

Terms of Trade

SABC and the Independent Producing Sector protocol guidelines



About this Terms of Trade

The SABC's Terms of Trade provides guidelines for the relationship between the SABC and in the Independent Producing Sector for the production and exploitation of all commissioned SABC Content.

This Terms of Trade is in line with ICASA's commissioning protocols, and all governing and legislative frameworks governing the SABC.

The scope applies to all commissioned works, co-productions and joint ventures. It excludes the licensing of all completed International programmes. The Terms of Trade does not address the day to day operations of SABC Television commissioning and licensing. Such information can be sourced from SABC's Commissioning Protocols 2016. Producers should refer to the SABC's website for this document.

The terms of this agreement shall not be applied retrospectively.

This agreement shall be effective for 3 years with a review after 24 months. The review shall be a consultative process with the independent producing sector. SABC TV Industry Development Unit shall be the holder of this document.

All detailed commissioning information is available from SABC's Commissioning Website,:

- Proposal submission guidelines;
- Contact lists
- Vendor registration details;
- Procedures on submitting proposals and programmes;
- SABC's Commissioning Protocols
- Industry Assistance
- Editorial policies
- ICASA (Independent Communications Authority of South Africa) Mandate and SABC License conditions

SABC obligations

The SABC, as the national public broadcaster, is committed to providing the South African public with a wide range of high quality local programmes that reflect diverse cultures, languages, life experiences, interests and needs of its audiences. The SABC is, furthermore, committed to fostering a vibrant local production industry and contributing to the empowerment and development in that industry.

SABC's Terms of Trade is compliant with its editorial policies, regulations and acts.

How the SABC acquires content

- ***Solicited Proposals (Briefs)***
 - Based on SABC's annual needs analysis, a Brief is issued to the industry. The Brief detail SABC's needs per channel, genre, language and audience. The Brief also includes cost per minute guidelines. Notice of Briefs will be issued on SABC's producer database and print media.
 - The onus is on the producer to ensure that they are registered on SABC's Content Provider Database. Producers can contact the SABC on (011) 714-4532 or send an email to commissioning@sabc.co.za to ensure that their company appears on the producer database. The SABC utilizes this database to communicate with the industry either through sms or email.
 - The procedure for submission of proposals in response to Briefs can be found at <http://www.sabc.co.za/wps/portal/SABC/SABCBIZINFO>

- ***Unsolicited Proposals (Open Tenders)***
 - Every quarter, SABC will issue out 'open tenders' inviting the independent producing sector to submit their projects/proposals. Notice of the dates will go out on SABC's producer database and to industry related media materials. A diary of when the unsolicited system will open is also available on SABC's website. Such dates will be published in the first week of SABC's fiscal, being, April.
 - Please note that outside of these open periods, SABC will not accept any proposals other than licensing and fully funded content.
 - The SABC is open to new business models in which risk and benefits can be shared between the SABC and the independent producing sector, thus during these quarterly 'open windows', the SABC welcomes the submission of co-productions, co-financing and joint venture proposals.
 - In Co-productions/co-finance/joint ventures, the sharing of risk through finances, editorial control, broadcast and distribution will be made on a project-by-project basis.
 - The SABC reserves the right to decide its level of participation and contribution based on an assessment of the business case and of the risks involved. It must be noted that producer's submitted co-production/co-finance and joint venture proposals need to ensure that their proposals contain a business case which shall include: revenue projections, market analysis, sales and distribution plan, financing partners etc.

- The SABC may express intent to participate in the co-production in the form of a 'letter of interest'. Such letter of interest will not constitute a legally binding commitment up until all the required investment is secured and SABC business processes are concluded.
 - The SABC will from time to time, commit to acquiring rights in a programme before production has commenced, or at any time before it is completed, as a presale.
 - Editorial and financial risk to the SABC will be managed by withholding payment up until delivery or by applying the same risk mitigation approaches and controls as a co-production/co-finance/joint venture.
 - Decisions and approvals to enter into presale agreement shall be made on a project-by-project basis.
- **Local Licensing**
 - The SABC may license existing, completed locally produced programmes from either producers, distributors or their agents.
 - All producers, sales agents and/or distributors have to submit their programme licensing requests to the SABC Commissioning Office. No licenses will be reviewed without having been lodged with the SABC Commissioning Office.
 - As a general rule with regard to licensing acquisition deals, the SABC shall have market related price ranges per genre, which shall be applied to determine the licensing fee of each such deal.
 - Payments for licensed content shall be made on delivery of materials as specified in each License Agreement.
 - In line with SABC's regulatory and editorial framework, the SABC shall view and select programmes suitable for broadcast across its platforms.
 - Ownership of licensed materials shall remain with the producer/distributor/agent.
 - The SABC shall determine, as part of its acquisition strategies and buying plans, what rights it requires to procure, inter alia, consideration of the following:
 - Platforms
 - Ancillary rights
 - Number of transmissions
 - License period
 - Exclusivity
 - First right of refusal
- **Advertiser Funded Programmes (AFP)**

