

**ACTORS FEATURE FILM
COLLECTIVE AGREEMENT BETWEEN**

**AND
MEDIA ENTERTAINMENT AND ARTS ALLIANCE
2012**

1. TITLE

This Agreement shall be known as the Actors Feature Film Collective Agreement, 2012

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3. INDUSTRY - SCOPE

- (a) Subject to Clause 48, this Agreement relates to the minimum fees, salary, wages, expenses, overtime and any other remuneration to be paid to, and the conditions of engagement of Artists engaged by the Producer to work (Rehearsal, Performance and all other work) in or incidental to the production of any Film.
- (b) This Agreement applies only to those productions which are produced with a genuine intention of a primary theatrical release.

4. PARTIES BOUND

- (a) This Agreement shall be binding upon SPAA, IPI Inc, SPAA Members and IPI Inc Members from time to time who are Producers and MEAA and its members from time to time who are Artists, and on Artists who are not

members of MEAA but who have signed a contract in accordance with Schedule A.

- (b) The Producer undertakes that this Agreement will apply to any separate associated or affiliated company set up by the Producer for the purposes of producing feature films and employing performers. The Producer undertakes to take any practical steps necessary to ensure that this occurs.

4A FAVOURED NATIONS

- (a) Subject to Clause 4A(b), in the event that MEAA enters into an agreement in relation to a Film with a Producer who is not a SPAA Member or an IPI Inc Member on terms that are more favourable to the Producer than the terms provided herein, MEAA will disclose to SPAA and IPI Inc the terms of such agreement and MEAA will give SPAA and IPI Inc. the opportunity to agree to all the terms of such agreement. If such agreement is agreed by both SPAA and IPI Inc, then such agreement shall replace this Agreement.
- (b) Clause 4A(a) does not apply to any Film described in Clause 48(a)(i) and (ii).

5. DURATION AND LOCALITY

- (a) This Agreement shall come into operation from the beginning of the first complete pay period commencing on or after January 1, 2012 and shall remain in force until 31 December 2014 and thereafter shall continue in operation until such time as it is varied or replaced by agreement of the parties or until such time as it is terminated by SPAA giving MEAA not less than 12 weeks notice in writing that this Agreement is to terminate, or by MEAA giving SPAA not less than 12 weeks notice in writing that this Agreement is to terminate.
- (b) This Agreement shall apply in all states of Australia and its Territories.

6. DEFINITIONS

- "Ancillary Rights" means the right to exploit the copyright of the Film by the owner of that copyright for any or all purposes (excluding Theatrical Rights and by means of Free Television and Pay Television) including but not limited to usage in ships at sea, aircraft, buses, or hotels and for usage on home video, foreign pay television, closed circuit television, video cassettes, video cartridges, video discs, linear webcasting, wire transmissions including:
- (i) a service (including a teletext service) that provides no more than data, or no more than text (with or without associated images); or
- (ii) a service that makes programs available on demand on a point to point basis, including a dial up service,

and

-
- (iii) any other form of mechanical and/or electronic reproduction now known or hereafter devised.
- "Artist" means each and all of those persons engaged by the Producer to take part audibly and/or visually in the production of the Film including Performers, Doubles, Extras, Stand-Ins and Stunt Double.
- "Australian Ancillary Rights" means the exercise of Ancillary Rights in the territory of Australia and "Australian Ancillary Market" shall have a corresponding meaning.
- "Australian Creative Control" means that creative decisions relating to (but not limited to) story line, casting, direction and other aspects of production are made by resident Australian managerial personnel and companies. For the purpose of this definition, key creative decisions do not include the exercise of Customary Rights of Approval. In addition, the nationality of the director will be relevant only if that person is given creative control by contract.
- "Australian Film" means a feature film subject to Australian Creative Control where creative decisions relating to (but not limited to) story line, casting, direction and other aspects of production and financial decisions in respect of the Film are made by resident Australian managerial personnel and companies. For the purposes of this definition, references to "creative decisions" do not include the exercise of Customary Rights of Approval.
- "Australian Pay Television Rights" means the exercise of the Pay Television Rights in the territory of Australia and "Australian Pay Television Market" shall have a corresponding meaning.
- "Basic Negotiated Fee" and "BNF" means the minimum weekly, daily or hourly rate for a Performer set out in Clause 33 plus the Performer's additional margin for skill. The Basic Negotiated Fee will be the rate upon which all non-Performance work, ie. Rehearsals, wardrobe calls, publicity appearances etc. shall be based.
- "Call" means an instruction after engagement by the Producer to the Artist to report for work at a definite time and date for a definite period for the purpose of rehearsing for and/or performing in the Film covered by this Agreement or for any purpose connected therewith.
- "Composite Fee" means the minimum weekly, daily or hourly rate for a Performer which comprises the Basic Negotiated Fee

	on to which has been added the appropriate loadings, if any, as set out in Clause 33 and Clause 39.
"Co-Production"	means a film in respect of which key creative decisions relating to the story line, casting, direction and other aspects of production etc., and financial decisions are shared by Australians and overseas managerial personnel or companies.
"Crowd"	has the same meaning as "Extra".
"Customary Rights of Approval"	means where a Producer submits to an Offshore source of financing (by way of investment, negative pick-up, presale or other advance distribution agreement) the following elements for approval: <ul style="list-style-type: none">(i) Major Cast;(ii) Heads of Department;(iii) Final shooting script;(iv) Production budget and production plans;(v) Director's cut;(vi) Final cut.
	<u>Notation:</u>
	(A) It is understood that "Customary Rights of Approval" as defined generally operate in circumstances where overseas finance is being sought.
	(B) "Customary Rights of Approval" as defined also operate in respect of Categories "A", "B" and "C".
"DoA"	means the Federal Department of the Arts (DoA) or such other government department exercising jurisdiction over the matters contained in the DoA Guidelines from time to time.
"DoA Guidelines"	means the guidelines issued by DoA from time to time regarding the entry of foreign artists into Australia for the purposes of employment in film and television productions.
"Double"	means an Artist who takes the place of another Artist but who does not speak dialogue used in the Film and is not photographed in a manner which enables recognition but excludes a Stunt Double.
"Dubbing"	means the post-production process of recording over the original production recording of the whole or part of

	a Performer's voice for the purpose of recording an accent or dialect or language different from the accent or dialect or language used by the Performer in the original production recording.
"Engagement"	means the aggregate number of Calls required of any Artist to complete a Performance.
"Extra"	means an Artist who is part of a crowd, mob, ensemble or atmospheric scene and who appears only incidentally or in backgrounds, and who does not speak dialogue except in the mass, and who is, in accordance with industry practice, not featured, provided that the Producer may for the purpose of authenticity invite members of the public in civilian dress to join in a scene and such member of the public shall not be regarded as an Artist and shall not otherwise be covered by this Agreement.
"Film"	means a Category A, B or C feature film as defined in Clause 33B and which is made wholly or largely in Australia.
"Film's Net Profits"	means the proceeds from the exploitation of the Film in all media throughout the world (net of third party distribution and marketing commissions and expenses and net of GST) available for distribution to the investors and the Producer (including any co-producer and assignee) following recoupment by the investors of their respective investments (and interest and premium if applicable) and following repayment of any bona fide deferrals approved by the investors in the Film and following repayment of any amounts due to any completion guarantor and, where applicable, as otherwise specified in the principal production and investment agreement for the Film within generally accepted industry standards. The definition of "Film's Net Profits" shall be favoured nations with all other parties entitled to a share of the Film's Net Profits.
"Free Television"	means broadcasting the Film free of charge to the general public and includes associated community antenna reception.
"Free Television Rights"	means exploitation of the Film by means of Free Television.
"FW Act"	means the <i>Fair Work Act 2009 (Cth)</i> .
"FWA"	means Fair Work Australia.
"IPI Inc"	means the Independent Producers Initiative Inc.
"IPI Inc Members"	means those persons who are members of IPI Inc at any time during the term of this Agreement, and who presently comprise the persons described as "IPI Inc Members" in Appendix 1.

"Juvenile"	means an Artist who is less than 16 years of age.
"NES"	means the National Employment Standards as contained in sections 59 to 131 of the FW Act.
"Making-Of Film"	means any documentary or promotional film about the making of the Film of less than or equal to sixty (60) minutes duration and includes any so-called "behind-the-scenes" documentaries or promotional film but does not include the trailer for the Film.
"MEAA"	means the Media Entertainment and Arts Alliance.
"Offshore"	means outside the territory of Australia.
"One-off productions"	means tele-plays, feature films, telemovies, mini-series, docu-dramas and dramatised and scripted corporate video/training films of more than 20 minutes duration that are fully scripted and professionally produced.
"Pay Television"	means broadcasting the Film by means of a service that: <ul style="list-style-type: none"> (i) provides films and programs that, when considered in the context of the service being provided, appear to be intended to appeal to the general public; (ii) are made available to the general public but only on payment of subscription fees (whether periodical or otherwise).
"Pay Television Rights"	means exploitation of the Film by means of Pay Television.
"Performance"	means the work done by an Artist in the Film.
"Performer"	means an Artist other than each of the Artists within the following categories: "Crowd", "Double", "Extra", "Stand-In", "Supernumerary" and "Walk-on Extra".
"Performer Class 1"	means an Artist who takes part in a performance and/or is engaged to take part in a rehearsal for a performance who is required to speak more than two lines of dialogue and who has the necessary skills to the required standard to effectively audition, prepare, rehearse and perform the role required.

