



**SAG-AFTRA 2009-2012
HAWAII BASIC MINIMUM COMMERCIALS CONTRACT**

This Agreement made by and between SAG-AFTRA (herein referred to as the "Union") and _____ (herein referred to as "Producer/Advertising Agency").

SECTION A - GENERAL CONDITIONS

1. SCOPE OF CONTRACT

The 2009-2012 Hawaii Basic Minimum Commercials Contract shall apply to film or videotape television commercials and pre-recorded radio commercials produced within the State of Hawaii for telecast or broadcast within the State of Hawaii.

2. EFFECTIVE DATE AND TERM OF AGREEMENT

This Agreement shall become effective as of September 1, 2009 and shall apply to all commercials made during its term whenever exhibited but not to commercials made prior to its effective date.

This Agreement shall be for a term commencing September 1, 2009 shall continue in effect to and including March 31, 2012 and shall continue in effect thereafter until terminated by either party by 60 days' notice in writing to the other.

3. TERMS AND CONDITIONS NOT COVERED

It is understood that the terms and conditions not set forth in this Commercials Contract shall be as specified in the applicable SAG or AFTRA National Commercials Contract. It is further understood and agreed that any and all signatories to this local Contract are also bound to abide by the applicable SAG and AFTRA National Commercials Contract.

4. RECOGNITION AND COVERAGE

A. Filmed Television Commercials

SAG-AFTRA is recognized by Producer as the exclusive bargaining agent for all principal performers (including actors, narrators, announcers, singers, specialty dancers, specialty acts, puppeteers, stunt performers, and pilots) and extra performers employed by Producer for filmed television commercials.

B. Videotaped Television Commercials

(1) SAG-AFTRA is recognized by Producer as the exclusive bargaining agent for all principal performers (including actors, narrators, announcers, singers, dancers, specialty acts, specialty dancers, puppeteers, stunt performers, pilots) and extra performers by Producer for commercials videotaped in the studio of a television station.

(2) The Producer recognizes SAG-AFTRA as the exclusive bargaining agent for principal performers (including actors, narrators, announcers, singers, specialty dancers, specialty acts, puppeteers, stunt performers, and pilots) and extra performers employed by producer for commercials videotaped on a location or in a studio other than the studio of a television station.

C. Pre-Recorded Radio Commercials

SAG-AFTRA is recognized by Producer as the exclusive bargaining agent for actors, singers, announcers, and sound effects persons (herein called "Performers") employed by Producer for commercial sound recordings (up to 1 minute in length), including audio tape, wire recording, sound tracks, and any other similar devices and other means for audio reproduction for radio broadcasting purposes only, now or hereafter devised or perfected.

D. Advertising or commercial messages include any narration, dialogue, songs, jingles or other matters, which

depict or mention the advertiser's name, product or service. They include program openings and closings, which mention the advertiser's name, product or service. Advertising and commercial messages over 3 minutes in length shall be subject to separate negotiations between the Union and Producer/Advertising Agency.

E. The agreement also governs the making and use of recorded commercials in television/radio and all of the terms and provisions of this contract are applicable to television/radio announcements which are produced and recorded by means of any electronic video equipment (including a combination electronic and motion picture or "slave" camera) used either in connection with television or radio broadcasting or in connection with electronic video/audio recording or reproduction, or whether by means of disc, wire, tape, kinescope, audio tape recorders, videotape recorders, wire recorders, disc recorders, and any other apparatus now or hereafter developed which is used to transmit, transfer or record light or sound for immediate or eventual conversion into electrical energy (all of which devices collectively are called "commercials"). The foregoing provisions of this paragraph shall not limit or restrict, or be limited or restricted by anything contained in the current AFTRA National Code of Fair Practice for Network Television Broadcasting or the current SAG Television Agreement.

F. The persons covered by this Contract are herein referred to as "performers" who shall be all persons who appear or perform in any manner in services before the microphone or camera or whose performance is utilized in any manner in the production of a covered commercial (pursuant to this Contract), including those who speak, act, sing, dance, model, demonstrate or in any other manner perform as talent as such term is used and understood in the Broadcasting Industry and including members of the public who participate in testimonial, hidden camera or other commercials. No services of any person so performed or so utilized are excluded from the scope of this paragraph unless specifically waived by the Union.

G. If any clause, sentence, paragraph, or part of this Contract or the application thereof to any person or circumstances, shall for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Contract, but shall be confined in its operations to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be our intent that this Contract would have been accepted even if such invalid provisions had not been included.

The parties hereto recognize that from time to time during the course of their bargaining new laws have been enacted with provisions that have remained unclear and several provisions of this Contract declaring established past practices and have been readopted in the absence of any known problem or legal question. It has always been and is the intention of the parties to interpret and apply all provisions of the Contract in accordance with the requirements of law. To that end, we declare that if any provision of this Contract is found to be in violation of law, this Contract shall be deemed modified or amended accordingly. All terms and conditions of this Contract are separable.

5. CLASSIFICATION OF PERFORMERS

Anyone hired in one classification that performs work included in a higher classification shall be paid at the higher rate. Anyone hired in one classification who is later required to perform only work covered by a lesser classification shall be paid for the session at the rate for the classification shall be paid for the session at the rate for the classification in which the performer was originally hired. This provision shall not, however, affect Producer/Advertising Agency's right to downgrade as provided in Section 14 hereof.

The following persons are included in the term "Performer" and are covered by this contract. Non-professionals (including members of the general public who appear in testimonials, hidden mike or hidden camera commercials), minors, etc. shall receive the wages, working conditions and other benefits of this Agreement except as specifically excluded.

