

GENERAL TERMS AND CONDITIONS OF TRADING - POST PRODUCTION SOUTH AFRICA (PTY) LTD ("PPSA") - 01 January 2018

1. AGREEMENT
 - 1.1. These general conditions shall govern all dealings between PPSA and the CLIENT to the exclusion of all other agreements, general terms and trading of the CLIENT or general conditions of the CLIENT or any other documents unless specifically agreed in writing by PPSA.
2. DEFINITIONS
 - 2.1. The head notes and preamble to these conditions are for reference purposes only and shall not in anyway affect the construction or interpretation of anything herein contained.
 - 2.2. Words signifying the singular number shall include the plural and vice versa and words importing the masculine gender shall include the feminine and neuter.
 - 2.3. "CLIENT" is defined as the party who confirms and undertakes to pay PPSA to supply post production crew, facilities, supervision services or other any services offered or subcontracted by PPSA.
3. PRICE
 - 3.1. The CLIENT will be charged for and will be liable for the charges in respect of all services, equipment rentals and/or facilities on the time basis as referred to in the booking sheet, quotation, email or other written confirmation of work undertaken by PPSA.
 - 3.2. PPSA reserves the right to vary at any time any published hiring or service charges. Should the CLIENT be in possession of a valid quotation then the price in the quotation is applicable.
 - 3.3. Any price quoted shall only be in respect of the time period stipulated therein which quantity of hours or days is a rough estimate only. Should any services or facility be used for any period of time in excess of the time stipulated then the CLIENT will be liable for the additional time at the quoted rates thereof. Should any services or facility used for any period of time shorter than that furnished in any quotation then the CLIENT will still be liable for payment of the full periods stipulated in such quotation. All prices quoted or furnished are nett and no discounts whatsoever shall be allowed unless agreed to by PPSA in writing.
4. CLIENT'S UNDERTAKINGS AND OBLIGATIONS
 - 4.1. The CLIENT warrants that :
 - 4.1.1. It has the right and authority to place orders and accept cost estimates in accordance with these terms and conditions and gives PPSA the right to make copies and duplicates of the CLIENTS materials.
 - 4.1.2. It shall not infringe any third party's copyright or any other rights.
 - 4.1.3. Its materials do not contain anything which in any way infringes any statute.
 - 4.1.4. The CLIENT hereby indemnifies PPSA and holds its harmless against any loss arising from any claim including legal fees as well as damages and expenses as a result of a breach of any term contained herein, and/or any conduct or omission of the client.
5. COMMISSION AND DISCLOSURE OF INFORMATION
 - 5.1. PPSA shall deduct a commission from the remuneration package due to the CREW MEMBER whether directly or indirectly (for instance, where the CREW MEMBER renders his services through a close corporation, company, trust, partnership or the like) who may be placed with the CLIENT. This shall also apply where the CREW MEMBER, directly or indirectly concludes any service agreement with the client directly and without PPSA's involvement, for the period referred to in clause 5.5. This interpretation shall apply to all references herein to "CREW MEMBER". "Remuneration" includes salary, wages, all monies due by the CLIENT or on behalf of the CLIENT, to the CREW MEMBER as well as any other perk or benefit of whatsoever nature. The CLIENT shall pay any remuneration due by it to the CREW MEMBER, directly to PPSA whereupon the latter shall deduct the commission due to it and pay the difference to the CREW MEMBER.
 - 5.2. Should the CREW MEMBER whether directly or indirectly, take up permanent employment with the client at any time during the existence of the service agreement between PPSA and the CREW MEMBER, or within a period of one year of the termination thereof, the client shall pay PPSA a placement fee of 70% on the value of the CREW MEMBER's first month's remuneration which will be paid within 30 days of the CREW MEMBER taking up permanent employment with the CLIENT.
 - 5.3. The client agrees and undertakes to furnish PPSA with full details of all services of whatsoever nature, whether freelance or fulltime employment, between the CREW MEMBER and the CLIENT, including details of all and any remuneration.
 - 5.4. The client acknowledges that the CREW MEMBER has ceded his right, title and interest in and to his remuneration due from the client, to PPSA limited to the commission referred to in clauses 5.1 and 5.2. as the case may be.
 - 5.5. The provision of clause 5.1 shall continue to apply to any services which the CREW MEMBER may render, whether directly or indirectly, to or on behalf of the client, for a period of one year from (1) the termination of the agreement between PPSA and the CREW MEMBER.