Indicative Tasks:

Audition

- take direction with minimum instructions;
- integrate rapid instructions in an instant performance;

- present character effectively and instantaneously.

Preparation

- analyse character in terms of script and scene requirements;
- find appropriate emotions to express script requirements;
- interpret demands of production.

Rehearsal

- integrate skills to production and character requirements;
- take direction and interpret instructions and display necessary flexibility, versatility and adaptability;
- communicate effectively and develop professional working relationships with the Director, other Performers and production staff.

Performance

- achieve the quality of performance to the required standard and be able to repeat performances to that standard;
- maintain the emotional, physical and vocal continuity required for the performance;
- perform convincingly under diverse and adverse physical and mental conditions.

"Performer Class 2"

means an Artist who takes part in a performance and/or is engaged to take part in a rehearsal for a performance, who is required to speak more than two lines of dialogue and:

- (i) possesses the skills of a Performer Class 1; and
- (ii) has worked professionally for a minimum as five (5) years as a performer; and
- (iii) has gained one hundred and fifty (150) points under the Experienced Point Structure as set out below:

EXPERIENCED POINTS STRUCTURE

Points are awarded on the basis of the length of the engagement and the area of the industry in which the engagement took place. The following table sets out how points are awarded:

CATEGORY	TYPE OF PRODUCTION	LENGTH OF ENGAGEMENT	POINTS
1	Serials (as per definition in Actors Television Programs Agreement)	13 weeks and under	2 points per week
		more than 13 weeks	1 point per week
2	Series (as per definition		

	in Actors Television Programs Agreement) (also includes sit-coms and sketch comedies)	13 weeks and under	3 points per week
		more than 13 weeks	2 points per week
3	One-off productions: (as defined) eg. Film, Telemovie. Mini-Series, Docu-dramas, Dramatised corporate videos (more than 20 mins)		4 points per week
4	Theatre	13 weeks and under	3 points per week
		more than 13 weeks	2 points per week

Notes: Professional Experience

- (1) Professional experience is to be calculated from the date of the performer's first professional engagement.
- (2) Where the performer has completed a relevant undergraduate degree or diploma at NIDA, VCA, WAAPA or equivalent tertiary institution, which is ranked by the Register of Australian Tertiary Education at level four or higher, the five (5) years experience requirement will be reduced to three (3) years.
- (3) Where the performer has undertaken an appropriate amount of relevant training at a private or public institution and/or through private tuition, the five (5) year requirement 1 will be reduced to four (4) years. Examples of institutions offering "relevant training" would include the Australian Theatre for Young People, St Martins and the Actors' Centre.
- (4) Where a dispute arises as to whether a particular training course can be considered 'appropriate' or whether the training offered by the institution is relevant, the matter may be referred to the 'Performer Classification Committee' to consist of equal numbers of representative(s) of MEAA on the one hand and of SPAA/ IPI Inc (jointly) on the other and an independent chair agreed to by the parties.

Single Days

- (5) Single days are to allocated points on a pro-rata basis. For example, a performer will earn .8 point for a single day engagement on a Film - (Category 3 production).
- (6) However where the performer is engaged for a single day or day/s in a significant role and/or concentrated performance, s/he may negotiate with the Producer of that

production for the work to be credited a greater number of points.

Limit on One-off Productions

- (7) No more than 50% of points may be achieved on any single one-off production (Category 3 production).

Limit on Points from Theatre - Category 4 productions

- (8) A performer must earn a minimum of 30% of their points from work in productions from Category 1, 2 and 3.
- (9) Where the performer has a minimum of 10 years experience in the industry as a performer the provisions of Clause (8) do not apply.

Eligible Productions

- (10) Points are only awarded for work on fully professional productions.
- (11) Points are only available to persons engaged as performers, and not for engagements as Extras, Walk-On Extras or Stand-Ins.
- (12) Commercials, documentaries, non-dramatic corporate videos and other productions are ineligible productions for the purpose of the 150 point score.
- (13) Dramatised corporate videos of at least 20 minutes in length, scripted and professionally produced will count as eligible productions and are to be categorised as a Category 3 production.

Administration

- (14) At the introduction of the Performer Class 2 point classification system, a committee consisting of equal numbers of Producers jointly nominated by SPAA/IPI Inc on the one hand and individuals nominated by MEAA on the other (collectively "the Industry Committee") shall be formed to nominate those performers who will be classified immediately as 'Performer Class 2' and those who will not be required to verify their experience as provided for in Clause (16) below.
- (15) Where a performer has not been classified as Performer Class 2 by the Industry Committee, s/he shall provide the Producer with information verifying his/her status when claiming to be a Performer Class 2.
- (16) To verify his/her status as a Performer Class 2 a performer shall provide the Producer with either:
- (i) A Statutory Declaration

The statutory declaration shall include:

- Artist's name
- Agent (where applicable)
- Contact details

- Names of eligible productions in which employed as a performer
- Name of producer for each production
- Length of Artist's engagement for each production
- Attributed points gained through the engagement.

or

(ii) A Log Book

The log book shall set out the information contained in sub-clause (i) above and shall be signed by each producer verifying that the engagement has been completed.

- (17) Any Producer may request additional information including extracts from relevant contracts.
- (18) Once a performer has been classified as a 'Performer Class 2' by either the Producer as per Clause (16) or by the Industry Committee as per Clause (14), that performer shall remain a 'Performer Class 2' for the duration of his/her career.

Disputes

- (19) Where a Producer and a Performer cannot agree on whether the Performer should be classified as a 'Performer Class 2' they may refer the matter to an Independent Arbitrator to be nominated by SPAA/IPI Inc and MEAA.

Changing Status

(20) *Category 3 Productions (one-off productions)*

Where in the course of an engagement in a Category 3 production, the performer achieves the necessary points to graduate to the Performer Class 2 classification, the performer will continue to be classified as Performer Class 1 for that engagement until its completion.

(21) *Category 1 and 2 Productions (on-going productions - series or serial)*

Where in the course of an engagement in excess of thirteen (13) weeks duration in a Category 1 or 2 production, the performer achieves the necessary points to graduate to the Performer Class 2 classification, the performer will graduate to the Performer Class 2 classification after the completion of the thirteen (13) week block in which the 150 points were achieved.

"Pick-Up Point"

means the studio of the Producer, or where production is not based in a studio, the production office, provided that such studio is within a radius of thirty-two kilometres of the GPO of the capital city or regional town in which the Performer resides. Should the studio or production office be located in excess of the said distance of thirty-two

kilometres then the pick-up point shall be within thirty two kilometres of the said GPO from which point the Producer shall be required to provide transport to and from the place of work. Provided that the pick-up point shall be reasonably convenient to the nearest means of public transport.

In the case of interstate or country Artists, the pick-up point shall be the transport terminal at which the Artist arrives or the place of overnight accommodation should the Artist have to stay overnight, provided that the Producer and MEAA may agree to a pick-up point beyond thirty-two kilometres.

- "Place of Accommodation" means the place where an Artist temporarily resides overnight when s/he has travelled away from his/her place of residence in the course of his/her employment.
- "Place of Residence" means the address at which the Artist usually resides.
- "Post Synchronisation" means the post-production process of recording over the original production recording of the whole or part of a Performer's voice for the purpose of amendment or correction (including, but not limited to, amending dialogue and increasing the clarity or audio-quality of the Performer's voice) but does not include Dubbing.
- "Producer" means an individual or legal entity that produces a Film.
- "Producer's Share of Film's Net Profits" means the balance of Film's Net Profits after deduction of any share payable to any bona fide arms length provider of development assistance and any investor, lender or distributor of the Film. The definition of "Producer's Share of Film's Net Profits" shall be favoured nations with all other parties entitled to a share in the Producer's Share of Film's Net Profits.
- "Rehearsal" means the work done by an Artist in preparation for his/her Performance in the presence of and under the direction of the Producer.
- "Reporting Period" means the six monthly periods ending on the 30th June and 31st December in each calendar year.
- "Residual Fee" means any monies due and payable to MEAA under Clauses 39A.1 to 39A.3 (inclusive) and clause 39F in respect of the exercise of the rights described under those Clauses.
- "Semi-Nude" means where the Artist's genitalia, buttocks and/or breasts (in the case of female Artists) are uncovered.
- "SPAA" means the Screen Producers Association of Australia.