- Defined as a programme wholly created, produced, funded and owned by a commercial entity to meet the needs of a channel's particular slot and audience.
 - The Advertiser buys airtime from the SABC to broadcast the programme.
 - The SABC has editorial input to ensure the content is regulatory compliant, meets its audience and slot objectives and is aligned to its brand and identity.
 - Advertiser funded programmes must be submitted to the SABC Commissioning office by completing standard submission forms.
 - NO proposals for Advertiser Funded Programmes will be accepted by the Commissioning office without an official letter of intent attached from the advertiser.
 - AFP proposals shall be submitted by the Commissioning Office to SABC Commercial Sales, the relevant channel and content unit for review.
 - If an AFP proposal is accepted, a commissioning editor from the relevant genre will be assigned to manage the project and its delivery.
The SABC does not have a submission window period for AFPs. AFP proposals can be submitted to the Commissioning office at any period.
- ***Donor Funded Programmes (DFP)***
 - Defined as a programme wholly created, produced, funded and owned by a non-commercial entity to meet the needs of a channel's mandate delivery
 - The funder is not required to buy airtime from the SABC as the content is procured to meet mandate and developmental objectives.
 - The SABC has editorial input to ensure the content is regulatory compliant, meets its objectives and is aligned to its brand and identity.
 - Donor funded programmes must be submitted to the SABC Commissioning office by completing standard submission forms.
 - DFP proposals shall be submitted to SABC's Funding Unit and the relevant channel for review by the Commissioning Office.
 - If a DFP proposal is accepted, a commissioning editor from the relevant genre will be assigned to manage the project and its delivery.
 - The SABC does not have a submission window period for DFPs. DFP proposals can be submitted to the Commissioning office at any period.

SABC's Content Fees

The SABC's main objective for determining costs per minute and/or rate for acquisition is to:

- Ensure the production is adequately budgeted to meet the needs of the approved creative concept and or script;
- SABC's annual content business planning, annual fiscal corporate budgets and strategic process;
- Industry related rates for various elements of budgets. The SABC will annually conduct rate setting benchmarks in key above the line and below the line budget areas. These rates shall form the basis of the SABC's costs per minute.
- Where appropriate, the SABC shall seek cost efficiencies and containment strategies. These will be discussed on a project to project basis with the producer.
- Where the producer utilizes his own facilities and equipment, the SABC will require the quotes to be of a competitive nature.

Production Budget

- The producer will prepare a detailed production budget and schedule on SABC's standard budget template. The SABC reserves the right to evaluate the budget line by line with the producer or the producer's delegate and the commissioning editor to ensure that the production is in line with content fees stated above.
- Once a budget is approved by the SABC, producers will be allowed a deviation of not more than 10% without prior approval by the Commissioning Editor and production management. Budget movement over and above 10% shall require prior consultation and written consent from the SABC.
- The Producer will open a separate bank account for the SABC production and ensure all funds received from the SABC in this regard are deposited into such account. The bank account must be for the sole purpose of the production. The SABC reserves the right to audit such bank account for purposes of the production at any point during the production and the producer shall ensure it keeps records of the financials for five (5) years following the expiry of the contract.
- For long-form programming such as soaps and telenovellas, the SABC shall engage the producers to agree on a fair and transparent budget process.
- Production budget line item rates shall be determined by SABC's Production Management department in consultation with the producer. Such fees will be reviewed on an annual basis by reviewing industry standards, SABC's content budget availability and channel slot costs available. The SABC reserves the right to review previous commissions to ensure cost efficiencies particularly in relation to set design and build.

- Standard script contracts shall not be subject to line by line budget evaluation but a flat script rate per genre will be paid to producers. Any deviation in this regard shall be deemed non-standard, and SABC may elect to subject the script development to line by line budget evaluation.
- Ancillary products that are additional to, but related to, a programme and are commissioned from the same supplier shall be budgeted for separately and evaluated separately.

Producer’s mark-up/Production fee

- In recognising the historical imbalance that exists in the industry, the SABC shall implement various development initiatives in particular the production fee sliding scale/mark up. This sliding scale is aimed at ensuring that new entrants to the broadcasting landscape are allowed adequate fees for their production start-up costs. To this end SABC has designed the below production fee/mark up sliding scale
- As part of the SABC’s Industry Development and Growth objectives, the producer’s mark-up/production fee will be based on a set sliding scale to be determined by the SABC, linked directly to the agreed cost of the production and to the accumulated cost of all productions awarded to the producer during the course of a fiscal year.
- The sliding scale to be used is as follows:

Value of Productions in Rands (minimum)	Value of Productions in Rands (maximum)	Producers Fee/Mark-up % of total production budget
20,000,000-100,000,000	100,000,000	6-10%
10,000,000-19,999,999	8,000,000	11-16%
Below 10,000,000	15,000,000	17-22%

- The SABC reserves the right to alter and adjust the sliding scale based on business needs. Such will be negotiated with the producer on a contract to contract basis.
- In pursuit of its business objectives to acquire the best content in a cost efficient manner, the SABC may choose in exceptional circumstances, and at its own discretion, to:
 - Agree that certain line items in a specific budget may exceed the set norms where it can be demonstrated to have direct benefit for the SABC; and
 - Increase the mark-up/production fee of a production that has exceptional brand, Intellectual Property and/or strategic value to the SABC. In this instance, the

SABC may choose to negotiate a mark-up/production fee with the producer outside of the parameters set above in the sliding scale.