PRINCIPALS

- 1) Anyone who is seen and who speaks a line or lines of dialogue.
- 2) Anyone whose face appears silent and is identifiable and whose foreground performance demonstrates or illustrates a product or service or illustrates or reacts to the off-camera narration or commercial message. Persons appearing in the foreground solely as atmosphere and not otherwise covered by the foregoing shall be deemed extra performers.

- 3) Anyone whose voice is used off camera except "omnies." "Omnies" are defined as atmospheric words or sounds uttered by anyone.
- 4) Anyone whose face appears silent, alone in a stationary camera shot and who is identified with the product or service.
- 5) Anyone who is the subject of a close-up and who is identifiable shall be deemed a "performer". A "close-up" is defined as that term is understood in motion picture photography.
- 6) Persons appearing in television commercials in "stop action" photographs, "squeeze action" photographs involving similar techniques or results, and persons appearing in television commercials in still photographs made for any advertising purpose, which photographs as used in the commercial would bring such persons within the definition of the term "Performer", shall be entitled to sums equal to session and use fees as provided herein.

However, the following types of uses of still photographs are not covered by this Contract:

- a. Photographs that appear in a casual leafing through an album, book, magazine or newspaper.
- b. Photographs of trademarks and service marks (registered and unregistered).
- c. Photographs of packaging and labeling.
- d. Actual print where a photograph appears incidentally and is not highlighted or featured.
- e. Billboards, displays and point of sale items that appear incidentally and are not highlighted or featured.
- f. Atmosphere photographs, pictures and likeness used as incidental props, provided the person shown is not well known or prominent.
- g. News photographs.

It is the intent and spirit of this provision that still photography used in television commercials shall not be used in a manner that evades this Contract. To that end, it is agreed that the Cooperative Committee shall discuss and make recommendations concerning any disagreement or interpretation regarding use of still photographs in television.

- 7) Persons performing as singing or dancing solos or duos.
- 8) Airplane or helicopter pilots are included in the term "performer" if, at the direction of the Producer, their flying or taxiing demonstrates or illustrates a product or service or illustrates or reacts to the on or off-camera narration or commercial message. Employee pilots of advertiser airlines are not included in the term "performer" when photographed flying the advertiser's aircraft in the regular course of employment.
- 9) Puppeteers.
- 10) Specialty Dancers and Specialty Acts are included in the term "performer" if the requirements of this Section are otherwise fulfilled.
- 11) Stunt persons are included in the term "performer" if they perform an identifiable stunt that demonstrates or illustrates a product or service or illustrates or reacts to the off-camera narration or commercial message. Stunt persons need not be identifiable per se: only the stunt performed need be identifiable.
- 12) The following persons who appear in commercials are not included in the term "Performer":
 - a. CEOs and officers of the advertiser;
 - b. Employees of the advertiser who are photographed in the course of performing the work they regularly do for the advertiser.

B. GROUP PERFORMERS (Singers or Dancers)

Those persons who perform as members of singing or dancing groups of three or more with no individual special business or line(s).

C. HAND MODELS (See Side Letter - Attachment 1)

Unidentifiable performers who appear as hand models employed to demonstrate or illustrate a product or service to which on-camera or off-camera narration refers.

D. EXTRA PERFORMERS

A minimum of ten (10) registered extra performers are covered by this agreement and shall receive wages, working conditions and other benefits except as specifically excluded. However, to the extent that Producer/Advertising Agency employs more than ten (10) registered extra performers for work on a particular commercial on a particular day, the Producer may employ any number of nonregistered persons to perform crowd work.

E. PRINCIPAL PERFORMERS - RADIO

Radio principals are actors, announcers, soloists and duos.

6. NON-DISCRIMINATION

The Producer/Advertising Agency agrees not to discriminate against any Performer because of age, race, sex, creed, color, national origin, marital status, or sexual preference.

7. PREFERENCE OF EMPLOYMENT

Preference of employment as set forth in Schedule B Section II of the SAG National Commercials Contract and of the AFTRA National Radio Commercials Contract shall apply to all television commercials produced hereunder, subject to the following modification: The preference zone shall consist of the island of O'ahu.

8. PUBLIC SERVICE ANNOUNCEMENTS (PSA)

If a commercial qualifies as a Public Service Announcement in accordance with the terms of the SAG & AFTRA National Commercials Contracts, Producer/Advertising Agency shall not be required to pay the performer compensation pursuant to this Agreement, provided the performer waives such compensation in writing. If air time, production fees or advertising agency fees are not waived, Producer shall be required to pay performers an amount equal to a session fee for each three-year period in which the PSA is used.

9. MINIMUM COMPENSATION; FEES PER COMMERCIAL; SESSION FEES

A. ON-CAMERA (Principal Performers)

1. Producer/Advertising Agency shall pay principal performers the following rates per 8-hour day, which shall also constitute payment for the first commercial made for one designated advertiser:

Principal performers	\$431.09
Group Singers or Group Dancers 3 to 5	\$273.21
Group Singers or Group Dancers 6 to 8	\$249.31
Group Singers or Group Dancers 9 or more	\$229.91

Such salary shall be deemed the principal performer's "session fee" and overtime shall be paid on the basis thereof. Producer shall notify the principal performer upon the completion of principal performer's services, of the total number of commercials made in which his or her services were utilized and in addition to the initial session fee, the principal performer shall be paid an applicable additional minimum fee equivalent to a session

fee for each commercial in excess of one. All such payments shall be made not later than 21 calendar days after the services are rendered.