"SPAA Members"	means those persons who are members of SPAA at any time during the term of this Agreement, and who presently comprise the persons described as "SPAA Members" in Appendix 1.
"Stand-In"	means an Artist who replaces another Artist for the purpose only of Rehearsal and/or technical set-ups such as lighting, camera angles etc.
"Stunt Double"	means an Artist who takes the place of another Artist for safety reasons or to perform or to engage in hazardous action.
"Supernumerary"	has the same meaning as "Extra".
"Theatrical Rights"	means the right to rent, lease, license, exhibit, distribute and otherwise deal in and with respect to the Film on any gauge released for public exhibition.
"US Major"	means any US major as that term is commonly understood within the US film industry from time to time (including their subsidiaries), presently comprising 20 th Century Fox, Universal Pictures, Disney / Buena Vista, MGM/UA, Sony Pictures, Warner Bros, Paramount Pictures and DreamWorks and their subsidiaries (including Fox Searchlight and Focus).
"US Mini-Major"	means any US mini-major as that term is commonly understood within the US film industry from time to time (including their subsidiaries), presently comprising New Line, Miramax Film Corporation, Intermedia and Lions Gate.
"US Network"	means any or all of stations known and recognised as the N.B.C, A.B.C., Fox or C.B.S. Networks or any other entity which qualifies as a "network" under the rules of the US Federal Communications Commission and a telecast on a U.S Network shall be telecast over the full facilities of one of these Networks.
"US Studio"	means any US Major and any US Mini-Major.
"Walk on Extra"	shall have the same meaning as "Extra".

7. INTERPRETATION

In the interpretation of this Agreement unless the context requires otherwise:

- (a) words importing the masculine gender shall be deemed to include the feminine and the singular to include the plural and vice-versa unless there is something repugnant or inconsistent with such interpretation;
- (b) clause headings will be disregarded;
- (c) where a word or phrase is given a defined meaning, its other grammatical

forms have a corresponding meaning;

- (d) the word 'person' includes a natural person, the estate of a natural person, a company, a government, statutory or other authority, an association or joint venture (incorporated or unincorporated), a partnership and a trust;
- (e) a reference to any person or to any party includes that person's or party's executors, administrators, successors or permitted assigns;
- (f) references to any 'party,' 'clause,' 'schedule' or 'annexure' are references to a party, clause, schedule or annexure of or to this Agreement and a reference to this Agreement includes any and all schedules and annexures;
- (g) the word 'includes' in any form is not a word of limitation.

8. ADJUSTMENTS OF RATES OF PAY AND ALLOWANCES

- (a) The rates of pay for Performers set out in this Agreement shall be increased by the following percentages over the term of this Agreement in accordance with the tables set out in this Agreement:
 - (1) from 1 January 2012 – 30 June 2013: 10.5% increase (on the rates of pay applicable during the period from 1 January 2009 until 31 December 2011 under the Actors Feature Film Agreement 2003). This wage increase will be payable in the following increments:
 - (a) from 1 January 2012 to 30 June 2012: 3% increase;
 - (b) from 1 July 2012 to 31 December 2012: 3.5% increase;
and
 - (c) from 1 January 2013 to 30 June 2013: 4% increase.
 - (2) from 1 July 2013 to 31 December 2014: 7% increase (on the rates of pay applicable during the period 1 January 2013 to 30 June 2013). This wage increase will be payable in the following increments:
 - (a) from 1 July 2013 – 31 December 2013: 3.5% increase; and
 - (b) from 1 January 2014 to 31 December 2014: 3.5% increase.
- (b) The rates of pay for Double, Stand in's and Extras set out in this Agreement shall be increased by the following percentages over the term of this Agreement in accordance with the tables set out in this Agreement:
 - (1) from 1 January 2012 – 30 June 2013: 9% increase (on the rates of pay applicable during the period from 1 January 2009 until 31 December 2011 under the Actors Feature Film Agreement 2003). This wage increase will be payable in the following increments:
 - (a) from 1 January 2012 to 30 June 2012: 3% increase;

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- (b) from 1 July 2012 to 31 December 2012: 3% increase; and
 - (c) from 1 January 2013 to 30 June 2013: 3% increase.
- (2) from 1 July 2013 to 31 December 2014: 6% increase (on the rates of pay applicable during the period 1 January 2013 to 30 June 2013). This wage increase will be payable in the following increments:
- (a) from 1 July 2013 – 31 December 2013: 3% increase; and
 - (b) from 1 January 2014 to 31 December 2014: 3% increase.
- (c) Where an increase under Clause 33 becomes payable (“the Agreement increase”) during the period of an Artist’s engagement the following shall apply:
- (1) Where an Artist is engaged on the minimum Agreement rate the Artist’s BNF will be adjusted in line with the Agreement increase.
 - (2) Where the Artist is paid a margin for skill, the Agreement increase will be paid and will not be absorbed into any margin for skill unless:
 - (i) an Artist is engaged on a program by means of a continuous contract; and
 - (ii) the Artist’s BNF for each period of engagement of up to 12 months is increased from the previous period of engagement (on that Film) by a percentage equal to or greater than any Agreement increase in percentage terms that may occur during that period of engagement;
- and, in that case any Agreement rate increase may be absorbed into the Artist’s margin for skill.

Increases payable under Clauses 8(b)(1) and (2) above will be payable from the date of the Agreement increase but nothing precludes a Producer from paying the Agreement increase to an Artist before the date required under the Agreement.

Where an increase is payable under Clause 8(b)(2)(ii) the increase will be calculated as follows: the Agreement increase will be applied to the Agreement rate, the margin of skill will remain unchanged and the Artist’s BNF will be adjusted accordingly.

- (d) The allowances provided for in this Agreement will be increased in line with movements in the consumer price sub-index group with which they have moved prior to the introduction of this Agreement at the end of each financial year which increases will be effective on and from 1 August the following financial year.

9. TERMS OF ENGAGEMENT

- (a) The terms of engagement of a Performer shall be specified by the Producer when the engagement is made, confirmed in writing in the terms of Schedule A to this Agreement and forwarded to the Performer or his/her

agent where possible at least 48 hours (excluding weekends) before filming commences.

Provided that when an engagement is made at a time which does not allow written confirmation to be forwarded as herein before specified, it shall be given to the Performer where practicable prior to the actual commencement of the engagement.

Provided further that, in the case of a Performer being required by the Producer to travel to an engagement, the Performer shall, where practicable, be provided with the said written confirmation prior to commencing such travel.

- (b) The terms of engagement between the Producer and any member of MEAA or other person engaged by the Producer visually to appear in and/or speak dialogue in or for the Film shall be on terms which are monetarily not less than the monetary amounts hereinafter set out in this Agreement and that the conditions of engagement of each Artist shall never be more onerous than the terms hereinafter set out in this Agreement. The Producer agrees that all of the terms of this Agreement shall apply to all persons engaged for Performance (either visual or oral or both) in the Film irrespective of the weekly or daily salary, wage or fee paid to such person whatsoever to appear in the Film on monetary terms less than those set out herein or on any conditions other than those conditions set out herein. Provided that it is distinctly agreed that all of the monetary terms set out herein are minimum terms and all of the hours set out herein are maximum ordinary hours and that the number of days work per week set out herein is the maximum number of ordinary working days per week.

9A. ARTIST TO CARRY OUT DUTIES WITHIN LIMITS OF SKILL ETC.,

As a result of the operation of this Agreement and contracts of engagement entered into in the industry by Artists covered by the Agreement, a Producer may direct an Artist to carry out such duties as are within the limits of the Artist's skill, competence and training.

10. HOURS OF WORK

- (a) The ordinary hours of work shall be based on eight hours per day exclusive of a meal break to be worked continuously between the hours of 6.30am and 11.00pm on five days of the week Monday to Saturday.
- (b) If employed by the week, a normal week will consist of 40 hours (made up of 38 ordinary hours and 2 hours scheduled overtime), exclusive of meal breaks. If an Artist is of the view that the 2 hours of scheduled overtime are unreasonable the Artist may refuse to work the additional hours and the Artists weekly rate set out in clause 33 will be reduced by 2/40ths.
- (c) All meal breaks other than tea breaks shall be in the Artist's time. Tea breaks shall be counted as time worked.
- (d) Travelling time both ways between the pick-up point and the place of work shall be counted as time worked except in the following circumstances:
 - (i) where the Artist is on a bona fide location and the Artist has elected to stay at a place of accommodation further from the place of work

than where the majority of cast are staying in which case the travel time for that Artist will be deemed to be the time taken to and from the place of accommodation where the majority of cast are staying to and from the place of work;

- (ii) where on a bona fide location the cast are provided with a standard of accommodation which is superior to the accommodation which is available closer to the place of work (which is of a minimum standard as referred to in Clause 13(d)(i)) and MEAA agrees, the travel time for the Artist will be deemed to be the time taken to and from the closer accommodation;
- (iii) Interstate Artists
 - (A) where the Artist has been engaged from interstate 50% of the travel time to or from the place of accommodation to or from the studio or production office (provided the studio or production office is within a 20 km radius of the GPO) will be counted as time worked;
 - (B) where the Artist has been engaged from interstate the first 15 minutes of the time taken to travel to and from his/her place of accommodation to or from location will not be counted as time worked.