- In the case of all exceptions, approval will be on a project-by-project basis, and shall be approved as per the SABC's approved revised Delegation of Authority Framework expenditure approvals.
- The prescribed mark-up/producers fee detailed in the approved SABC production budget shall be paid over to the producer in a payment split of 50/50. Fifty (50) percent of the mark-up/producers fee shall be included in the agreed cashflow and shall not be subject to any audit and cost reporting process detailed below. SABC shall retain the remaining fifty (50) percent of the production till such point as the producer has met all his obligations detailed in the production contract.
- The SABC shall endeavour to conclude the closing off all productions timeously depending on the genre, the timelines per genre as are follows:
 - Documentaries & Magazines: within 3 (three) months from final contractual sign-off of all deliverables by the commissioning editor and production controller;
 - Reality & Formats: within 4 (four) months from final contractual sign-off of all deliverables by the commissioning editor and production controller;
 - Drama Series: within 5 (five) months from final contractual sign-off of all deliverables by the commissioning editor and the production controller;
 - Soaps and long-form dramas: within 6 (six) months from final contractual sign-off of all deliverables by the commissioning editor and the production controller;
 - Live shows & Specials: within 3 (three) months from final contractual sign-off of all deliverables by the commissioning editor and production controller.
- As part of its industry growth and increase in BEE participation, the SABC may elect to revise the payment of Producer's mark-up/production fee to assist new entrants into the market. These decisions shall be based on a verification process of individuals and companies.

Expenditure controls and payments

The SABC's principal approach to controlling production expenditure is covered by three (3) principles:

- ***Advance payment to producers through an agreed cashflow***
 - The SABC will advance finance to the producer based on an agreed production budget, delivery schedule and cashflow. The SABC will only advance a producer its first cashflow once proof of a separate bank account is submitted to the SABC.

- To facilitate advance payment for the first drawdown and subsequent payments, producers must invoice the SABC on a phased basis as detailed in the approved cashflow. All payments after the first drawdown shall be subject to the producer delivering as per the contract, schedule and providing the SABC with cost reports and supporting documentation as detailed below in Expenditure monitoring. The SABC reserves the right to hold back payments till all contractual obligations are met by the producer.
 - Where the SABC shares financial risk with a producer and/or third party, the SABC may adjust its cashflow in line with the signed business case and agreed finance plan
- ***Expenditure monitoring***
 - The SABC requires the producer to deliver monthly cost reports, in the prescribed format, and such cost reports shall be based on the approved production budget, schedule and cashflow. The producer shall provide the SABC with supporting documentation such as bank account statements and invoices and other proof of expenditure and payment, as and when requested by the SABC.
 - The producer is required to ensure it applies proper accounting methods for expenditure and this shall include staffing, control processes and risk mitigation strategies. The SABC shall appoint a production controller to the production to provide financial reporting support to the producer.
 - The SABC may, at its discretion, depending on the financial and business risks, request detailed supporting documentation for designated line items.
 - The SABC may further, at its discretion, adjust cashflows to meet industry development needs and goals.
 - Where the SABC shares financial risk with a producer and/or third party, the SABC may elect to adjust its cost reporting processes in line with the signed business case.
 - ***Production budget expenditure auditing***
 - The SABC retains the right to scrutinize all submitted materials pertaining to the production and the separate bank account.
 - Where the SABC shares financial risk with a producer and/or third party in a production, the SABC may adjust its expenditure control requirements as agreed to by all parties involved in the production and as per SABC's approved Delegation of Authority Framework.

- The SABC reserves the right to have the production audited by its own internal auditors or an independent auditor and, in the event of finding discrepancies; the SABC reserves the right to have any earlier productions audited. Such audits will be conducted at the SABC's own cost.

Editorial Control

- The SABC will retain full editorial control of all commissioned content/programmes and will ensure that the programmes/content delivered meets the quality and editorial standards and requirements of the SABC, as stipulated in the content brief and Standard Production Agreement between the SABC and the producer.
- With all other types of procurement including but not limited to AFP's, Licenses, Co-Productions and Joint Ventures, the SABC will have editorial input and, in consultation with the relevant parties, will ensure that the programmes/content delivered meets the quality and editorial standards and requirements of the SABC, as stipulated in the Agreement between the SABC and the producer.
- The SABC will manage the editorial process through the approval of key creative aspects of the production, inter alia, key creative personnel and cast, set and other elements where appropriate. Editorial content will be managed through the approval of, inter alia, series outlines, treatments, cast, presenters, crew, sets & décor, studio design, music use, graphics, title sequences, credits, offlines, onlines and final mix versions of the programmes/content.
- SABC reserves the right to implement a talent management strategy and provide such strategy to the producer when required for a particular production. SABC reserves the right to appoint an executive producer on a project where producers have minimal production experience. The cost of the Executive Producer shall be borne by the SABC and shall be added to the approved production budget.
- SABC reserves the right to commission a not-for-broadcast pilot of the project with the producer to test the concept before embarking on full production. Cost of pilot shall be incorporated into the agreed production budget.