FOR EXAMPLE:

- a) A principal performer works 3 days and appears on-camera in 2 commercials made for a designated advertiser. Performer is paid session fees of \$1293.27 for the 3 days services, which shall also constitute payment for the 2 commercials.
 - (b) A principal performer works 1 day and appears on-camera in 3 commercials for a designated advertiser. Principal performer shall be paid \$431.09 which shall constitute initial session fee as well as payment for 1 commercial, and in addition, \$862.18 which shall constitute payment for the 2 remaining commercials.
 - (c) A principal performer works 3 days and appears on-camera in 3 commercials for a designated advertiser. On each day principal performer renders services in various segments of each of the three commercials. Photography is completed for all 3 commercials on the third day. Principal performer shall be paid a session fee of \$1293.27 for the 3 days' services, which shall also constitute session fee payments for 3 commercials.
 - (d) If a principal performer employed on-camera is recalled on a second day to complete his or her work by performing services off-camera, s/he must be recalled as on-camera principal performer and be paid as such unless s/he is notified in writing at the time of recall that s/he is being recalled as an off-camera principal performer.
2. Rates set forth in Paragraph A, above and elsewhere in this Contract for on-camera group singers or group dancers shall also apply with respect to groups of five or more on-camera performers who speak, instead of sing, in unison; provided, however, that if a member of such a group speaks alone or in unison with fewer than four other performers, performer shall be paid the principal performer's on-camera rate; provided, further, that the provisions of this paragraph shall be applicable only to performers who would not otherwise be classified as principal performers under Section 5 Classification of Performers, but for the fact they speak lines as described above.
 3. The determination of whether or not singing constitutes a solo or duo shall depend upon the prominence and significance of the singer's performance. In any event, a group singer called on to sing five consecutive bars or more, solo, or in duet, or in combination or both, shall be paid the solo or duo rate.
 4. Any principal performer (including those who perform in groups as set forth Paragraphs A 1 and B 2) engaged to work in a television commercial shall be paid in accordance with the highest principal performer category for which the performance qualifies, notwithstanding performer's original employment category.

For example, where a group singer's performance would otherwise qualify his or her performance as a principal performer in a higher payment category, such group singer shall receive compensation, including use fees, based on the higher category.

B. OFF-CAMERA (Principal Performers) *

1. Producer/Advertising Agency shall employ the principal performer on the basis of recording sessions. Each recording session for all off-camera principal performers shall be two (2) hours in duration.
2. There shall be no limit on the number of commercials that may be made in a session for one designated advertiser. For each session or part thereof, the Producer shall pay the principal performer not less than the rates below specified, herein called "session fee", which shall also constitute payment for the first commercial made for one designated advertiser.

Producer/Advertising Agency shall pay the principal performer not less than the rates below specified, herein called "session fee", which shall also constitute payment for the first commercial made for one

designated advertiser.

Principal performers except Group Performers	\$274.33
Group Singers/Speakers 3 to 5 voices	\$206.03
Group Singers/Speakers 6 to 8 voices	\$186.62
Group Singers/Speakers 9 or more voices	\$149.30

3. The determination of whether or not singing constitutes a solo or a duo shall depend upon the prominence and significance of the singer's performance. In any event, a group singer called on to sing five consecutive bars or more, solo, or in duet, or in combination of both, shall be paid the solo or due rate.
4. The Producer/Advertising Agency shall notify the principal performer upon the completion of performer's services of the total number of commercials made in which performer's services were utilized, and in addition to the session fee the principal performer shall be paid an amount not less than the applicable session fee for each such commercial in excess of one. All such payments shall be made not later than 21 calendar days after the services were rendered.
5. Any principal performer (including those who perform in groups as set forth in Paragraphs A 1 and B 2) engaged to work in a television commercial shall be paid in accordance with the highest performer category for which the performance qualifies, notwithstanding performer's original employment category.

For example, where a group singer's performance would otherwise qualify his or her performance as a principal performer in a higher payment category, such group singer shall receive compensation, including use fees, based on the higher category.

6. The rates set forth above and elsewhere within this Contract for off-camera group singers shall also apply with respect to groups of off-camera performers who speak, instead of sing in unison; provided, however, that if a member of a group speaks alone or in unison with one other performer, s/he shall be paid the applicable principal performer rate.

* **Note:** The schedule of minimum rates is attached hereto as "Schedule A". Note that voice-over performers whose services are transmitted from states other than Hawaii shall be paid not less than the minimum rates provided in the SAG and AFTRA 2009 Commercials Contracts. (See Side Letter - Attachment 2).

C. PILOTS

1. Studio	\$ 374.61
2. Location rate (including taxiing or flying)	\$ 489.35

D. JOINT PROMOTIONS

Where a commercial is a joint promotion by more than one advertiser and features or highlights more than one product or service, the principal performer(s) involved in such commercial shall be paid not less than scale plus 50% for session only, provided each advertiser has provided financial support for the production of the commercial. The additional 50% may not be credited against use fees or any other fees due under this Contract. Unless Producer pays principal performer for additional exclusivity in accordance with the provisions of Section 16 of the SAG and AFTRA National Commercial Contracts the Producer shall be entitled to principal performer's exclusivity for one product or service only.

E. RADIO COMMERCIALS *

Producer/Advertising Agency shall employ the Performer on the basis of recording sessions. A recording session shall be no more than 90 minutes in duration.

There shall be no limit on the number of commercials that may be made in a session for one designated advertiser. For each session or part thereof, the Producer shall pay the Performer not less than the rates below

specified, herein called "session fee", which shall also constitute payment for the first commercial made for one designated advertiser:

Actor, announcer, Solo, Duo	\$211.62
Group Singers 3 to 5	\$137.34
Group Singers 6 to 8	\$122.42
Group Singers 9 or more	\$107.48

The Producer/Advertising Agency shall notify the Performer upon the completion of his services of the total number of commercials made in which his services were utilized, and the Performer shall be paid in addition to the session fee an amount not less than the applicable session fee for each such commercial in excess of one. All such payments shall be made not later than 21 calendar days after the session.