11. OVERTIME AND PENALTY RATES

- (a) The Artist shall work such overtime as the Producer may reasonably require. For the purposes of calculating overtime payments, each day's overtime shall stand alone.
- (b) All time worked in excess of eight hours per day on Monday to Friday shall be paid for at the rate of time and a half for the first three hours and double time thereafter.
- (c) For half-daily engagements time worked in excess of four hours shall be paid for at time and a half for the first three hours and double time thereafter.
- (d) Overtime and penalty rates as applying to Clauses 11 and 12 shall be based on the Artist's Composite Fee except where the Artist's BNF is in excess of eight times the minimum relevant rate provided by this Agreement, in which case for the purposes of calculating overtime only (not including prebought overtime), the Artist's Composite Fee will be calculated as though the BNF were eight times the minimum relevant Agreement rate.

Example:

assuming: Performer Class 2
 Category A Film
 1 July 2012
 Agreement Rate \$950.73
 110% of rights purchased
 BNF is 10 times Agreement Rate (ie. \$9,507.30)

Actual fee

Deemed fee

BNF	\$9,507.30	\$7,605.84
110%	\$10,458.03	\$8,366.42
Composite Fee	\$19,965.33	\$15,972.26
Base rate	\$499.13 / hour	\$399.31 / hour

For the purposes of calculating overtime for this Performer an hourly base rate of \$399.31 / hour would be used on which time and a half and double time payments would be calculated.

Overtime shall not be paid twice for the same time worked and such time shall be paid for to the nearest half hour.

- (e) For all work performed between 11.00pm and 6.30am a penalty rate of 25% shall be paid for each hour so worked. Provided that where the work is performed between midnight Friday and 6.30am Saturday, or between 8.00pm and 12 midnight Saturday, the penalty shall be 50%.
- (f) A break of ten clear hours shall be allowed between the cessation of work on one day and the commencement of work on the succeeding day provided that in the event of an emergency work may be performed with the consent of the Artist within a period of ten clear hours of the cessation of work in which case the Artist shall be paid double time for the whole of the period worked until the Artist commences the full ten hours break. The Producer shall notify MEAA in writing of any incidence of breaks shorter than ten hours.

12. SATURDAYS, SUNDAYS AND PUBLIC HOLIDAYS

(a) Saturdays and Sundays

- (i) All ordinary hours worked on a Saturday shall be paid for at time and a quarter.
- (ii) Overtime worked on a Saturday which is continuous with ordinary hours on such day shall be paid for at the rate of time and three quarters for the first three hours and double time thereafter.
- (iii) Overtime worked on a Saturday which does not follow the working of ordinary hours shall be paid for at the rate of time and a half for the first three hours and double time thereafter.

(b) All work done on Sundays shall be paid for at double time.

(c) Public Holidays

- (i) All Artists will be entitled to the following public holidays observed in the State, territory or locality where work is being performed without loss of pay:
- New Years Day
 - Australia Day
 - Good Friday
 - Easter Saturday
 - Easter Monday
 - Anzac Day
 - Birthday of the Sovereign

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- Eight Hour Day/Labour Day
 - Christmas Day
 - Boxing Day.
- (ii) In addition, in any calendar year an Artist working on a Film will be entitled to a maximum one (or in the case of the ACT two) public holidays from the following list if these occur in the place where the Artist is working on that Film without loss of pay:
- Melbourne Cup Day (Vic)
 - Royal National Show Day (Qld)
 - Adelaide Cup Day (SA)
 - Foundation Day (WA)
 - Canberra Day (ACT)
 - Trades and Labor Council Picnic Day (ACT)
 - Picnic Day (NT).
- (iii) In addition all Artists will be entitled to all regional public holidays gazetted for observance in the state, territory or locality of the production office without loss of pay.
- (iv) (A) By Agreement between a majority of Artists and the Producer, or where no Artists have yet been engaged, between MEAA and the Producer, a public holiday may be moved to another agreed day on which the Artist/s had been scheduled to work ordinary hours. Where this occurs all work on the public holiday will be paid at ordinary rates of pay.
- The general conditions upon which consideration of the moving of a public holiday will be given is where the Artists will receive the benefit of an extended period free of work.
- (B) However, in relation to major public holidays listed below these will not be moved:
- New Years Day
 - Good Friday
 - Easter Saturday
 - Christmas Day
 - Boxing Day.
- (v) Except in relation to substituted public holidays per Clause 12(c)(iv)(A) if the Producer does require an Artist engaged to work on any of the public holidays referred to in this clause to which the Artist is entitled the Producer will pay the Artist for all hours so worked at the rate of double time and a half.

13. TRAVELLING, ACCOMMODATION, TRANSPORT

- (a) Artists when travelling shall, where available, be provided with first class tickets for train (including sleeping accommodation), ship or in the case of aircraft with an economy class ticket to their destination or if to location then to the terminal nearest to the location or location accommodation. If

travelling during normal meal time and a meal is not provided, allowances shall be paid as set out in Clause 13(e).

- (b) The Producer shall not require an Artist to undertake an assignment if it necessitates his/her travelling by any conveyance to which such Artist has reasonable objection.
- (c) All air travel shall be made by a regular passenger carrying airline or when same is not available then by passenger carrying charter flight.
- (d)
 - (i) An Artist required to stay overnight from his/her place of residence shall be provided when available with modern motel type accommodation with bath or shower room and toilet facilities therein, and where possible, unshared. In addition, for every such day spent away overnight from his/her place of residence s/he shall be provided with satisfactory meals or paid allowances for breakfast, lunch and dinner where appropriate as detailed in Appendix 2 of this Agreement.
 - (ii) Where it is impossible for the Producer to obtain such accommodation the Artist shall be paid the following allowances per day:
 - (1) Where accommodation is provided at the standard of a private home, homestead, or hotel with shared facilities or where unshared accommodation is not provided as detailed in Appendix 2 of this Agreement.
 - (2) Where accommodation is provided at the standard of air-conditioned caravans or air-conditioned and sewerer mining camps as detailed in Appendix 2 of this Agreement.
 - (3) Where accommodation is provided at the standard of shearers' quarters, rough mining camps, or by camping as detailed in Appendix 2 of this Agreement.

For the purpose of this paragraph it will be deemed impossible for a Producer to obtain accommodation of the type referred to in paragraph (i) where it is necessary for the Artist to spend more than one and one half hours travelling from the location to the nearest accommodation.

- (e) An Artist when travelling during meal periods shall either be provided with a satisfactory meal or paid allowances for breakfast, lunch and dinner in lieu thereof as detailed in Appendix 2 of this Agreement.
- (f)
 - (i) An Artist required to travel interstate and to commence work before 9.00am on the first day of engagement shall be provided with overnight accommodation for the preceding night and if required to continue working after 7.00pm on the final day of engagement shall be provided with overnight accommodation for that night, if so desired by him/her, or in any event, if return transport is then not available to the Artist's place of residence.

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- (ii) An Artist not required to travel interstate but required to travel more than eighty kilometres from his/her place of residence and to commence work before 9.00am on the first day of engagement shall be provided with overnight accommodation for the preceding night, if so desired by him/her, and if required to continue working after 6.00pm on the final day of engagement shall be provided with overnight accommodation for that night, if so desired by him/her (or in the case of daylight saving 7.00pm).
 - (g) If an Artist is required to travel to or from an engagement on any day on which s/he is not being paid for work s/he shall travel at a time which as far as possible shall be at a time to suit his/her convenience and be paid at the hourly equivalent of the relevant daily Agreement rate specified in Clause 33C with a minimum of 4 hours payment (meal breaks excluded).
 - (h) An Artist shall be provided with transport between the pick-up point and place of work if s/he so requires.
 - (i) An Artist required to carry any baggage of not less than eight kilograms or which cannot be conveniently carried by him/her by hand to a location or studio or pick-up point shall be provided with taxi or private automobile transport to and from his/her place of residence.
 - (j) An Artist required to stay away overnight from his/her place of residence shall be provided with transport or paid the cost of same both ways between all town or city transport terminals, places of work and places of overnight accommodation.
 - (k) An Artist not required to stay away overnight from his/her place of residence shall be provided with taxi or private automobile transport either way as relevant between his/her place of residence and the place of work or paid the cost of the same in any of the following circumstances:
 - (i) When the Artist's work commences before 7.00am or finishes after 7.00pm (8.00pm daylight saving) except -
 - (1) where the Artist has his/her own means of transport, and
 - (2) in the case of any Extra, unless there is no reasonable public transport available or where the location is isolated.
 - (ii) When an Artist commences or finishes work at a time when the normal means of regular transport is not available within thirty minutes of the Artist's commencing or finishing time.
 - (iii) If an Artist is provided transport to or from his/her place of work in accordance with clause 13(k)(i) then the Producer will make every endeavour to provide the Artist with taxi or private automobile transport to an Artist's place of residence at the conclusion of the Artist's paid time for the day.
 - (l) If a Producer agrees an Artist may arrange to make his/her own way to the place of work at his/her own expense if it is more convenient for him/her to do so.

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- (m) Where an Artist agrees at the request of the Producer to use his/her own motor vehicle or motor cycle, the Artist shall be paid the following allowance:
- (i) Motor Car: as detailed in Appendix 2 of this Agreement.
 - (ii) Motor Cycle: as detailed in Appendix 2 of this Agreement.

