

**AUSTRALIAN WRITERS' GUILD**  
**FILM OR TELEVISION PRODUCTIONS FROM YOUR BOOK**

**Preamble**

It is the Writers' Guild policy not to get involved in disputes between members and producers if there is no written contract in place between them. So, when negotiating your contract, check

1. Who is the contract between?
2. Are the relevant terms defined?
  - Storyline
  - First Draft
  - Second Draft
  - Polish
  - Rewrite
  - Treatment
  - Gross Budget
  - Gross Profit,
  - Net Profit
  - the Guild
  - the Work
  - Scene Breakdown
  - other
3. Commissioning and completion of the Work
  - (a) Are the delivery dates for the various stages of the Work specified?
  - (b) Are there allowances for delays caused by the producer?
  - (c) What are your obligations to provide re-writes and do you get paid for them?
4. Alterations
  - (a) In what circumstances can the producer make changes to the Work?
  - (b) Can the producer make substantial changes?

If yes, define the terms.
  - (c) Is there any acknowledgment of respect for your moral rights in the work?
5. Payments
  - (a) What is the total fee payable to you for the Work?
  - (b) How is it paid at different stages of the Work?
  - (c) Do you have any profit participation?

6. Granting of rights
  - (a) What rights in the work are you licensing/assigning?
  - (b) Will you and the producer own some of the rights jointly?
  - (c) What rights will remain entirely your property (they should be all rights other than those you have specifically licensed/assigned)?
7. Cut-off
  - (a) Under what circumstances can the producer terminate your services and hire another writer?
  - (b) What will be paid to you should this happen?
  - (c) Are you covered if the final version of the Work makes substantial use of your own work.
8. Buy-back
  - (a) Can you buy back your rights if production does not commence within a certain period?
  - (b) Under what terms and conditions?
9. Reversion
  - (a) After what period, if production does not commence, will the rights revert to you automatically?
  - (b) Are there other circumstances under which the rights would revert, eg. should the producer fail to pay you?
10. Warranties

You will usually be asked to guarantee that the Work is an original work, that you own the copyright in it, and that to the best of your knowledge the Work is not defamatory. These guarantees should not apply to changes or insertions made to the Work by the producer or the producer's representatives.
11. Producer statements
  - (a) Is the producer required to provide you with revenue statements?
  - (b) What information should be included and how often will you be provided with it?
  - (c) Do you have the right to audit the producer's books?
  - (d) Do you pay for the audit?

If there is more than a small margin of error discovered by the audit, eg more than 2% — the producer should pay the cost.
12. Access to production

Do you have the right to attend rehearsals? The right to attend shooting? If you are required to attend shooting? If you are required to attend, what expenses are provided for?
13. Consultation

Do you have a right to approve, or at least be consulted, on choice of director/cast?
14. Credits

What will your writing credit be? Where will it be placed? Will you get credit in promotional and advertising material? How will your credit be determined if there is a cut-off of your services? Will the producer advise you of the proposed credits? Can you make the producer not place a credit for you?

15. Arbitration and credit disputes

How will disputes under the contract be resolved? How will disputes about credits be resolved? Does the producer agree to use the Guild's credit arbitration service and to abide by the decision of the Guild's Credit Arbitration Committee?

16. Originating writer

(a) If there is a serial arising from the Work, what royalties will you receive?

(b) Have you instead kept the spin-off rights to yourself to negotiate later?

17. Tapes etc

(a) Are you entitled to receive a tape of the film or program?

(b) Production stills?

(c) Posters?

18. Producer's notifications

Do you have a right of access to material concerning the producer's dealings with funding bodies or other organisations?

19. Assignment

(a) Does the producer need your written consent before assigning or sub-licensing the rights in the contract to a third party?

(b) Do you need the producer's consent to assign your rights under the contract?

You should at least ensure that the producer remains liable for the producer's obligations to you under the contract even after assignment.

(c) If the producer sells the project in part onto a co-producer, what terms will apply to work done by you during the co-production?

20. Confidentiality

(a) Are you bound by confidentiality promises to the producer?

These should be limited to what is necessary.

21. Notices

(a) Notices should be in writing?

(b) To what address can they be sent to be valid?

22. Under the laws of which state is the agreement to be construed and governed?

Postscript

As you know from experience, not all agreements contain all these clauses or all this information because many of the situations referred to do not apply; however, the majority of film and television contracts should contain most if not all of them.

The Guild has a bundle of model and industry-standard agreements useable in most areas. If you need a contract which, subject to the project you're working on, fits your circumstances, phone the Guild and obtain a copy.

They could save you a lot of time, effort and money. If you have doubts about particular issues, remember to contact the Guild or a lawyer.