Editorial Policies

The SABC's Editorial Policies apply to all content produced, commissioned or acquired by the SABC and explain the editorial and ethical principles that are fundamental to the SABC. Most importantly, they take account of the requirements of current legislation and regulation and seek to reflect the standards that SABC audiences expect of their national broadcaster. The SABC shall provide the producer with such relevant policies upon receiving the production agreement.

It is the producer's responsibility to ensure that they understand the broadcasting codes for South Africa as set out in the Broadcasting Complaints Commission of South Africa (BCCSA). These guidelines include programme classifications as set out by the Film & Publications Board of South Africa.

Ownership and Rights

- In the case of 100% commissioned programmes, the following will apply:
 - All the intellectual property rights in and associated with the production as a whole shall vest exclusively in the SABC, including, inter alia, the copyright in elements such as trademarks, characters and formats.
 - All rights to commercially exploit the production, including, inter alia, exploitation of broadcast rights, theatrical rights, prequel or sequel rights, character rights, multimedia variations and merchandising howsoever related to the production, shall vest in the SABC.
 - Any income derived from any form of commercial exploitation other than described in Commercial Exploitation of Programme below, like merchandising, licensing of the concept and/or brand, multimedia variations and other spin-offs related to the production shall be for the SABC's benefit.
 - The producer shall not be entitled to produce a film or production, which is similar to, or based on the concept, story or characters of the commissioned production without the prior written consent of the SABC, neither shall the producer co-operate with others to do so without the prior written consent of the producer.
 - Producers are obliged to obtain full clearance of all rights pertaining to contributors and all elements of the production and must provide verification of these, as specified in the production contract.
 - Where a production requires the use of pre-existing stock footage, the SABC requires that producers obtain full clearances of rights (world-wide in perpetuity and across all media). Such allowances shall be accommodated in the production budget. Where full clearances are not possible, the onus is on the producer to inform the SABC and to obtain prior written approval from the SABC of the degree and nature of the rights to be obtained.
 - The SABC shall consider requests from producers or third parties to use the production or parts thereof for non-commercial purposes on an ad hoc basis. This will include using the production for training/educational purposes, or in cases where such usage may assist the SABC in fulfilling its mandate as a public broadcaster, but which normally do not involve a profit motive. Should the SABC

grant a producer such rights, the SABC shall be entitled to be credited in a manner deemed appropriate by the SABC.

- The SABC reserves the right to negotiate any profit sharing opportunities with producers on any of the 100% commissioned properties. Such shall be per business case and subject to review following SABC's internal approval processes and governance processes. Producers who wish to engage in such opportunities shall seek permission from the General Manager Television Content.

SABC IP Policy

Please refer to SABC's attached Intellectual Property Policy which was approved in 2012 and is due to review at the end of 2017.

Repeat Fees/Royalties

- The SABC is responsible for the payment of repeat fees in its 100% commissioned drama programmes to principal performers and writers.
- The SABC is responsible for payment of royalties (exploitation fees) to producers and principle cast through the sale and exploitation of its 100% content on broadcast platforms that do not form part of the SABC's platforms. Such share in revenue shall be based on the existing model of and the share in proceeds through commercial exploitation to producers.
- Producers must deliver all signed principal performer agreements to the SABC in order to process payments.
- Repeat fees are defined as percentage payment of principal actors and writers contracted fees upon repeat of the drama series on SABC platforms.
- The simultaneous broadcast of the drama production on any platform shall not constitute a repeat broadcast.
- Where the SABC elects to package, reversion and repurpose content from a drama production for broadcast purposes on any platform, it shall not constitute a repeat broadcast.
- Repeat fees shall only be applicable to platforms available at the time of agreement reached between SABC and PAWE. No platform and technology not available during the signing of this agreement shall be deemed to be part of the Repeat Fees agreement between SABC and PAWE.

Commercial Exploitation of Programme

- Royalties are defined as percentage payment of nett profit on the licensing sale of SABC owned content. Such fees shall be payable to actors, writers and producers and as set out in SABC's standard production contract, artist contract and author's agreement.
- Commercial Exploitation is covered under SABC's Intellectual Property policy 2012.
- The SABC may consider sharing rights and/or further income or benefits derived from the production with the producer or some other third party at its own discretion, should there be a sound business case for the SABC to do so. Proposed business cases from producers shall be evaluated on a case-by-case basis.
- SABC's Business Development department is responsible for all commercialization of SABC's content and the payment of Commercial Exploitation.
- The SABC shall pay all commercial exploitation fees annually.
- A notice of payment for all productions licensed and sold shall be available 3 (three) months prior to SABC's year end (March), to allow individuals to submit their invoices after receiving the fees due.
- Details of SABC's Business Development department is detailed below in the "contacts".