For the purpose of calculating payments under this provision, it shall be deemed that the Artist travelled from the pick-up point to the place of work and return.

- (n) Where the Performer is less than 16 years of age the Producer shall provide the Performer with suitable transport either way between his/her place of residence and the place of work.
- (o) Where a Producer is required to provide transport for an Artist under this Agreement, where possible the Producer shall advise the Artist in advance of such arrangements.

14. MEAL BREAKS AND REST PERIODS

- (a) If duty commences before 5.00 a.m. the Producer shall allow a half hour break between the hours of 6.30a.m. and 8.00a.m. This break shall be considered as time on duty and breakfast shall be provided by the Producer or the breakfast allowance as detailed in Appendix 2 of this Agreement shall be paid. Where the Producer provides a catered breakfast to Artists whose duty does not commence before 5.00 am, a half hour break shall be allowed for breakfast of which 15 minutes shall be paid time on duty.
- (b) The Producer shall provide meals upon location as required, or shall pay an allowance to each Artist the lunch allowance as detailed in Appendix 2 of this Agreement in respect of the first meal break after breakfast and the dinner allowance as detailed in Appendix 2 of this Agreement for subsequent meal breaks.
- (c) Except as provided for in Clause 14(a), meal breaks shall be not less than half an hour and not more than one hour. Meal breaks shall not be considered as time on duty, other than as provided for by this Clause.
- (d) Meal breaks shall commence not later than 5 hours from the start of the work session or the end of the last meal break, whichever is the later.
- (e) Artists shall be entitled to paid rest periods of ten minutes during the morning and afternoon of each day, which shall be taken at times agreed between the Producer and the Artist(s) so as not to interfere with the production, but generally after two hours work and before the completion of three hours work. Where a catered breakfast is provided to an Artist who commences work after 5:00 am, the Artist shall not be entitled to a morning rest period.
- (f) If a meal break is not allowed as provided for in this Clause 14, a delayed meal break ("DMB") penalty shall be paid at the rate of single time additional for all time worked from the time the meal break became due

until the actual meal break commences. Payments for DMB penalties shall be calculated to the nearest 15 minutes.

- (g) A DMB penalty shall not be payable after 5 hours work where it is not reasonably practicable for all Artists to take a meal break (e.g. when finishing a scene, or because of time constraints on a particular location) and the Producer and the individual Artist(s) affected agree, or where the Producer and the majority of affected Artists agree provided that at the time the Producer seeks the agreement of the individual Artist or the majority of the affected Artists the Producer will indicate the reason for the extension and the likely delay before the break will be taken. In these circumstances the meal break must be taken after 6 hours from the start of the work session or end of the last meal break, whichever is the later, or a DMB penalty will apply.
- (h) A DMB penalty shall not be payable in circumstances where the Producer provides a catered rest period of not less than 20 minutes between the first and second meal break, and the Artist works more than five but not more than six hours between those meal breaks. Such a catered rest period shall be regarded for all purposes as paid time on duty. In these circumstances the Meal Break must be taken at the 6 hour point or a DMB penalty will apply.
- (i) Notwithstanding the above where any Artist is required to work beyond the time of their second meal break such meal shall be provided by the Producer or the appropriate allowance shall be paid to the Artist by the Producer.
- (j) When overtime duty is performed beyond 12.00 midnight a supper break of half an hour must be allowed and taken as time on duty. The Producer must provide supper or reimburse the Artist at the rate of the supper allowance as detailed in Appendix 2 of this Agreement.

15. LAY DAYS

If an Artist is required to stay away overnight from his/her residence but is not required to work (not being his/her usual day/s off) s/he shall receive his/her BNF for each day, unless such Artist is engaged on a weekly basis.

16. ANNUAL LEAVE

- (a) All Artists other than casual employees will be entitled to annual leave in accordance with Division 5 of the National Employment Standards (NES), reproduced in Appendix 2 of this Agreement, under the Fair Work Act 2009 (Act).
- (b) Due to the unique nature of film production, MEAA acknowledges that it is reasonable that annual leave not be taken during the course of production, unless (a) in exceptional circumstances and provided that the Producer has granted prior approval, or if required by law; and (b) the Producer may direct the Artist to take any accrued annual leave.
- (c) On termination of the engagement, the Producer will make a payment of accrued but untaken annual leave calculated on the following basis 1/12th of a figure which is calculated as follows:

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- (i) divide the weekly Composite Fee by 40 (or in the case of daily engagement, divide by 8) to ascertain the hourly rate;
 - (ii) multiply the resultant figure by the total number of hours including overtime, if any, worked (or previously contracted for, whichever is the greater) in the engagement.

Casual hire

- (d) An Artist that is a casual employee is not entitled to annual leave.
- (e) However, the Producer has nonetheless agreed that the Producer shall pay a casual hire Artist, in addition to all other payments provided for by this Agreement, a sum equal to 1/12th of a figure that is calculated as follows:
 - (i) divide the weekly Composite Fee by 40 (or in the case of daily engagement, divide by 8) to ascertain the hourly rate;
 - (ii) multiply the resultant figure by the total number of hours including overtime, if any, worked (or previously contracted for, whichever is the greater) in the engagement.

17. ABSENCE FROM DUTY, PERSONAL/CARER'S LEAVE, COMPASSIONATE LEAVE, PARENTAL LEAVE

- (a) An Artist engaged by the week who is absent from duty will not be entitled to be paid for that absence, provided that this provision will not apply if the:
 - (i) Artist is entitled to paid leave under the NES in accordance with Divisions 4 and 6 of the National Employment Standards (NES); or
 - (ii) unless he/she notifies the Producer within twenty-four hours of the commencement of such absence that the absence was reasonable because of either:
 - (1) illness of the Artist due neither to his/her own default nor to accident arising otherwise than out of and in the course of his/her engagement; or
 - (2) bodily injury to the Artist caused by accident arising out of and in the course of his/her engagement.
- (b) Personal/carer's leave, compassionate leave, and parental leave are provided for in the NES (See Appendix 3 and 4).
- (c) Before the Producer grants paid or unpaid personal/carer's leave or compassionate leave, the Artist must provide the Producer with the appropriate notice and satisfactory evidence (which may include a medical certificate or statutory declaration) in compliance with the NES.

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- (d) The Artist must notify the Producer if they will be absent as soon as practicable. If the Producer requires that Artist to notify a particular officer or employee of their absence, the Artist must comply with that requirement.

18. NOTICE OF CALL TIMES

An Artist shall be notified at the end of each day's work of the commencement time for the next day's work and where possible not less than ten hours notice of starting time must be given to the Artist.

19. CANCELLATION AND POSTPONEMENT

- (a) A Call may be postponed without payment to the Artist provided that not less than seven days notice has been given to the Artist prior to the time of the original Call. Should less than seven days but four days or more notice of such alteration be given, the Artist shall be paid 16 2/3% of the Basic Negotiated Fee calculated on a daily basis for such altered Call. Should less than four days but more than two days notice of such alteration be given, the Artist shall be paid 25% of the Basic Negotiated Fee calculated on a daily basis for such altered Call. Should less than forty-eight hours notice of such alteration be given, the Artist shall be paid 33 1/3% of the Basic Negotiated Fee calculated on a daily basis for such altered Call.
- (b) Where an Artist has been booked and no work is performed on that day due to weather conditions s/he shall be paid 50% of the Basic Negotiated Fee calculated on a daily basis for such day if s/he has not been required to attend the place of work or 75% of the Basic Negotiated Fee if s/he has been required to attend the place of work.
- (c) Calls substituted for the postponed Call shall be paid for at the same Composite Fee as for the original Call.
- (d) If a Call is cancelled by the Producer or if the Artist is unavailable on the date to which a Call has been postponed then in lieu of any payment for postponement the Artist shall be paid his/her Composite Fee for the Call.

20. WORK IN ONE PRODUCTION ONLY

- (a) Subject to Clause 20(b), all work performed for the Producer in the production of a Film shall only be used as part of the Film for which the Artist was originally engaged. No footage featuring the Performance of the Artist may be used in any other production without the written permission of the Artist. Such written permission shall not be unreasonably withheld.
- (b) The Artist and MEAA acknowledges that Producers may use any of the footage from the Film or still photographs as is necessary to promote and/or advertise the Film in any media including the production of trailers, Making-Of Films, printed material etc.
- (c) If the Producer seeks the written approval of the Artist to use footage featuring the Performance of the Artist in any other production or to edit or otherwise join that footage with segments from another program, the Producer will negotiate appropriate consideration for the Artist having regard to the following which the Producer must specify in writing:

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- (i) the other production or program in which the footage will be used and the nature of that new program;
 - (ii) the maximum duration of the footage featuring the Performance of the Artist to be used;
 - (iii) the means including the rights required from the Artist and the media by which the footage will be exploited by means of the other production or program;
 - (iv) the territories in which the other production or program will be exploited;
 - (v) the way in which the footage will be used.
- (d) The Producer may not seek the Artist's consent for use of the results of the Artist's work in so-called "bloopers" or "outtake" programs as a condition of engagement.
- (e) The Producer may not include so-called "behind-the-scenes" footage of the Artist in any Making-Of Film without the Artist's knowledge and written approval.
- (f) The Producer may negotiate with the Performer at the point of engagement to appear in photography for one Making-Of Film provided that the Producer shall pay the Residual Fees payable under Clause 39A.3. The Producer may use clips from the Film and still photographs in such Making-Of Film without further payment and without necessity to seek the further consent of the Performer(s) involved. Such Making-Of Film may not be combined to make "specials" or other program content.
- (g) Except as provided in Clause 39A.3 but subject to Clause 20(f), a Performer shall not be entitled to any additional payment for work performed on any Making-Of Film where such work is performed:
- (i) during the production of the Film; and
 - (ii) within the Performer's normal working hours during the term of the Performer's engagement.

