mechanical breakdowns, beyond the control and without the fault of the station, provided that station has taken reasonable precautions against their recurrence, be unable to broadcast any or a part of any of the advertiser's broadcasts at the time specified, the station shall not be liable to advertiser except to the extent of allowing in such case: One (1), a pro-rata reduction in the time charges hereunder, or two (2), if any interruption occurs during the commercial announcement portion of any broadcast, a credit to advertiser in the same proportion to the total station charges which the omitted commercial portion bears to the total commercial portion of the broadcast, it being mutually agreed that station shall credit advertiser on whichever basis is more favorable to advertiser. In the event of such omission, station will, upon advertiser's request, make a suitable courtesy announcement as to such omission. Such omission or interruption shall not affect rates of discount; that is, the advertiser shall have the benefit of the same discount which the advertiser would have earned had it been allowed to complete the broadcasts omitted.

4. SUBSTITUTION OF PROGRAMS OF PUBLIC IMPORTANCE OR IN THE PUBLIC INTEREST

(a). The station shall have the right to cancel any broadcast or any portion thereof covered by this contract in order to broadcast any program which in its absolute discretion it deems to be of public importance or in the public interest. In any such case the station will notify advertiser in advance, if reasonably possible, but, in any case, within a reasonable time after such broadcast, that the advertiser's broadcast has been cancelled.

(b). In the case of any broadcast cancelled under Paragraph 4(a) above, the advertiser and the station will agree on a satisfactory substitute day and time for the broadcast or, if no such agreement can be reached within a reasonable time, the broadcast will be considered as cancelled without affecting the rates, discounts, or rights provided under this contract, except that the advertiser shall not be required to pay for the cancelled broadcast unless required by Paragraph 4(c).

(c). In the event of a cancellation of a broadcast of five minutes or more, under Paragraph 4(a); if such a broadcast is displaced by any broadcast of public importance or in the public interest, and a substitute time is not agreed upon, as provided in 4(b) above, the station shall pay to the advertiser only the amount represented by the non-cancellable net cost of live talent, incurred by virtue of, and resulting directly from, such cancellation, but which amount shall not exceed the net time charges (gross less earned time discounts) for the station time involved in the cancellation.

5. TIME RATES

(a). It is agreed that the time rate named in this contract is the lowest rate made by the station for like broadcasts and that if at any time during the life of this contract the station makes a lower rate for like broadcasts, this contract shall be completed at such lower rate from that date.

(b). All time rates shall be published by the station. There shall be no secret rates, rebates or agreements affecting rates. All rates shall be furnished advertiser if requested in writing so to do.

(c). Except as otherwise agreed to in writing, if this contract is continued, without interruption within the control of the advertiser beyond the time specified herein, the additional broadcasts shall be considered a part of this contract and the same time rate shall apply until any lower rates, prevailing at the time this contract was made, shall have been earned; and then such lower time rate shall apply to the whole contract. This provision shall not, however, cover a broadcast later than one year from the date of the first broadcast.

(d). In the event of revision of station rates or discounts, any continuous broadcasts under this contract may be extended at the rates and discounts herein shown without penalty of short rate or loss of discounts on previous broadcasts hereunder for a period of not more than fifty-two (52) weeks from the effective date of such revision.

(e). In the event the advertiser contracts with the station for additional broadcast time, the time rates and discounts shown on the rate card on which this contract is based shall apply to such additional time for a period of fifty-two (52) weeks from the effective date of any revision of station time rates or discounts.

(f). All broadcasts placed with station for the advertiser for consecutive broadcasting within one year from the date of the first broadcast hereunder shall be combined for the purpose of calculating the total amount of frequency discounts earned, provided, however, that announcements cannot be so combined with five (5) minute or longer programs.

6. BROADCASTS

(a). The contract for station time includes the services of the technical staff and of a regular staff announcer. Other talent and service charges, if any, are covered in this contract and such charges are subject to change by the advertiser with the consent of the station.

(b). Broadcasts prepared by the advertiser are subject to the approval of the station both as to artists and to broadcast content.

(c). If the station has not received material for any broadcast at least 96 hours in advance of broadcast time, the station shall notify the advertiser by collect telegram. Should the station fail to receive material for such broadcast at least 72 hours in advance of broadcast time, the station shall have the right to produce a substitute broadcast, making its regular charges for time and a reasonable charge for talent used, and, unless otherwise instructed by advertiser, announcing the name, address and business of the advertiser.

(d). Except as otherwise hereinafter expressly provided, the advertiser will hold and save the station harmless against all liability for libel, slander, illegal competition or trade practice, infringement of trade marks, trade names or program titles, violation of rights of privacy and infringement of copy-rights and proprietary rights, resulting from the broadcasting of the broadcasts herein provided in the form furnished by the advertiser. The station agrees, however, to hold and save the advertiser harmless against all such liability where the broadcasts are prepared and produced both as to artists and broadcast content by the station excepting only such liability as may result from the broadcasting of the commercial credits and other material as furnished by the advertiser. Station will hold and save advertiser harmless against all such liability with respect to music on station-built broadcasts. Station will hold and save advertiser harmless against all such liability with respect to music on advertiser-built broadcast, provided such music has been cleared and approved for broadcasting by a licensor designated by the station. Advertiser will hold and save station harmless against all such liability with respect to music on advertiser-built broadcasts if such music has not been cleared and approved for broadcasting by a licensor designated by the station.

(e). The provisions of Paragraph 6(d) shall survive any cancellation or termination of this contract.

7. GENERAL

(a). This contract is subject to the terms of licenses held by the station and is subject also to all Federal, State and Municipal laws and regulations now in force, or which may be enacted in the future, including the Rules and Regulations of the Federal Communications Commission made in pursuance of its quasi-legislative powers and its decisions and actions and orders when acting in its quasi-judicial capacity.

(b). This contract, including the rights under it, may not be assigned or transferred without first obtaining the consent of the station in writing; nor may the station be required to broadcast hereunder for the benefit of any other advertiser than the one named on the face of the contract.

(c). The station shall not be required to broadcast hereunder for any other products than the ones named in the contract, without first obtaining the approval of the station so to do in writing.

(d). In dealing with advertisers, the station shall follow a uniform policy to avoid discrimination.

(e). All requests by the advertiser for the station to receive and handle mail, cables, telegrams or telephone calls, in connection with the broadcasts under this contract, must have the prior approval of the station and, if approved, the said communications will be received and handled at the sole risk of the advertiser, and the advertiser shall reimburse the station for all of the expense incurred by it in connection with the handling of such matters.

(f). Any broadcast material or any other material, information or property of whatever nature or kind, to be received and handled by the station, must have the prior approval of the station and, if approved, will be received and handled at the sole risk of the advertiser, and the advertiser shall reimburse the station for all of the expense incurred by it in connection with the handling of such matters.

(g). The failure of the station or of the advertiser to enforce any of the provisions herein listed with respect to a breach thereof in any one instance shall not be construed as a general relinquishment or waiver under this agreement and the same shall nevertheless be and remain in full force and effect.

(h). The advertiser agrees that the station may deduct from any period of five minutes or longer not more than thirty seconds for station-break purposes.