Deliverables

- All deliverables and any specifications related to them shall be clearly stated in the Production Contract.
- All source tapes, finished programmes, fully completed final control sheets and music cue sheets, footage, release forms, location releases, assets and archive material (and any other additional deliverables), which shall be specified in the Production Contract remain the property of the SABC (unless otherwise agreed) and must be delivered to the SABC. The accounting officer responsible for the above is the Commissioning Editor who is the executive in charge of the production.
- All contracts entered into by the Producer on behalf of the SABC and all rights clearance agreements including music, archives, interviews, use of personal materials, photographs etc. as specified in the Production Contract must be delivered to the SABC.
- The SABC reserves the right to change its technical requirements when required to do so and shall inform the industry and revise all Production Contracts.

Methods of Contracting

The SABC uses the following contractual methods to acquire content:

- **Commissioning:** here the SABC provides 100% financing for a programme that is yet to be produced through its commissioning models of Requests for Proposals (RFP) and unsolicited commissioning of content ideas. These contracts are generally standard production agreements, but the SABC may elect, on an ad hoc basis to contract a 100% commissioned production as a non-standard;
- **Co-Production:** here the SABC enters into a co-financing agreement or a co-production agreement with either a co-investor or a co-producer. All co-production agreements are considered non-standard and shall be subject to negotiations between the SABC, the producer and/or co-funder;
- **Licensing:** here the SABC acquires certain rights in an existing programme which is already complete or an existing programme format or concept. All licensing agreements are considered non-standard and shall be negotiated on a project by project basis;
- **Pre-Sale:** here the SABC acquires certain rights in a programme that still has to be completed. All pre-sale agreements are considered non-standard and shall be negotiated on a project by project basis.
- **Fully-Funded** (this includes Advertiser Funded and Donor Funded Programmes): in the case of AFPs the SABC acquires programming but the rights are owned by the commercial entity. With Donor Funded Programmes the rights are negotiable as per the funder. All fully funded programme agreements are considered non-standard and shall be subject to negotiations between the SABC, the producer and the funding entity.

Turnaround times for Proposal submissions

Please refer to SABC's Commissioning Protocols August 2016 (please note these protocols are with ICASA with Approval and will only be able to be published once approval for implementation is received from ICASA.

- , negotiations. Producer's schedule and channel's transmission date.
- Payments will be subject to the approved cashflow. The SABC confirms that in the case of commissioned works, it pays producers in advance subject to all contractual deliverables being met by the producer.

SABC Procurement

- The SABC adheres to various legislations and regulations in terms of its procurement mechanisms including content acquisition, including:
 - The Public Finance Management Act No. 1 of 1999 as amended
 - Companies Act No. 61 of 1973 as amended
 - Income Tax Act No. 58 of 1962 as amended
 - Value Added Tax Act No. 89 of 1991 as amended
 - The Preferential Procurement Policy Framework Act (PPPFA)

- Under these legislations, the SABC requires all suppliers of the SABC to adhere to its procurement policy which requires that for all content suppliers to be registered with the SABC as a vendor it requires to provide:
 - Updated Tax Clearance Certificate
 - Tax Compliance PIN which shall be provide to SABC Vendor Master once producers have registered their compliance with the SARS
 - Active Black Economic Empowerment (BEE) certificates and required documentation. SABC's BEE department within the Corporate Procurement Division reserves the right to audit the BEE information of the producer as it relates to the production. This can include the production budget financials, on-site visit, Companies and Intellectual Property Commission (CIPC) verification and crew and cast details
 - Accurate completion of SABC vendor documentation which can be sourced from SABC Procurement Vendor Master (011) 714-2734
 - All suppliers must register with the CSD (Central Supplier Database managed by National Treasury) and provide the SABC with their CSD Supplier number and CSD Supplier Registration Code
 - TV license for company shareholders/members and or the production company

- SABC Corporate Procurement Vendor Master will provide producers with email notifications when their vendor details are due for expiration. The onus is on the producer to ensure their details are updated and relevant.
- SABC Corporate Procurement Vendor Master will block all vendors whose details have expired meaning no producer will be able to receive any payments due to them until they have met the vendor update criteria.
- The SABC governed by numerous regulations and legislations. If producers do not provide original tax clearance certificates, the production expenditure will be noted as irregular expenditure by the Auditor General.

Contracting

Development & Scripting

The SABC's primary relationship shall be with the producer. Thus all requirements as set out in this Terms of Trade are relevant to its contractual partnership with the producer. The producer shall ensure that it extends any contractual requirements as set out in the production agreement to any and all third parties are required by the SABC.

In the process of commissioning the production, the producer will be issued with a "Letter of Intent" which will outline the requirements for the commission.