6. PAYMENT
 - 6.1. All invoices for CREW MEMBER's services are payable on receipt by client, but no later than 5 calendar days from the last day worked by the CREW MEMBER reflected on the invoice.
 - 6.2. Unless agreed to by PPSA in writing, the full price in respect of the use of services and equipment and facilities shall be made before the CLIENT (and all film and video media upon which any work has been done via PPSA) leaves the premises of PPSA or the crew member hands over any final edit material on completion.
 - 6.3. Should PPSA agree to the CLIENT being granted credit (excluding CREW MEMBER salaries per 6.1) then all amounts payable by the CLIENT to PPSA shall be paid within 15 (fifteen) days of the date of the statement reflecting the relevant invoice or invoices for the first time.
 - 6.4. In the event of any amount not being paid on due date by the CLIENT to PPSA then all further amounts owing by the CLIENT to PPSA shall immediately become due and payable.
 - 6.5. CLIENT shall be liable to pay PAYE to South African Revenue Services on behalf of the Crew Member, to be deducted at 25% in the case of short terms employment (less than 25 hours per week) or per the prevailing tax tables for longer employment.
7. LIABILITY OF PPSA
 - 7.1. It is recorded that PPSA has done no more than introduced the CREW MEMBER to the CLIENT and makes no representation or warranty of whatsoever nature regarding the CREW MEMBER's ability, competence or honesty, and accordingly accepts no responsibility in that regard. It is agreed that PPSA shall not be liable for any loss or damage of any kind whatsoever, whether direct or indirect or consequential, or whether caused by negligence or the intentional wrongdoing of the CREW MEMBER, and howsoever arising.
 - 7.2. Without derogating from the generality of the foregoing, PPSA will incur no liability for delay in delivery or in completion of any undertaking howsoever caused. Any times and time limits furnished by PPSA or agreed upon between the parties shall be estimated only and shall not be deemed to be of the essence of these conditions, or any contract.

8. DOMICILIUM
- 8.1. Each of the parties chooses domicilium citandi et executandi ("domicilium") for the purposes of the giving of any notice, the serving of any process and for any purposes arising from this agreement at their respective addresses set forth hereunder.
- PPSA, 7 GORDON ROAD, KENILWORTH, 7708 CAPE TOWN, Email: barry@postproduction.capetown
 - THE CLIENT's Domicilium shall be per the information provided to PPSA on commencement of any work contract to PPSA or any Crew Member represented by PPSA.
- 8.2. Each of the parties shall be entitled from time to time, by written notice to the other to vary its domicilium to any other address which is not a post office box.
- 8.3. Any notice (which includes an email) given and any payment made by a party to any of the others ("the addressee") which:-
- 8.3.1. is delivered by hand during the normal business hours of the addressee at the addressee's domicilium for the time being shall be presumed, unless the contrary is proved by the addressee, to have been received by the addressee at the time of delivery;
 - 8.3.2. is posted by prepaid registered post to the addressee's domicilium for the time being shall be presumed, unless the contrary is proved by the;
 - 8.3.3. Notwithstanding the foregoing, notice shall be deemed to have been properly given if the addressor is able to prove that the addressee received the notice albeit through some means other than as specifically provide for above.
9. PPSA FREELANCE CONDITIONS
- 9.1. PPSA is an administrative service. It serves both CLIENT and the CREW MEMBER. It takes bookings, handles the booking procedures, does the billing and collects the funds on behalf of it CREW MEMBERS.
- 9.2. PPSA accepts no responsibility for the actions of CREW MEMBERS booked through it. The CREW MEMBER works under the supervision of the CLIENT. The Client is the EMPLOYER. The CREW MEMBER is the supplier of the service/work to the EMPLOYER.
- 9.3. Rates are for a ten hour day. Overtime is charged there after. A standard day includes ONE HOUR for Lunch/meal times. A half day shall be billed at 70% of the normal daily rate. 6 day weeks, 12 hour days may be negotiated.
- 9.4. For the purposes of calculating overtime – 1 hour = day rate divided by 10. Day rate = weekly rate divided by 5 or Monthly rate divided by 22.
- 9.5. A normal week starts on Monday and ends on Friday (with the consecutive days in between)
- 9.6. Rushes viewing or any other tasks directly related to the editor's tasks will be considered part of working day.
- 9.7. Overtime – is charged in line with CPA regulations. First 4 hours time & half, there after double time. Hourly charge increases commensurately with premium days.