F. TAGS

A Performer who is employed for the sole purpose of making dealer identifications or tags which are to be attached to a previously recorded commercial shall be paid not less than \$149.30 for each on-camera tag recorded. The applicable tag fee for radio and television off-camera shall be \$111.97.

*** Note:** The schedule of minimum rates is attached hereto as "Schedule A". Note that voice-over performers whose services are transmitted from states other than Hawaii shall be paid not less than the minimum rates provided in the SAG and AFTRA 2009 Commercials Contracts. (See Side Letter - Attachment 2).

G. HAND MODELS \$186.62

H. EXTRA PERFORMERS \$ 97.39

I. HOLDING FEES (Television Only)

Every cycle after the date of the original session a Performer shall be paid a holding fee as a condition to Producer's/Advertising Agency's right to retain the right to exclusivity of the performer and the right to continued use of such commercial. The session fee shall be deemed to be the holding fee for the first one-year cycle. The start date of commercials produced on or after January 1, 2002 shall be the 31st day after the session date or the first air date of the commercial, whichever is earlier.

For the purpose of this section, a "cycle" shall be:

- (1) Commercials produced on or after January 1, 2002, a cycle shall be one year in length.

The Producer/Advertising Agency agrees to provide information regarding the status of commercials within 10 working days from the receipt of a written request. Failure to respond within 10 working days will constitute a release for Performers to accept employment in commercials advertising competitive products.

J. All talent checks shall be individual checks made payable to the Performer entitled thereto and shall be mailed to the SAG-AFTRA office for recording and distribution. Each check shall contain complete information identifying commercials, advertiser, cycle dates and number of sessions. Producer/Advertising Agency shall maintain records showing the Advertiser for whom it was made, names of the Performers employed therein, the amount of the agreed daily wage or session fee, the date(s) Performer's services were rendered, and the number of commercials for which payment is required.

10. OVERSCALE PAYMENTS

A. No compensation in excess of the minimum amounts provided for in this Contract paid to Performer for his services in making a commercial or for any use or period of user thereof, may be credited by the Producer/Advertising Agency or Advertiser against any reuse fees, or any other fees, payable to such Performer, unless there is a specific provision in writing to that effect in the Performer's individual contract or

employment. Except as above provided, there may be no crediting of overscale compensation.

B. Where a Performer is guaranteed in his contract a fixed sum of money, Performer may agree to credit against such fixed sum, compensation for making commercials, use fees, and holding fees.

11. SOCIAL SECURITY, WITHHOLDING, UNEMPLOYMENT INSURANCE TAXES, ETC.

Session fees, holding fees, use and re-use compensation and all other compensation paid to Performers covered by this Contract, for or in connection with the making and use or reuse of commercials, constitute wages and as such, are subject to Social Security, Withholding, Unemployment Insurance Taxes and Disability Insurance Taxes. Advertising Agencies or others who assume the contractual obligation to make such payments shall also make the required payments, reports and withholding with respect to such taxes, and W-2 forms resulting in such employment shall be issued in a forms resulting in such employment shall be issued in a timely manner in accordance with Federal law.

12. CONTRIBUTIONS TO PENSION AND HEALTH

The Producer/Advertising Agency signatory hereto becomes a party to the applicable SAG Pension and Health Funds and AFTRA Health & Retirement Funds under the 2009 SAG Commercials Contract, and the 2009 AFTRA TV Recorded Commercials Contract, and the 2009 AFTRA Radio Recorded Commercials Contract. Contributions are to be made as separate payments made payable to SAG Producers Pension & Health Funds or AFTRA Health & Retirement Funds, as the case may be, in an amount equal to 15.50% of all compensation paid to performers employed hereunder for services covered by this contract.

13. LIQUIDATED DAMAGES FOR LATE PAYMENT

In the event Producer/Advertising Agency fails to make timely payments, as herein provided, cumulative penalty payments shall be due and payable to the Performer for each day, beginning with the day following the date of default. The provisions of the applicable SAG or AFTRA Commercials Contracts regarding liquidated damages for late payment are deemed to be incorporated herein and made a part of the local commercial code.

14. DOWNGRADING AND OUTGRADING

A. Downgrading

1) When a Producer/Advertising Agency engages a Performer as Principal for a commercial, the Performer as Principal for a commercial, the Performer shall be entitled to reuse fees for the use of the commercial and may not be downgraded as long as he remains identifiable in the commercial as exhibited.

2) If a Performer is engaged as a Principal but his face does not remain in the commercial as exhibited, the Performer shall be notified of such downgrading within 60 days after the completion of his employment, but in no event later than 15 working days after the first use of the commercial and concurrently therewith shall be paid an additional 50% of a session fee. If such notice is timely given and payment is made to the Performer as above provided, the downgrading shall be deemed effective retroactively to the date of such first use of the commercial, and no use fees shall become payable for the use of the commercial. If such written notice is not given or payments made within the period above provided, the Performer shall be paid as a Principal for all uses of the commercial which occur prior to the giving of a written notice of such downgrading, but in no event shall such payment be less than the session fee.

B. Outgrading

1) If photography or sound track of a Performer is not used in a commercial or is subsequently edited out of a commercial, the Performer shall be notified of such fact, in writing. Such elimination of the Performer's services shall not be effective retroactively, and the Performer shall be paid all holding fees & use fees for the use of such commercial up to the date he receives such notice. However, if the Performer is notified within a period of 60 days after the completion of his employment but in no event later than 15 working days after the

first use of the commercial that his photography or sound track, as the case may be, is not being utilized in the commercial, and such is the fact, Producer/Advertising Agency shall not be obligated further to the Performer with respect to the said commercial.