21. NO HAZARDOUS/DANGEROUS PERFORMANCE

The Producer may not require the Artist to render any services whatsoever of a hazardous or dangerous nature which involves the Artist in any degree of risk or to carry out any stunt herein unless such special services are specially referred to and detailed in the Artist's written engagement. Provided that the Artist may refuse to carry out any work not specified in the written engagement which could reasonably be construed as being dangerous, hazardous and of risk to life or limb or health or as a stunt.

22. INSURANCE COMPENSATION

- (a) The Producer shall insure Artists in accordance with requirements of the relevant Workers Compensation Act relating to the areas of Australia in which they are required to perform.
- (b) Where at the request of a Producer an Artist provides personal property for purposes in connection with the engagement, the Producer shall indemnify the Artist for any loss, theft or damage of that property provided the Artist has, prior to the day of commencement of a Performance, specified to the Producer the value of the item and provided that the loss, theft or damage is not the fault of the Artist.

23. LATE ARRIVALS

- (a) If an Artist is late for a Call or delays Rehearsal or Performance without reasonable excuse the Producer may refer the matter to the Ethics Committee of the Council of Management of MEAA.
- (b) The Producer shall not be obliged to pay the Artist for the period of time where the Artist has not been present without reasonable cause.

24. TERMINATION OF ENGAGEMENT / EMPLOYMENT

- (a) The Artist shall perform in good faith and to the best of his/her ability all of the services to be rendered by him/her for which s/he is engaged and as required by the Producer and s/he shall comply with all of the Producer's reasonable directions and requests.
- (b) A Producer may terminate the engagement of an Artist without notice for negligence or misconduct, or may deduct payment for any day or part thereof where an Artist cannot be usefully engaged because of any strike, ban on work, or any other stoppage or interference with work beyond the control of the Producer.

25. CREDITS

All Artists playing speaking parts of two or more lines in the Film shall receive a cast credit. Such credit shall be visual, legible and shall provide character identification. Where, subject to the consent of MEAA, the services of an overseas Artist have been engaged then equal billing (in size, position in relation to the title, advertising and promotional material etc.) shall be given to an equal number of Australian Artists. Provided that equal billing may be varied by consent between Producer and MEAA.

26. WARDROBE, MAKE-UP

- (a) All properties, wigs, footwear and articles of clothing not possessed by the Artist and any article of clothing or footwear peculiar to any trade, calling, occupation or sport shall be provided by the Producer.
- (b) Should the Producer desire the Artist to wear footwear and/or civilian dress of a type which is customarily worn by civilians of the present day in Australia the Artist may provide such wardrobe etc., if it is already in his/her possession. In the event that such wardrobe etc., is not in the Artist's possession, it shall be provided by the Producer.

- (c) All wardrobes etc., supplied by either the Producer or Artist shall be maintained in a satisfactory and hygienic condition by the Producer. Any damage to wardrobe etc., supplied by an Artist shall be the responsibility of the Producer who shall fully compensate the Artist for such damage.
- (d) The Producer may elect, as an alternative to his/her obligation pursuant to Clause 26(c), to pay the following allowance:
- (i) in the case of a Performer who provides his/her own:
 - (1) formal wear wardrobe (including any special 'character' costume), the amount as detailed in Appendix 2 of this Agreement per outfit for each week or part of a week the Performer provides the outfit, such amount to be inclusive of any rental fee; and
 - (2) other wardrobe, the amount as detailed in Appendix 2 of this Agreement per outfit for each week or part of a week the Performer provides the outfit, and
 - (ii) in the case of an Artist (except a Performer) who provides his/her own formal wear wardrobe (including any special 'character' costume), the amount as detailed in Appendix 2 of this Agreement per outfit per week or part of a week the Artist provides the outfit, such amount to be inclusive of any rental fee.

For the purpose of this Clause 26(d), "week" means a period of 7 consecutive days calculated from the first day on which an Artist provides his/her own outfit under Clauses 26(d)(i) and (ii).

- (e) Where an Artist is Called by the Producer for the purpose of a wardrobe Call, s/he shall be paid per hour at the rate set out below, with a minimum Call of two and one half hours unless the Artist is already being paid for such time. If an Artist is required to stay away overnight from his/her residence and is called on a day s/he is not required to work (not being his/her usual day/s off) s/he shall receive his/her BNF for the day.

From 1 January 2009	\$32.59
From 1 January 2010	\$33.57
From 1 January 2011	\$34.71
From 1 January 2012	\$36.01
From 1 January 2013	\$37.27
From 1 January 2014	\$38.53

- (f) All make-up shall be supplied by the Producer.
- (g) Time taken for the application of make-up shall count as time worked but removal of make-up shall be in the Artist's own time except where the time taken to remove full body make-up, special effects make-up and prosthetics exceeds 10 minutes, when the actual time taken to remove such make-up, up to a maximum of 30 minutes, shall count as time worked. Provided that where the Producer and an Artist agree that there are bona fide and special circumstances requiring more than 30 minutes in the removal of such

make-up, the time actually taken in such removal shall be counted as time worked.

27. FACILITIES

(a) Studio

At any place of work that can reasonably be regarded as studio work the Producer shall provide adequate clean, well lit and well ventilated change rooms and separate rooms and facilities for the sexes, mirrors, proper seating, clean towels and soap, and where necessary, showering conveniences and hot and cold water.

(b) On location

On location work the Producer shall, except in exceptional circumstances (eg. when filming at sea), provide adequate shelter from inclement weather, adequate shelter from the sun, change rooms or private enclosed change space, washing conveniences, towels, soaps, hygienic toilet conveniences, and adequate seating on and off set. The Producer shall provide an enclosed area (eg. room, marquee, tent or other suitable facility) for the Performers' use in accordance with industry practice.

28. PAYMENT OF WAGES

- (a) Except as otherwise provided all amounts due to an Artist in respect of work carried out during the seven consecutive days ending midnight on Saturday (or during such other regular seven day period substituted therefore) shall be paid to the Artist within the succeeding seven days.
- (b) Meal money and payment in lieu of accommodation shall be paid to an Artist on a day-to-day basis. Payment for travel reimbursement to which the Artist is entitled shall where practicable be paid to an Artist on a day-to-day basis.
- (c) A personal statement of earnings showing separately all amounts payable under this Agreement, deductions etc., shall be included with each Artist's pay.

29. TIME AND WAGES RECORD

- (a) The Producer shall keep a record from which can be readily ascertained the name of each Artist, the hours and times worked each day and the payments made in respect to such work.
- (b) The time and wages record shall be open for inspection to an accredited MEAA representative during the usual office hours at the Producer's office or other convenient place. Provided that an inspection shall not be demanded unless MEAA suspects that a breach of this Agreement has been committed.
- (c) The representative making such inspection shall be entitled to take a copy of entries in the time and wages record relating to the suspected breach of this Agreement.

30. RIGHT OF ENTRY

Subject to the provisions of Chapter 3, Part 3-4 of the FW Act a duly accredited representative of MEAA shall have the right to enter any place of Rehearsal and/or Performance to interview Artists. The MEAA representative shall not interfere with or delay any Rehearsal or Performance.

31. INTENTIONALLY DELETED**32. NO COMMERCIAL TIE-UPS MAY BE REQUIRED**

- (a) Except as provided for in Clause 20, an Artist's name or image shall not be used in commercial tie-ups` between the Film and commercial goods or services or in connection with commercial advertising without his/her written consent.
- (b) If any consent of the type described in Clause 32(a) above is sought of the Artist, the Producer must specify the following in writing;
 - (i) a description of the commercial goods;
 - (ii) the brand name, if applicable, which will be associated with the commercial goods and commercial advertising;
 - (iii) a description of the commercial advertising including the number of advertisement, media associated with the advertisements, length or size of advertisements if applicable, and placement of advertisements;
 - (iv) dates for which and locations at which the Artist will be required to attend for the purpose of the creation of the commercial advertising;
 - (v) territories in which the Commercial Tie up with commercial goods and commercial advertising will be exploited;
 - (vi) the manner in which the Artist's name and or image will be used with respect to the commercial goods and commercial advertising;
 - (vii) the duration for which the Artist's name and or image will be used with respect to the commercial goods and commercial advertising.
- (c) If one or more of the items in (b) above is/are not known at the time the Artist's consent is sought any provisional consent obtained will be subject to the Producer seeking the consent of the Performer to those unknown items at a later time and to (d) below.
- (d) Subject to agreement on the items set out in (b) the parties will negotiate on the appropriate remuneration or other consideration to be made to the Artist which will be negotiated having regard to those issues set out in (b) and the standing of the Artist.