- 9.8. Premium days – are regarding as a 7th consecutive working day, Christmas day, Easter Friday or Sunday and are charged as double time.
- 9.9. Away work – Suitable accommodation and transport must be provided (Unless negotiated otherwise) for work away from the CREW MEMBER's primary place of residence. "Away" may be defined as more than a "normal" commuting distance, between 25 and 40 kilometres.
- 9.10. If the CREW MEMBER is offered permanent employment by the client subsequent to a PPSA booking, It is recorded that PPSA was the effective cause of introduction and therefore entitled to it's permanent placement fee.
- 9.11. A booking sheet sent to the CLIENT confirming a CREW MEMBER shall be deemed to be correct and the CLIENT will be liable for the costs detailed therein unless the CLIENT replies to the contrary, in writing, within 24 hours of the booking sheet having been sent.
10. GENERAL
- 10.1. These conditions constitute the whole and entire agreement between the parties. Any previous agreements in conflict with the provisions hereof contained are hereby cancelled and there are no agreements, representations or warranties between the other than those specifically set forth herein.
- 10.2. No indulgence on the part of either party in exercising any right conferred upon such party in terms hereof shall constitute a waiver or such rights, nor shall any single or partial exercise any right preclude any other or future exercise thereof or the exercise of any other right in terms hereof.
- 10.3. No variation or modification of these general conditions shall be of any force or effect unless the same shall be confirmed in writing and signed by both parties and then such variation or modification shall be effective only in the specific instance and the purpose and extent for which it was made or given.
- 10.4. Should any paragraphs, clause or part thereof be found to be invalid for whatsoever reason then to the extent possible such paragraph, clause or part thereof shall be deemed to be severable and shall not effect the validity of the balance of these conditions.
- 10.5. The CLIENT hereby consents to the jurisdiction of any Magistrate Court, which at the time of the proceedings in question has jurisdiction in terms of Section 28 (1) of the Magistrate's Court Act (as amended). Notwithstanding the foregoing parties specifically agree that PPSA may in it's discretion, institute proceedings in any division of the Supreme Court of South Africa having jurisdiction. The client consents to pay costs on the attorney and client scale.
- 10.6. PPSA, its owners, staff and CREW MEMBERS represented by PPSA are aware of the confidential nature of the film industry and agree to be bound by any terms of confidentiality imposed by the CLIENT as required.
11. PPSA CANCELLATION TERMS
- 11.1. A booking is deemed cancelled if postponed for longer than 21 calendar days within seven days of the first day of the booking
- 11.2. Cancellation fee will be charged in two tiers if cancelled within (1) seven days or (2) within 21 days of first booked day
- 11.3. Bookings > 4 weeks (28 days) – 2 weeks of salary for cancellation < 7 days prior to start date
- 11.4. Bookings > 4 weeks (28 days) – 1 weeks of salary for cancellation < 21 days prior to start date
- 11.5. Bookings < 4 weeks (28 days) – 1 week of salary for cancellation < 7 days prior to start date
- 11.6. Bookings < 4 weeks (28 days) – 0.5 weeks of salary for cancellation < 21 days prior to start date
- 11.7. Bookings < 1 week – first 2 days – 100%, next 2 days 50%, then 25% if cancelled < 7 days prior to start.
- 11.8. Booking fees are billed at time of confirmation and are non refundable.
- 11.9. Replacement crew – PPSA will endeavour to replace a CREW MEMBER who can no longer perform a booking (whether they have commenced work or not) PPSA can however not accept responsibility for any loss or delay caused by a CREW MEMBER leaving a position for any reason whatsoever. PPSA does not accept liability in any way for the actions of its CREW MEMBERS and cannot accept responsibility in the event that the replacement CREW MEMBER is of a different rate.
12. PPSA BOOKING FEE
- 12.1. Booking Fee – PPSA reserves the right to change its booking fee from time to time and it is stipulated in the booking confirmation form.
- 12.2. Permanent Placement Employment – 70% of the first full months salary, payable by either the CLIENT or CREW MEMBER.
- 12.3. At its discretion, PPSA may levy a surcharge of R200 should the client need to book a CREW MEMBER after standard working hours - being 09h00 - 18h00, Monday to Friday.
- 12.4. These may change from time to time without prior notice.

By confirming any work or booking any facilities, services or Crew Members with PPSA, the CLIENT is deemed to have acknowledged and accepted these terms and conditions of trade.