- 2) If an off-camera Performer is replaced in a commercial he or his designated representative shall be notified in writing within 5 calendar days after the replacement is made. If timely notice is not given, the Performer shall be paid all holding fees and use fees until notice is given.

15. INTEGRATION OF COMMERCIALS

Whenever photography or sound track made for a commercial is integrated into another commercial, the Performers who remain in that portion of the original commercial integrated shall receive applicable use and reuse payments for the category of performance in such resulting commercial.

16. EMPLOYMENT CONTRACT/PRODUCTION & REUSE REPORTS/INVOICE

Producer/Advertising Agency agrees to provide to the Performer (or his/her talent agent) a SAG/AFTRA employment contract for work performed under this code. It shall be the responsibility of the Producer/Advertising Agency to fill in all blanks on the contract (except those referred to on the form as the time report) and to submit the contract to the Performers (or his/her talent agent) prior to production. Once the work is finished, the time report portion of the contract should be completed, then initialed by both the Performer and Employer to verify its accuracy. The Producer/Advertising Agency is responsible for retaining two (2) copies, which shall be used, respectively, as a Pension & Health report and an invoice for talent payment.

****Note:** No other invoice shall be sent to the Producer/Advertising Agency for services rendered.

Producer/Advertising Agency agrees to furnish SAG-AFTRA with production and use reports advising SAG-AFTRA whenever any commercial is re-used, requiring an additional payment. Such continuing reports shall specify the use during the current cycle, and any dubbing or editing or any other change for which additional fees are due hereunder. The furnishing of the standard Pension & Health report form shall satisfy this requirement.

17. EXTENT OF RIGHTS: NAME AND LIKENESS

The rights granted to Producer/Advertising Agency in commercials shall be limited to the right to use, distribute, reproduce and/or broadcast such commercials over television and/or radio. Producer/Advertising Agency shall have the right to use the name and/or likeness of the Performer and his acts, poses and appearances, in such commercials, in trade publications for the purpose of publicizing the business of the Producer/Advertising Agency.

18. PERFORMER'S RIGHTS VESTED

The rights of a Performer to compensation for the use and reuse of a commercial shall be vested rights and shall not be affected by the expiration of this Contract or by any act on the part of the Producer/Advertising Agency.

19. NON-WAIVER BY PERFORMER

The applicable provisions of this Contract shall be deemed incorporated in the individual contract of employment between Producer/Advertising Agency and each Performer, and Producer/Advertising Agency and the Performer shall each be bound thereby as to all services performed after the effective date hereof. Nothing contained in this Contract shall be construed to prevent any Performer from negotiating with and obtaining from any Producer/Advertising Agency better terms than are provided herein.

20. LIMITATION OF USE OF MOTION PICTURES IN COMMERCIALS

Producer/Advertising Agency agrees that no part of the photography or sound track of a Performer from

services rendered under a SAG or AFTRA Contract, other than Radio and Television Commercials Contract, may be used without separately bargaining with the Performer and reaching an agreement regarding such use prior to any utilization of such photography or sound track under this Contract. The foregoing shall apply to photography only if Performer is recognizable and as to stunts only if the stunt is identifiable. The minimum compensation to which the Performer may agree in such bargaining shall be the applicable daily base pay and applicable reuse fee provided by this Contract.

If Producer/Advertising Agency fails to separately negotiate as provided above, the Performer shall be entitled to damages for such unauthorized use equivalent to three times the amount originally paid the Performer for the number of days of work covered by the material used, plus the applicable minimum reuse fees. However, the Performer may, in lieu of accepting such damages, elect to bring an individual legal action in court of appropriate jurisdiction to enjoin such use and recover such damages as the court may fix in such action.

21. MAXIMUM PERIOD OF USE

The maximum period of use during which a commercial produced under this Agreement may be used shall be 24 months after the date of commencement of the first fixed cycle.

22. THEATRICAL OR INDUSTRIAL EXHIBITIONS

If Producer/Advertising Agency desires to use a commercial for theatrical or industrial exhibition within the areas covered by this Contract, the individual Performer Contract shall contain a provision requiring additional compensation for such right of not less than 1-1/2 times the minimum session fee for a period not to exceed 24 months from date of first such use.

23. TRANSFER OF RIGHTS

The section entitled "Transfer of Rights - Assumption Agreement" contained in the SAG National Commercials Contract shall apply to and be binding upon the parties to this code.

24. UNION SECURITY

Producer/Advertising Agency shall not employ for a second commercial any principal performer or employ for a fourth commercial any extra performer who has not paid Union initiation fees or dues provided the employment in the second commercial or fourth commercial is more than 30 days subsequent to the employment in the first commercial. Producer shall pay the Union liquidated damages in the amount of \$320 for each breach of the Union Security provisions of the SAG and AFTRA National Commercials Contract, as hereby amended.

25. NO STRIKE CLAUSE

SAG and AFTRA National Commercials Contract agrees that, during the effective term hereof, it will not call or engage in a strike affecting production of commercials against any Producer/Advertising Agency signatory hereto, except in a case where the Producer/Advertising Agency fails to abide by an award granted under the Arbitration Provision of this Contract, subject to Producer/Advertising Agency's right of appeal as provided by law.

26. UNFAIR PRODUCER/ADVERTISING AGENCY

The Producer/Advertising Agency agrees that it has notice that this Contract represents the minimum terms and working conditions covering employment of Performers in radio and television commercials. Any Producer/Advertising Agency engaging performers in this field, who knowingly breaches or violates the conditions of this Contract may be regarded as unfair if said Producer/Advertising Agency continues to breach or violate the conditions of this contract or fails to cure a breach after fifteen (15) days written notice from the Union. This paragraph is an acknowledgment of the Producer/Advertising Agency of the facts stated in this paragraph and as such goes no further.