33. RATES OF PAY

The Artist's rate of pay shall be determined in the following manner:

A. Process of Categorisation

- (a) The Producer shall, prior to engaging members of MEAA, supply a Statutory Declaration stating the following:

Production Credits:

- (i) (1) A list of persons and/or companies and their residential status who will be granted credits such as, but not limited to, producer, executive producer, associate producer, executive in charge of production, production supervisor, production manager, production associate.
- (2) A list of persons and/or companies and their residential status who will be granted presentation credits, such as but not limited to:

ACTORS FEATURE FILM AGREEMENT 2012

"A..... production".

"A..... presentation".

"..... presents a
..... production".

"..... presents a film by".

"Production in Association with"

provided that this requirement does not apply to a distributor's normal distribution or release credits.

- (ii) Completion guarantee: The nature of persons or company and their residential status, providing (where applicable), the completion guarantee.
- (iii) Overseas actors: The name and country of origin of all actors not residing in Australia and who receive billing other than rolling billing at the conclusion of the Film.
- (b) The parties to this Agreement will comply with the DoA Guidelines.
- (c) The Producer and MEAA may, by mutual consent, designate a specific category to the Film, notwithstanding the provisions of Clause 33B.

B. Category Definitions

Films shall be categorised as follows:

- Category A: means an Australian Film (subject to customary right of approval) and an all Australian cast.
- Category B: means a Category A film but with one or more overseas Artists.
- Category C: means a bona fide Co-Production between an Australian production company and an Offshore production company.

C. Minimum Rates:

- (a) The minimum rates set out hereunder shall be paid by the Producer to the Artist:

(1) FROM THE FIRST PAY PERIOD ON OR AFTER 1 JANUARY 2012**(A) Engaged By The Week**

		Minimum Agreement Rate
(i)	Performer Class 2	919.48
(ii)	Performer Class 1	849.18
(iii)	Double	666.61
(iv)	Stand-In	666.61

(B) Engaged by the Day

		Minimum Agreement Rate
(i)	Performer Class 2	257.46
(ii)	Performer Class 1	237.77
(iii)	Double	166.66
(iv)	Stand-In	166.66
(v)	Extra	170.30

(C) Engaged by the hour (with a minimum Call of 4 hours)

		Minimum Agreement Rate
(i)	Performer not required to speak more than two lines of dialogue	35.66
(ii)	Extra	25.54

(2) FROM THE FIRST PAY PERIOD ON OR AFTER 1 JULY 2012**(A) Engaged By The Week**

		Minimum Agreement Rate
(i)	Performer Class 2	950.73
(ii)	Performer Class 1	878.04
(iii)	Double	686.02
(iv)	Stand-In	686.02

(B) Engaged by the Day

		Minimum Agreement Rate
(i)	Performer Class 2	266.21
(ii)	Performer Class 1	245.84
(iii)	Double	171.52
(iv)	Stand-In	171.52
(v)	Extra	175.26

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(C) Engaged by the hour (with a minimum Call of 4 hours)

		Minimum Agreement Rate
(i)	Performer not required to speak more than two lines of dialogue	36.87
(ii)	Extra	26.29

(3) FROM THE FIRST PAY PERIOD ON OR AFTER 1 JANUARY 2013

(A) Engaged By The Week

		Minimum Agreement Rate
(i)	Performer Class 2	986.43
(ii)	Performer Class 1	911.02
(iii)	Double	705.44
(iv)	Stand-In	705.44

(B) Engaged by the Day

		Minimum Agreement Rate
(i)	Performer Class 2	276.21
(ii)	Performer Class 1	255.08
(iii)	Double	176.37
(iv)	Stand-In	176.37
(v)	Extra	180.22

(C) Engaged by the hour (with a minimum Call of 4 hours)

		Minimum Agreement Rate
(i)	Performer not required to speak more than two lines of dialogue	38.26
(ii)	Extra	27.03

(4) FROM THE FIRST PAY PERIOD ON OR AFTER 1 JULY 2013

(A) Engaged By The Week

		Minimum Agreement Rate
(i)	Performer Class 2	1020.96
(ii)	Performer Class 1	942.90
(iii)	Double	726.60
(iv)	Stand-In	726.60

(B) Engaged by the Day

		Minimum Agreement Rate
(i)	Performer Class 2	285.87
(ii)	Performer Class 1	264.01
(iii)	Double	181.66
(iv)	Stand-In	181.66
(v)	Extra	185.63

(C) Engaged by the hour (with a minimum Call of 4 hours)

		Minimum Agreement Rate
(i)	Performer not required to speak more than two lines of dialogue	39.59
(ii)	Extra	27.84

(5) FROM THE FIRST PAY PERIOD ON OR AFTER 1 JANUARY 2014

(A) Engaged By The Week

		Minimum Agreement Rate
(i)	Performer Class 2	1055.48
(ii)	Performer Class 1	974.79
(iii)	Double	747.76
(iv)	Stand-In	747.76

(B) Engaged by the Day

		Minimum Agreement Rate
(i)	Performer Class 2	295.54
(ii)	Performer Class 1	272.93
(iii)	Double	186.96
(iv)	Stand-In	186.96
(v)	Extra	191.03

(C) Engaged by the hour (with a minimum Call of 4 hours)

		Minimum Agreement Rate
(i)	Performer not required to speak more than two lines of dialogue	40.93
(ii)	Extra	29.51

(6) GRANDFATHERED FILMS

Films already financed prior to the signing of this agreement and in production before 2013 will be excluded from the wage increases applicable as at January 1, 2012.

(b) Category B

- (i) Excepting in relation to Extras and Stand-Ins and subject to Clause 33C(c)(ii), 25% additional to the rates set out in Clauses 33C(a)(1) to (6), plus 12.5% for each additional imported Artist after the first. Where there is a requirement for an imported Artist in excess of the first four (4) imported Artists due to exceptional circumstances (eg a New Guinean role or for continuity reasons) then no additional loading will be payable in respect of this imported Artist.
- (ii) If each of sub-paragraphs (A), (B), (C) and (D) (below) apply:
 - (A) the imported Artist is required on the basis of ethnicity required by the role;
 - (B) the role is for a person from a non-English speaking background; and
 - (C) (AA) the imported Artist is a citizen of the country that dictates the ethnic specificity of the role (by way of example only, if the role calls for a Japanese or a Chilean, then the imported Artist must be a citizen of Japan or Chile respectively); or
 - (BB) (a) MEAA has granted to the Producer a written exemption to the requirement that the imported Artist be a citizen of the country that dictates the ethnic specificity of the role (which exemption will be discretionary, but in any event, only on the basis that the Artist is of the specified ethnicity and that both sub-sub paragraph (b) (below) and sub-paragraph (D) (below) apply); and
 - (b) the imported Artist is not a 'marquee' performer (as that term is commonly understood within the Australian film industry); and
 - (D) following the completion of a comprehensive Australia wide casting exercise undertaken in accordance with the DoA Guidelines, a suitable Australian Artist could not be identified,

then the additional loading of 25% or 12.5% (as the case may be) described in Clause 33C(c)(i) applying in relation to such imported Artist will not apply,

(c) Category C

Except in relation to Extras and Stand-Ins and except as provided in Clause 33C(e), 75% additional to the rates set out in Clauses 33C(a)(1) to (6) here of plus 12.5% for each additional imported Artist after the first and up to and including five imported Artists and thereafter the loading will be 5% for each additional overseas Artist up to a maximum of ten imported Artists;

References in this clause to a number of overseas Artists are not to be taken as having an effect on the provisions of the DoA Guidelines.

- (d) A Performer engaged in a Category C Film who speaks no more than two lines and in any case not more than 25 words shall be paid a Category C loading of 25% of that Performer's Basic Negotiated Fee for the Film.

- (e) *Arbitration*

If the Producer and MEAA do not agree on the category to be applied to a Film, both parties shall promptly appoint a person to determine the category by arbitration. The decision of the arbitrator shall be final and binding on both parties and any costs payable to the arbitrator and any costs related to the arbitration such as hire of venue, transcript or reporter's fees shall be shared equally by the parties.

The following shall be regarded as factors which may be relevant in making a determination as to whether a production is a Category C production.

- (i) Joint ownership of the copyright in the original works involved in the completed production;
- (ii) Joint ownership of the copyright in the completed production;
- (iii) Shared production/executive producer/ producer credits;
- (iv) Shared creative control;
- (v) Shared responsibility for any legal action that may arise from the exhibition or other exploitation of the production, eg. defamation, copyright;
- (vi) Shared income (excluding normal distribution commissions) derived from, or sharing of territories for, the exploitation of the production.

It is agreed that other factors may also be relevant in particular cases.

