

# TONY COLLINS FOGARTY / TDF MEDIA

## TERMS AND CONDITIONS OF BUSINESS

### 1. GENERAL

- a) Throughout these terms and conditions, “the artist” refers to Tony Collins Fogarty (t/a TDF Media), while “the buyer” means the person, producer or company purchasing his services.
- b) Upon contracting the artist in writing, the buyer is acknowledging having read and agreed to these terms and conditions.
- c) In the event of the buyer’s failure to comply with these terms and conditions, the artist may terminate the buyer’s licence to broadcast or otherwise use the artist’s work.
- d) Any contract between the artist and the buyer shall be governed by the laws of England and Wales.
- e) The artist may update these terms and conditions from time to time. The latest terms and conditions can be found at <http://tonycollinsfogarty.com/terms>, or supplied upon request.

### 2. FEE NEGOTIATIONS AND PAYMENTS

- a) The artist’s quotations are based upon the script and usage supplied by the buyer prior to any recording work commencing. If the buyer amends the script, or provides a new script after a fee has been agreed, the artist reserves the right to revise his fee.
- b) Should the necessity arise to extend the length of a live or in-person recording session, the artist is entitled to charge the buyer a further fee.
- c) Payment by the buyer is due within 30 days of the due date shown on the artist’s invoice, unless otherwise agreed with the artist before recording commences, even if the buyer is a production company and payment for the voiceover has not yet been received from the end client.
- d) The artist reserves the right to require 100% payment of the fee before the product is supplied to unfamiliar buyers or to those who are not based in the UK.
- e) In accordance with The Late Payment of Commercial Debts (Interest) Act 1998, and the subsequent EU Directive 2011/7/EU on combating late payment in commercial transactions, the artist reserves the right to add interest and a statutory compensatory charge on all amounts outstanding for more than 30 days.
- f) The artist’s voiceover fees for radio commercials being produced by a radio station or appointed sub-contractor are calculated using the most recent Equity Independent Radio Commercials Payments rate card. Rates are calculated on a per voice, per script, per station basis at the relevant transmitting station(s) rates unless otherwise indicated.
- g) For e-learning voiceovers, the artist will charge a minimum fee and calculate fees over and above this minimum on a per-word basis. In addition, a further fee will be incurred for the artist’s time if the buyer requires large volumes of audio file splitting and labelling.

- h) For the syncing of voiceover to video, the artist may, at his discretion, charge an additional fee for his time, depending upon the complexity of the job. The artist will notify the buyer of this fee in advance.
- i) The artist reserves the right to levy an additional charge for any recordings the buyer requests that would involve the artist working on a Saturday, Sunday, or on a UK statutory holiday. The artist will notify the buyer of this fee in advance.
- j) The artist may withdraw credit facilities and the supply of any future services in the event of a breach of these terms and conditions.
- k) Prices quoted do not include U.K. Value Added Tax. Note: the artist is not currently VAT registered.

### **3. USAGE OF VOICEOVER RECORDINGS**

- a) Fees agreed between the artist and the buyer cover the usage of the voiceover strictly as outlined in the project contract.
- b) The usage period commences upon the date the artist supplies the buyer with the completed audio files, or from a commencement date clearly indicated in advance by the buyer.
- c) Fees agreed reflect the stated usage. The buyer must secure the artist's permission for any further usage, whether in different media or beyond the time period stated in the contract, and pay the artist the relevant fees for further usage.
- d) The buyer guarantees that the artist's audio recording will only be used within the parameters agreed in the original contract, i.e. by the buyer or the buyer's named client. Recordings are not transferable to a different company unless a repeat fee is paid to the artist.
- e) Under no circumstances must the buyer use the artist's audition recording or free-trial recording in their project. This constitutes a breach of contract and the artist reserves the right to submit a copyright infringement claim and audio removal requests to the relevant media platforms.

### **4. RIGHTS AND CONFIDENTIALITY**

- a) The buyer warrants that nothing in their script infringes the rights of any third party.
- b) Copyright in any voiceover recording made by the artist and/or performer's rights in any recording in which the artist has participated remain with the artist. Payment from the buyer grants a licence for the usage of the recording, for the time period stipulated in the contract agreement. Possession of the audio recording in no way constitutes a right to use.
- c) The artist shall comply with reasonable requests from the buyer in relation to client confidentiality.

- d) Subject to any confidentiality agreement, or other prior agreement, the buyer agrees to supply the artist with a copy of the finished work and grants permission for the artist to promote his services with it, for example by embedding it in his website.
- e) In the event of the buyer failing to comply with these terms and conditions, the artist retains the right to terminate the buyer's licence to broadcast the artist's voice recordings.

## **5. RECORDING SESSIONS**

- a) The buyer is responsible for complying with all legal and insurance obligations connected with the engagement of the artist, should he be required to attend a recording session anywhere other than in his home studio.
- b) If the buyer's project deadlines necessitate the artist working after 6pm on a weekday, or at any time during a Saturday, Sunday, or on a UK statutory holiday, the artist reserves the right to charge an out-of-hours supplement. The artist will notify the buyer of this charge in advance.

## **6. ISSUES WITH RECORDINGS**

- a) Upon receipt of the recordings as outlined in the contract, the buyer must notify the artist in writing of any problems with the voiceover within two calendar weeks or it will be deemed that the work has been accepted.
- b) If, upon receipt of the artist's recordings, the buyer is unhappy with the style, pace and/or tone of the voiceover delivery, the artist agrees to re-record once, on the strict proviso that there are no changes to the original brief, script and pronunciations, and that the buyer provides clear feedback.
- c) Errors in the recording made by the artist will be corrected free of charge and in a timely manner.
- d) If the buyer requires the artist to re-record because of changes to the original brief, script and pronunciations, this is regarded as a new job and the artist will charge an additional fee accordingly.
- e) In the instance of audio file corruption, the artist will seek to resolve the issue as quickly as possible and deliver new recordings.
- f) Where audio is supplied via a file transfer service (e.g. WeTransfer), the buyer will need to download the audio (after notification) within a specified time frame, often 7 days. The buyer is responsible for meeting this requirement. Where this deadline is missed, the artist will endeavour to resupply the audio at the earliest opportunity, but this will be subject to their availability.

## **7. CANCELLATION OF RECORDING SESSIONS**

- a) If the buyer wishes to cancel a contract and gives the artist less than 24 hours' notice of wishing to do so, the artist reserves the right to charge a cancellation fee of 100% of the contract's agreed fees.

- b) The artist may not cancel any contract or agreement unless due to illness or force majeure, i.e. an act of God, legislation, war, fire, flood, drought, failure of power supply, lock-out, or owing to any inability to procure materials required for the performance of the contract.
- c) If the artist cancels the engagement, any monies paid by the buyer in advance will be refunded in full within seven days of the cancellation.