27. LABOR RELATIONS CONTACT

Each signatory hereto shall advise SAG-AFTRA of its labor relations contact to whom claims, notices and other matters may be addressed.

28. ALCOHOLISM & CHEMICAL DEPENDENCY

The Company and SAG-AFTRA agree:

- 1) That alcoholism/chemical dependency is a disease, which is treatable.
- 2) That recovery is both possible and probable.
- 3) That the parties and SAG-AFTRA will cooperate in cases where job performance appears to indicate an affliction with alcoholism/chemical dependency to persuade union members to undergo a coordinated program directed to the objective of their rehabilitation.
- 4) That a permanent, ongoing Alcoholism/Chemical Dependency Council has been established to facilitate the objective, the saving of lives and careers threatened by these serious diseases.
- 5) To coordinate the work of the Council with other alcoholism/chemical dependency programs with SAG-AFTRA and to cooperate with programs developed by signatory companies and other labor unions in the entertainment industry.

29. STUDIO ZONE

For purposes of this Agreement, the studio zone for commercials is South to Ala Moana Beach Park, East to Lunalilo Home Road, West to the Airport, and North to the Pali Lookout.

SECTION B - WORKING CONDITIONS

30. WORK DAY

A. On-Camera (TV)

All scales are based on an eight-hour consecutive work day, excluding the meal period, except as provided in Section C - Payments, Paragraph 48 concerning short term use.

The work day may be extended to 10 hours without overtime pay, if the Performer is paid for two commercials that day.

B. Off-Camera (Radio & TV)

Sessions for radio Performers shall be 90 minutes; two hours for TV voice-over.

C. Extra Performers

Scale is based on a regular eight-hour work day, excluding meal period.

31. OVERTIME

A. Performers shall receive time and one-half for the first two hours of overtime where applicable. Any additional overtime shall be paid at double time. Overtime will be paid in half-hour units. Overtime premium shall not be payable for overtime work on any day for which double time payment is required by the Agreement, e.g. work on a holiday. The required double time payment rate shall be applicable to overtime work without a premium.

B. Except as otherwise herein provided, makeup, hairdress, wardrobe or fittings shall be work time for all purposes including overtime.

C. Extra performers shall receive time and one-half for work beyond the first eight hours in half-hour units. Work beyond the 12th hour is payable at double time in half-hour units.

32. ENGAGEMENTS

A. Notice of call: The Performer, Agent or Representative, shall have notice to the best of the Producer/Advertising Agency's knowledge, at time of employment, if the part to be played is principal, the place of performance, and place of rehearsal.

B. When a Performer is engaged and not used for any reason other than his default, illness or other incapacity, he shall be entitled to one day's salary or his guarantee, whichever is greater.

C. A Performer shall be considered definitely engaged in any of the following events:

1) When the Performer is given written notice of acceptance.

2) When a form contract signed by the Producer/Advertising Agency is delivered to the Performer or when a form contract unsigned by the Producer/Advertising Agency is delivered to a Performer and is executed by Performer and returned to Producer/Advertising Agency within 48 hours.

3) When a script is delivered to the Performer, however, this does not include delivery of a script for a test, audition or interview, nor the submission of a script for a test, audition or interview, nor the submission of a script for the purpose of permitting the Performer to see if he desires the engagement.

4) When the Performer is fitted; this shall not apply to wardrobe tests.

5) When the Performer is given a verbal call which he accepts.

6) When the Performer is told he will be used but no date is set.

7) When the Performer is told not to accept an engagement for a commercial advertising a competitive product or service.

D. Neither auditions nor interviews shall constitute an engagement.

33. INTERVIEWS, AUDITIONS, CALL-BACKS

A. The Producer/Advertising Agency agrees to adhere to a policy of initiating an interview, audition or call-back within a period of one hour from Performer's time of call or arrival, whichever is later. Producer/Advertising Agency shall furnish "sign-in" sheets for the purpose of recording Performer's time of arrival.

B. Time spent beyond one and one-half hours awaiting an interview, audition or call-back will be paid at straight time in hourly units.

C. If an audition is videotaped or filmed, it is agreed that such videotaped or filmed audition shall be used only to determine the suitability of the Performer for a specific commercial.

34. CANCELLATIONS DUE TO WEATHER

A. Cancellations due to weather are permitted up to twenty-four (24) hours prior to the call without penalty. The Performer must have been notified at the time the call was placed that this was a weather-permitting call.

- B. If the above conditions are met by the Producer/Advertising Agency, the Performer is entitled to no compensation for the canceled call. Cancellations not meeting the conditions provided in Paragraph A of this Section will require payment to Performer of one-half the agreed daily wage. However, if the engagement is rescheduled and production is commenced, to a mutually acceptable time, within seven (7) calendar days from the date of cancellation, no penalty will be assessed.
- C. When Performer's work day has begun and weather causes cancellation of part of the work day, the Performer shall be paid the agreed daily wage.
- D. If the Performer is on an overnight location and any of the scheduled shooting days are canceled, the Performer shall be compensated at one-half his agreed daily wage.

35. REHEARSAL TIME

- A. The reading of lines, acting, singing or dancing, in preparation for the Performer's performance, in the presence and under the supervision of a representative or Producer, constitutes a rehearsal. Rehearsals on the day of production shall be considered work time for all purposes including overtime.
- B. Performer required to rehearse under the supervision and the direction of the Producer/Advertising Agency, on a day other than the day of shooting, shall be compensated at no less than 25% of the minimum session fee for up to and including two hours of work, at no less than 50% of the minimum session fee for up to and including four hours of work and at no less than one minimum session fee for work beyond four hours up to and including eight hours of work.