If SABC Television decides to commission the development and scripting of a concept, the development funding shall be advanced under the terms of the standard author's agreement. The producer shall be required to assign all rights as required by the SABC to the SABC. Commercial exploitation as detailed in the author's agreement shall be extended to the writing team as determined by the producer and their creative contractors. The producer shall provide the SABC with all third party author and creator agreements entered into in the execution of the author's agreement.

The development and scripting process is monitored by the SABC through the submission of story outlines, treatments, scripts, format bibles and research documents. SABC will pay the producer as set out in the cashflow agreement once the assigned commissioning editor agrees that all monthly or phased deliverables have been met. The SABC reserves the right to withhold payment if such deliverables are not met.

Production

The issuing of production contracts will be either standard or non-standard. Standard production agreements are contracts approved by the SABC Board and shall be issued without amendments to the main body of the agreement by SABC TV Business Acquisitions department. If material changes are required to such agreements, they shall be deemed non-standard and shall be issued by SABC Legal Services.

SABC will draft a business plan in line with its governance policies. Once the business plan is approved, the producer, Content Hub and production management will engage with the producer. SABC's approvals for business plans and contracts are determined by the employee scale code signing powers. In short, all amounts from R0 to R1million requires the approval of SABC's middle management; for amounts from R1million to R5million requires the approval of SABC's senior management titled General Managers; for amounts from R5million to R15million requires the approval of the Group Executive; for amounts from R15million to R50million

requires the approval of SABC's Operations Committee; for amounts from R50million to R100million requires the approval of SABC's Group Executive Committee; for amounts above R100million approval is needed from the SABC Board through its Board Sub-Committees. SABC Content Hub together with SABC Production Management will together with the producer set out the schedule, creative requirements and editorial frameworks in the development of the production budget. Once a budget is agreed upon by the parties, Production Management will issue a VB1 which is the final internal, external costs, production fee and production insurance. This VB1 together with the approved business plan will be submitted to SABC TV's Business Acquisition department to issue the contract.

Production Insurance

- The SABC, as a standard, provides production insurance to all its productions.
- If producers have secured their own production insurance, they must inform the SABC during the budget submission phase.
- First cashflow payment to a producer shall not be paid unless the producer has submitted their insurance policy.
- If the producer does not submit any insurance details, the SABC shall insure the production as part of the production budget.

Use of SABC Facilities

- Where the SABC facilities are to be used for a commissioned production, producers will be expected to manage their relationship with the SABC facilities directly and will be held accountable for all aspects of the production.
- A service level agreement will be concluded between SABC facilities and the producer for each production before it commences.
- While the SABC has limited internal productions, it has state of the art facilities such as studios, post production facilities and Outside Broadcast facilities. The effective optimization of SABC facilities as a business imperative will be taken into consideration during a budget evaluation process.
- The SABC is committed to a fair and competitive process in determining the facilities to be used for a commissioned production.

Production Assets

- An asset is defined as 'goods purchased using the provided SABC production budget that has a value of more than R10, 000.00 (ten thousand rand) per item.
- All individual items purchased under R10, 000.00 (ten thousand rand) can be disposed of by the producer by informing the producer on its asset register.

- Individual goods purchased above the value of R10, 000 (ten thousand rand) shall be itemized on the Asset register monthly and submitted to the SABC.
- As part of the production budget, the SABC will allocate storage costs for a production including but not limited to sets, décor, wardrobe and props.
- The SABC shall instruct the producer in writing on the disposal of assets 30 days prior to the due date of the storage. The SABC shall provide storage costs for items its deems as assets as part of the production budget.
- If the SABC delays the finalization of production assets beyond timelines set out in the section “Producer’s Markeup/Production fee” after final wrap-up, the SABC shall pay over the producer’s final production fee and carry the costs of the removal and storage of the goods deemed assets.
- The SABC may elect to store such assets at its own expense, auction, sell or distribute for charity all assets acquired during a production or it may instruct the producer in writing to do so.
- If the SABC elects to allow the producer to dispose of assets, a separate profit sharing shall be agreed upon between the producer and the SABC.

Equity and Industry Development

- The SABC, as a public broadcaster, is committed to the sustainable development of the South African production industry as a whole. It also recognizes the inclusion of marginalized groups in being able tell diverse stories. Thus the SABC has developed four key priority areas:
 - Broad based black economic empowerment (BBBEE);
 - Skills Development within the independent production industry;
 - The Promotion of enterprise development and regional representation in the local production industry; and
 - Promotion of diverse socio economic development in women, youth and people with disabilities.
- The SABC will set specific, measurable targets in each of the above areas. Such targets will be set per production company depending on the BBBEE level status of such company at the time of commission. SABC aims to ensure all its content providers are between levels 1-4 as part of its 5 year corporate objective. These objectives shall be monitored and reviewed annually on a contract to contract basis.
- In order to achieve diversity and general economic development both in the industry and in regions, SABC shall set specific criteria to ensure equal spread of work when it issues its Request for Proposal (RFP). Submission forms will include BBBEE criteria which shall be used both during the proposal evaluation and pitch scoring phases.