36. MEAL PERIODS

- A. Allowable meal periods shall not be counted as work time for any purpose. The Performer's first meal shall commence within six (6) hours following the time of his first call for the day; succeeding meal periods of the same Performer shall commence within 6 hours after the end of the preceding meal period. A meal period shall not be less than ½ hour nor more than 1 hour in length. If, upon the expiration of such 6 hour period, the camera is in the actual course of photography, it shall not be a violation to complete such photography.
- B. The penalty for meal period violations shall be:

1st ½ hour	\$25.00
2 nd 1/2 hour	\$25.00
3 rd ½ hour	\$50.00
Each additional ½ hour	\$50.00

37. REST PERIOD

- A. The Performer shall be entitled to a 12-hour consecutive rest period from the time he is finally dismissed until his first call thereafter, whether for makeup, wardrobe, hairdress or any other purpose. However, where the Producer/Advertising Agency is photographing on a location and exterior photography is required, the 12-hour rest period may be reduced to 10 hours, but such reduction may not again be allowed unless a day without such reduction intervenes. The reduction to 10 hours in the circumstances described applies only if both of the days between which the rest period intervenes are spent on location.
- B. The penalty for violations of the rest period shall be payment at the rate of \$50.00 per Performer for each violation.
- C. Singers shall be given a five-minute rest period in each hour of recording. All on-camera Performers shall be given a five minute period in each hour of photography.

38. SATURDAY AND SUNDAY WORK

For work on Saturday and Sunday, Performer shall be paid at straight time unless the performer is employed

for more than five consecutive days. The 6th and 7th consecutive work days shall be paid at premium rates, as provided in this Section 40.

A principal performer whose rate is two (2) times the session fee per commercial per day or less shall receive double the amount the principal performer would receive for a week day; and a principal performer whose rate is more than (2) times the session fee per commercial per day shall receive 1-1/2 times what s/he would receive for a week day. Overtime shall be paid at the same rate as for the first eight (8) hours if premium pay is received. If the principal performer does not work s/he shall not be paid.

39. WORK ON HOLIDAYS

If a Performer works on any of the following eight holidays to wit: New Year's Day, Martin Luther King Day, Memorial Day, July 4th, Labor Day, President's Day, Thanksgiving Day and Christmas, s/he shall receive double time.

40. TRAVEL

- A. If a Performer is requested by a Producer/Advertising Agency to travel in his/her own car beyond the Studio Zone each way to and from location, s/he shall be paid at the rate per mile from the SAG-AFTRA office as indicated in the SAG and AFTRA National Commercials Contract. (Refer to Section STUDIO ZONE)
- B. Transportation and lodging furnished: Reasonable lodging and meals must be provided on overnight locations. First class transportation, where available, must be provided except where so-called "commuter service" is provided.
- C. Travel to and from location, no services rendered: Travel to and from location within the State of Hawaii the maximum payment shall be two hours pay at straight time rates.
- D. Travel to and from location, services rendered: All overtime to extent same is caused by travel time, whether at the beginning or end of the day, shall be paid for at straight time during the Performer's work day, computed in half-hour units.
- E. Flight Insurance: Where a Performer is requested by Producer/Advertising Agency to travel by plane, Producer/Advertising Agency shall provide that a fee for flight insurance not to exceed \$10.00 shall be paid provided the performer submits proof of purchase.
- F. Producer/Advertising Agency may provide for performer's air travel in coach class provided no other member of the cast, crew or production staff is provided first class travel on the same flight.

41. FITTINGS, WARDROBE TESTS AND CHECKS, MAKEUP TESTS

Time spent by Performer in fittings, wardrobe tests, wardrobe checks and makeup tests shall be paid for as follows:

- A. Fittings, checks and tests on the same day that the Performer works: Time spent in such fittings, checks and tests shall be work time and part of the Performer's continuous day.
- B. Fittings, checks and tests on a day prior to work: Where a Performer is fitted, checked or tested on a day prior to the day on which he works, he shall be entitled to one-hour minimum pay for each call. Additional time shall be paid at straight time in half-hour units.

42. MAKEUP, HAIRDRESS, WARDROBE AND WARDROBE ALLOWANCE

- A. Where the Performer has reported pursuant to a call for makeup, hairdress or wardrobe, the time so spent shall be work time.
- B. If an on-camera Performer is required by Producer to furnish any special hairdress necessitating an

expenditure, Producer shall either furnish such hairdress or the Performer shall be reimbursed for the amount so expended at facilities designated by Producer.

- C. Where makeup, other than ordinary street makeup, is required by Producer, a makeup artist shall be provided for the purpose of applying and maintaining such makeup.
- D. On-camera Performers who supply specified personal wardrobe worn during rehearsal or production shall receive a maintenance fee for such wardrobe at the following rates:

Non-evening wear	\$16.90 per costume change
Evening wear	\$28.90 per costume change

43. DRESSING ROOMS

Producer/Advertising Agency shall provide clean and accessible dressing rooms and toilet facilities in studios and on locations. Producer/Advertising Agency shall provide facilities for checking normal personal belongings.

SECTION C - PAYMENTS

44. REUSE

- A. The maximum period of use of any commercial shall be no longer than 24 consecutive months, unless renegotiated.
- B. Use Cycles are for one year.

45. SHORT TERM USE (TELEVISION)

In the event a television commercial is produced for short-term use and placed on the air no later than two (2) weeks from the date of employment, the following will apply:

- A. Performer shall be notified at the time of engagement that the commercial is intended for the "Short Term Use".
- B. Limited use for 1 through 10 consecutive days may be paid at 75% of the applicable session fee.
- C. This short-term use is limited to only one (1) short-term use cycle at the above rates.
- D. The length of an on-camera session under this Provision will be limited to six hours.
- E. The length of an off-camera session under this Provision will be limited to 90 minutes.
- F. No exclusivity shall be required of any Performer used for a short-term use commercial unless a negotiated above scale rate or additional employment has been agreed to in writing.

46. NON-AIR COMMERCIALS

Non-air commercials are commercials not intended for broadcast use such as copy-testing, client demos. Such commercials shall be so designated at the time of audition or interview or, if there be none, at the time of hiring and such commercials may be used only for such purposes and not for broadcast. No exclusivity may be required of Performer for such non-air commercials.

Non-air commercials produced for advertisers who normally broadcast commercials subject to the Contract shall be paid at the rate of no less than 50% of the applicable session fee (radio or television) per commercial.

The fees for non-air commercials produced for advertisers who normally broadcast commercials subject to the SAG and AFTRA National Commercials Agreements shall be paid at the applicable SAG and AFTRA National

"non-air" commercial rates.

Such commercials may not be broadcast without written consent of each Performer and bargaining for an employment contract which does not allow crediting of the fees for non-air use previously paid.

47. RADIO OR TELEVISION PACKAGE RATES

In cases where six or more shoots are recorded in the same session for the same client, the minimum rate shall be 75% of the original rate for all spots after the first five. No mixing of media will be allowed in utilizing package rates. This package rate applies only to the session fee. Reuse shall be at 100% for each spot used.

48. DOUBLING

Doubling is the performance of more than one role in a program or commercial except when it is part of an act, such as that of a ventriloquist or puppeteer.

- A. Two voices - an additional 75% of the session fee.
- B. Three or more voices - an additional 100% of the session fee.
- C. Additional rates for doubling in Sections A & B above shall also apply in computing reuse.

49. MULTIPLE TRACKING AND SWEETENING

A. Definitions:

- 1) Multiple tracking is re-recording over the original track or adding an additional track, electronically or mechanically, containing the same material as recorded on the original track.
- 2) Sweetening is the addition of a new or variant track over the original track.

B. Rates: (Solo/Duo/Group - Singers)

- 1) Applicable session fee will include original track plus one (1) additional multi-track or sweetening track without additional compensation.
- 2) Each additional set of two tracks, beyond that specifically included in Subsection 1 above, shall require an additional payment of 25% of the original session fee.
- 3) Additional compensation required under this Section shall also apply when computing reuse.

50. BILLBOARDS, OPENINGS, CLOSINGS

When a Performer is employed solely for the purpose of performing a program open/close, the Signatory shall have the option of paying the Performer the appropriate program fee for each use or the spot fee for each open and close which taken together are considered as one (1) commercial.

51. DUAL USE

Where any recording is used for both television and radio purposes, all Performers shall be paid the applicable fee for both television and radio.

52. PUPPETEERS

Puppeteers who operate hand or string-manipulated puppets shall be included in the term "Performer" and shall be covered by this Contract. Such Performer shall be paid compensation for services and for use and reuse in the same manner as a principal Performer.

53. SPORTS AND PUBLIC FIGURES

Compensation otherwise payable hereunder to persons in the sports industry or government and public officials who are not allowed to accept payment, shall be split equally between a charitable organization of the individual's choice and a charitable organization of the industry's choice. Full pension and health contributions shall be made on behalf of the individual(s).

Accepted and Agreed:

PRODUCER/ADVERTISING AGENCY

SAG-AFTRA

By _____

By _____

Date: _____

Date: _____

SAMPLE

SCHEDULE A - MINIMUM RATES

**SAG-AFTRA
2009 - 2012 HAWAII BASIC MINIMUM COMMERCIALS CONTRACT
(effective September 1, 2009)**

I. <u>TELEVISION:</u>	<u>Session</u>	<u>Length of Cycle</u>
Principal	\$431.09	One year
Group Singers/Dancers		
3 to 5	\$273.21	One year
6 to 8	\$249.31	One year
9 or more	\$229.91	One year
Off-Camera Principal	\$274.33	One year
Group Singers/Speakers		
3 to 5	\$206.03	One year
6 to 8	\$186.62	One year
9 or more	\$149.30	One year
Hand Models	\$186.62	One year
Tags On-Camera	\$149.30	One year
Tags Off-Camera	\$111.97	One year
II. <u>RADIO:</u>		
Announcer, Solo or Duos	\$211.62	One year
Group Singers		
3 to 5	\$137.34	One year
6 to 8	\$145.58	One year
9 or more	\$107.48	One year
If recorded from states other than Hawaii	\$447.71	
III. EXTRA PERFORMER:	\$ 97.39	
IV. PENSION & HEALTH CONTRIBUTION:	15.50%	

ATTACHMENT 1

SAG-AFTRA
2009-2012 Hawaii Basic Minimum Commercials Contract

Side Letter

Hand Models: Hand Models apply only to those individuals who have the skill and appearance to enable them to be professional hand models, not to everyone whose hands are shown in a close-up. However, if the Producer/Advertising Agency holds auditions specified for the hand shots, the hand model provisions shall apply.

SAMPLE

ATTACHMENT 2

SAG-AFTRA
2009-2012 Hawaii Basic Minimum Commercials Contract

Side Letter

Rates: In the event a voice-over performer is paid subject to the minimum rates provided in the SAG and AFTRA 2009-2012 Commercials Contract, because such performers' services were transmitted from states other than Hawaii, the other talent (including on-camera or other voice-over talent) on any such commercial who are on local contracts with yearly cycles shall remain as such.

SAMPLE