Television’s Transformation Charter

The SABC’s four priorities with respect to the development and transformation of the local production industry are:

1. Broad based black economic empowerment (BBBEE);
2. Skills Development within the independent production industry; and
3. The Promotion of enterprise development and regional representation in the local production industry;
4. Promotion of diverse socio economic development in women, youth and people with disabilities.

SABC Television will work closely with local content suppliers to ensure that all commissioned production companies are compliant to South Africa’s Broad Based Black Economic Empowerment legislations and Codes of Good practice. Where identified, the SABC will set specific, measurable targets on the commissioned productions. Such targets, as well as the tools to measure and monitor them, will be drafted in conjunction with the commissioned production company and shall form part of the production deliverables set in each commissioning agreement.

Annual Turn-over	Required BBBEE Level	Contractual Development Requirements
<R5mil	Exempt (automatic Level 4)	<ul style="list-style-type: none"> • None
R5-10mil	2-4	<ul style="list-style-type: none"> • Internship on commissioned programme (students)
R10-35mil	1-4	<ul style="list-style-type: none"> • Internship on the commissioned programme (woman, disability, previously disadvantaged) • Mentorship on the commissioned programme (students)
R35mil >	1-3	<ul style="list-style-type: none"> • Internship on commissioned programmes (woman, disability, youth) • Areas of production integration in commissioned programme: scripting, production office, post production, camera department, sound department, makeup & wardrobe, art & set, directing, producing • Crew promotion on commissioned

		programme: technical & creative department
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- The above criteria will be utilized in both re-commissions and new commissions. The implementation of the above criteria particularly with re-commissions will ensure SABC’s spend on local content is leveraged to ensure broader empowerment.
- Contract amounts must be incremental in one financial year. For example, a company which could get two R5-million rand contracts in one financial year automatically moves into the higher bracket of classification.
- The targets to be set against these criteria will be done on a case to case basis and will be subject to consultation with Channels, Content Houses, Commissioning and Industry Development.
- Commissioning will maintain an effective register of all content suppliers.

Skills Development

- The SABC will apply the following approaches to fostering skills development:
 - Use commissioning contracts to promote training through mentorship and internship on SABC productions. All production contracts entered into will align to Development criteria as set out in Table 1 above;
 - Require producers, as part of large and/or long term contracts, to engage in training and empowerment processes and to report to the SABC on these as part of their bi-annual channel and content review; and
 - Provide direct support for industry-based skills development initiatives that match the SABC’s corporate business and mandate objectives as set out by the Board on a 2-year cycle. The direct support will be detailed in Industry Development’s annual strategy, budget and implementation plan;
 - The TV Network will provide one hour of its schedule, to be determined by the channels, for ‘open window’ content licensed by the Industry Development unit;
 - Partner with industry stakeholders to identify specific set of skills requiring development to draft the annual objectives, which will inform the support of industry initiatives.

Enterprise & Regional Development

To achieve content diversity and enterprise development in the local production industry, the SABC will, in alignment with its business objectives and mandate set by the SABC Board annually:

- Spread work to diverse companies by:

- ring-fencing 15% of the annual new content budgets for new companies;
- ring-fence 5% of the annual new content budgets for regional companies and/or filmmakers (this will exclude Cape Town, Durban and Johannesburg);
- Ensure that the successful incumbents receive the administrative, financial and creative support to deliver the content. The Commissioning Editor together with Industry Development will determine the level of assistance and intervention required and put measures in place to be documented in the contracts;
- Run three (3) regional commissioning workshops around the country on proposal development; submitting proposals to the SABC; budgeting; understanding SABC’s mandate and channel brand; find a producing partner; legal and administrative imperatives.

Diverse Socio-Economic development

Empowerment and growth of Women, Youth and the Disabled through skills transfer and employment equity will be promoted through the weighting of the criteria which shall be applied in the BEE scoring of all productions.

Technical Content Delivery

SABC Television has technical delivery requirements for its programming. All technical requirements are contained in SABC’s production agreements as part of the contractual deliverable criteria. Producers can refer to the attached Technical specifications document for reference.

All content delivery shall be delivered by the producer to SABC’s Central Receiving Area (CRA) located on level B1 of the SABC’s TV block area. Optical disc, Tape and File delivery must contain all other requirements as set out in the SABC’s Technical Delivery document (attached hereto). Details of the Central Receiving area can be found below under “contacts”.

No transmission masters shall be delivered to any other department and persons. If transmission materials are delivered to any other departments and/or individuals, the producer shall be held liable for non-delivery and payment will not be released. The producer must liaise with the commissioning editor to make prior arrangements for delivery other than through the Central Receiving Area. Such arrangements must be recorded in writing.

No transmission will be accepted by the Central Receiving Area without the necessary documentation as set out in the production agreement.

Producers must familiarize themselves with the delivery requirements contained within the production agreement. Non-compliance shall be deemed a breach and the SABC shall have the right to institute legal remedies as set out in the production agreement.

SABC Logo and Credits

The SABC shall approve all credits to be used on the programme. All credits shall not exceed 30 seconds for title sequence and 45 seconds for credits.

All credits shall be approved by the commissioning editor in writing.

The SABC's logo shall appear as the second last title board before the production company's logo title board.

The commissioning editor shall approve all final mixed transmission copies.

Programme durations

For a half hour commission, the producer shall deliver:

- 23 minutes of screen time
- SABC's half hour programmes total 23 minutes
- Programme durations shall not exceed 45 seconds over the 23 minutes without the prior written consent from the commissioning editor
- Programme durations shall not be under 22 minutes without the prior written consent of the commissioning editor

For an hour commission, the producer shall deliver:

- 46 minutes of screen time
- SABC's hour programmes totals 46 minutes
- Programme durations shall not exceed 45 seconds over the 46 minutes without the prior written consent from the commissioning editor
- Programme durations shall not be under 46 minutes without the prior written consent of the commissioning editor

For all licensed local content, the SABC shall liaise with the producer to determine if any editing is required to meet the scheduling needs of the broadcaster.

Complaints

As is required under ICASA's Commissioning Protocols, the SABC has in place a complaints process for all commissioned related complaints and queries. Producers can lodge their complaints in writing to:

The Commissioning Manager

SABC TV Operations

9th Floor, TV Block

Email: katiyobt@sabc.co.za

Contacting the SABC

- All Commissioning queries must be directed to the SABC Commissioning Office:
Email: katiyobt@sabc.co.za
Tel: (011) 714-4532 / 6855 / 5066
- All Industry Development, Pre-Sales queries can be directed to the SABC Industry Development Office:-
Email: singhn02@sabc.co.za
Tel: (011) 714- 7499
- All Programming Sales and commercial exploitation queries can be directed to the SABC's Business Development Department:
Email: welshgb@sabc.co.za
- All Repeat fees queries must be directed to the SABC's TV Operations Department:
Email: oliverld@sabc.co.za

All budgeting, cost reporting, asset query, production insurance and production finance queries can be directed to SABC TV Production Management department:

Email: bandam@sabc.co.za

All other related queries including editorial, delivery, contractual must be directed to the Commissioning Editor. Escalations regarding these can be escalated to the Head of Genre and/or the General Manager of TV Content on williamsrv@sabc.co.za

How SABC TV works

SABC TV operates in an operational centralization structure with each department having a General Manager and operational middle management for the day to day operations. TV Division is led by a Group Executive.

TV Channels

SABC TV currently has four TV channels, being **SABC 1**, **SABC 2**, **SABC 3** and the DSTV licensed channel **SABC Encore**.

The TV Channels are responsible for all completed licensed content but must be submitted through the Commissioning Office who will forward the license requests through to the TV Channels.

Support services for the channels include **Scheduling** (TX Operations, Scheduling, Stock Management and Programme Acceptance) and **Marketing & On-Air**.

TV channels are led by a Channel General Manager with each unit having their own operational management teams.

TV Content

Made up of 7 broad genres, **Drama**; **Factual**; **Entertainment**; **Children**; **Religion**; **Reversioning & Repurposing** and **Pre-Sales**. Each genre has commissioning editors who are managed by a Head of Genre. TV Content is led by a General Manager who oversees the strategic and Human Resource functions of the department.

TV Operations:

Made up of **Administration** who processes business plans on behalf of the channels, manages invoicing and payments, ensures vendor compliance, processes repeat fees. Administration is overseen by a business plan manager; **Production Management** who through production controllers oversees the budgeting, cost verification, asset register, SABC internal facility use, sets industry standard rates for budget line items and works closely with TV Content and producers to ensure production risks are mitigated and managed. Production management is overseen by a manager; **Business Acquisitions** manages all local and international content/programming contracts. They issue standard production contracts and facilitate non-standard contracts in conjunction with SABC Legal Services; **TV Archives & Central Receiving Area** manages the receiving, transmission copies, tx storage and post broadcast archiving of all SABC TV commissioned and licensed content; **The Commissioning Office** does the compliance of the acquisition of local content. The unit ensures all supporting units adhere to the Policy &

Procedure on the acquisition of local content. It manages the submission of proposals, distribution of proposals and keeps audit records of all commissions. The Commissioning Office is the central communication point for all producers for all matters related to commissions and licenses. The unit ensures compliance to ICASA's Commissioning Protocols and records and provides annual reports on Commissioning and BEE.

TV Strategy & Business Development

This department provides support to the TV division in terms of industry development, corporate strategy & reporting, programming research, content sales through licensing and dvd sales, digital support in terms of You-Tube, websites and social media. This department is managed by a general manager with each unit having a manager to oversee the operations. The **Business Development** unit manages all local and foreign sales of SABC's content, either completed programmes or programme archives and clips. The unit is also responsible for SABC's exploitation structures and fees.

TV Finance

This department provides financial support to the TV Division in line with corporate governance and oversees all payments and remittance.