D. General

The following conditions shall be applicable to Categories A, B and C:

Juveniles:

- (a) (a Juvenile is an Artist who is less than sixteen years of age) -

Juveniles shall be paid not less than 50% of the applicable rate of pay set out in this clause.

Post-Synchronisation.

- (b) (i) A Performer Post-Synchronising his/her own voice, unless such work is carried out during the period of his/her engagement, shall be paid at the hourly equivalent of the Composite Fee, with a minimum Call of two and one half hours.
 - (ii) If Post-Synchronisation is required after the completion of the Performer's engagement the Producer will contact the original Performer or his or her agent with reasonable notice of this requirement. The Producer and the Performer will seek to negotiate a mutually agreed time bearing in mind the other commitments of the Performer and the needs of the production. If the Performer is not available to perform the Post-Synchronisation on reasonable notice and within a reasonable timeframe the Producer may arrange for the Post-Synchronisation to be undertaken by another Performer.
 - (iii) A Performer Post-Synchronising or Dubbing another Performer's voice shall be paid per hour 6.3% of the Performer's weekly Agreement rate plus applicable loadings, Residual Fees and Performer's Net Profit Entitlement in accordance with Clauses 39 and 39A with a minimum Call of two and one half hours.
 - (iv) The voice of a Performer (excluding Juvenile Performers) shall not be Dubbed in the English language without the written consent of such Performer or of MEAA, which consent shall not be unreasonably withheld. Such consent may not be sought as a condition of engagement unless the written consent of MEAA has been obtained prior to the engagement of the Performer(s), except where that Performer is a puppeteer or animation voice Performer. The Producer shall have the right to Dub any Artist's voice in a foreign language.
- (c) Wild lines (dialogue) recorded on location, in studio premises or location hotel room on completion of a day's shooting but not recorded to pictures, are to be regarded as shooting time or an extension thereof.

34. CLIMATIC ALLOWANCE

If an Artist is required by the Producer to carry out work whatsoever in: North Queensland, Western Queensland, Western NSW, Central Australia, Northern Territory, Eastern or Northern Zones of Western Australia, Western or Northern Zones of South Australia or in Papua New Guinea, the Artist shall be paid at a daily or weekly rate of pay for his ordinary hours of work a sum which is 10% in excess of the Basic Negotiated Fee or the rates set out in this Agreement, for all such work, whichever is the greater.

35. WORK IN OTHER COUNTRIES

If an Artist is required by the Producer to carry out work anywhere in the world outside the territorial boundaries of the Commonwealth of Australia or its dependencies (excluding Antarctica), mandated territories or protectorates, the

Artist shall be paid at a daily or weekly rate of pay for his ordinary hours of work a sum which is not less than a sum which is 10% in excess of the ordinary daily or weekly Basic Negotiated Fee set out in this Agreement for all such overseas work.

36. REHEARSALS AND OTHER SPECIAL CALLS

If an Artist is Called by the Producer for the purpose of Rehearsal or other special Calls, unless such work is carried out during the period of engagement the Artist shall be paid at the hourly equivalent of the weekly Basic Negotiated Fee where the Artist is engaged by the week, or the daily Basic Negotiated Fee where the Artist is engaged by the day with a minimum payment of two and a half hours.

37. RATES ARE MINIMUM RATES

It shall be allowable for an Artist to negotiate for and receive fees in excess of the rates herein set out. A fee may be negotiated to include payment for a specified number of hours of overtime (whether worked or not) calculated on the Composite Fee, provided that –

- (a) The details thereof are set out in writing (signed by or on behalf of the Producer and the Artist) prior to the commencement of the engagement; and
- (b) The amount of such negotiated fee shall not be less than the aggregate of all applicable rates set out in this Agreement.

38. AUDITIONS - SCREEN TESTS - INTERVIEWS

- (a) No audition or screen test shall be held in public. The only persons allowed to be present during an audition or screen test shall be the Producer and/or members of the Producer's production staff.
- (b) No recording of an audition or screen test shall be used in any manner whatsoever other than for private viewing by the Producer and/or persons nominated by the Producer and such recording may only be retained by the Producer solely for reference purposes.
- (c) Artists shall be given the specific times of attendance required for an audition, screen test or interview. Wherever possible a script shall be provided to the Artist at least twenty-four hours prior to a screen test.
- (d) Minimum rates of pay for audition and/or screen tests (other than an initial audition and/or screen test) shall be paid per hour or part thereof with a minimum payment of one hour at the rate set out below. For the purpose of calculating payment under this provision the Artist will be deemed to have commenced the audition or screen test at the time of the Artist's Call or the Artist's arrival time whichever is the later.

From 1 January 2009	\$32.59
From 1 January 2010	\$33.57
From 1 January 2011	\$34.71
From 1 January 2012	\$36.01
From 1 January 2013	\$37.27
From 1 January 2014	\$38.53

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- (e) The Artists shall not be required to perform a sex simulated scene in any audition or screen test.
 - (f) The Artist shall not be required to appear nude or semi nude in the first audition or screen test.
 - (g) Where the Producer requires the Artist to appear nude or Semi-Nude in an audition s/he must:
 - (i) provide the Artist with a script 24 hours in advance of the auditioning;
 - (ii) advise MEAA of the scheduled audition at least 48 hours in advance and, if requested, provide MEAA with a copy of the script.
 - (h) Where the Artist is required to appear nude or Semi-Nude in an audition, the Artist may nominate an individual to be present throughout the audition.
 - (i) Where the Artist is required to appear nude or Semi-Nude in an audition it shall not be recorded.

39. LOADINGS FOR RIGHTS

The payment as specified in Clause 33 shall entitle the Producer to Australian Theatrical Rights. The Producer may acquire from a Performer additional rights upon payment of the additional percentages of the Basic Negotiated Fee as set out below:

- (a) (i) Australian Free Television Rights

four (4) Free Television screenings in any one television area in Australia over 5 years	20%
or	
five (5) Free Television screenings in any one television area in Australia over 5 years	25%
 - (ii) World Television Rights outside Australia (excluding any screening on a US Network)

Worldwide Free Television Rights and Pay Television Rights (excluding any screening on a US Network) outside Australia	25%
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 - (iii) World Theatrical Rights 25%
 - (iv) Worldwide Ancillary Rights excluding Australia 20%
 - (v) Australian Ancillary Rights and Australian Pay Television Rights 20%
- (b) The percentage set out in Clause 39(a) above will apply if the Producer acquires any or all of the rights at the time of production. If any rights not

taken up by the Producer at the time of production are required subsequently, the applicable percentage will be paid to MEAA within ninety (90) days of the earlier of:

- (i) the exercise of the additional rights; or
- (ii) the receipt by the Producer of the proceeds from the sale or licence of those rights by the Producer

39A. RESIDUAL FEES

39A.1 Australian Free Television – Re-Runs

- (a) With respect to each screening of the Film on Free Television in any television area in Australia after the earlier of the screenings acquired pursuant to Clause 39(a)(i) being used or the expiration of five (5) year period described in Clause 39(a)(i), the Producer shall pay to MEAA a deferred compensation, for distribution to the Performers appearing in the Film in accordance with Clause 39B, equal to 15% of the gross sale price or licence fee paid by the television station for such screening of the Film (converted to money terms where "other consideration" is paid or given) **(the "Australian Free Television Residual Fee")** payable within thirty (30) days of the receipt by the Producer of the proceeds from the sale or licence of those rights.
- (b) If the Producer is not paid by the television station or the Relevant Free Television Licensee in accordance with the contract between the Producer and the television station or Relevant Free Television Licensee by the date that such payments become due and payable, the Producer will use best endeavours to recover the amounts due from the sale or licence of the Australian Free Television rights and must notify the MEAA of the breach of contract by the television station or the Relevant Free Television Licensee no later than fourteen (14) days of the amounts under the contract becoming due and payable.
- (c) If the foregoing gross sale price or licence fee is paid in instalments, then the Producer shall pay to MEAA 15% of each such instalment.
- (d) The Producer will ensure that its contract in respect of any screening of the Film on Free Television in Australia for which Australian Free Television Residual Fees are payable with the television station referred to in clause 39A.1(a), or with the distributor entitled to licence the relevant rights to such television station, as the case may be **(the "Relevant Free Television Licensee")**, includes provisions requiring the television station or the Relevant Free Television Licensee to pay the Australian Free Television Residual Fee directly to the Producer without diversion or deduction of any kind.

39A.2 US Network Exhibition

- (a) With respect to the first and each subsequent screening of the Film on US Network television, the Producer shall pay to MEAA a deferred compensation, for distribution to the Performers appearing in the Film in accordance with Clause 39B, equal to 3.6% of the gross sale price or licence fee paid by the US Network for the screening of the Film on US Network television (converted to money terms where "other consideration"

is paid or given) **(the “US Network Residual Fee”)** payable within thirty (30) days of the receipt by the Producer of the proceeds from the sale or licence of those rights.

- (b) If the foregoing gross sale price or licence fee is paid in instalments, then the Producer shall pay to MEAA 3.6% of each such instalment.
- (c) Subject to payment by the Producer to MEAA of the Residual Fees payable in accordance with Clause 39A.2(a), the Producer shall be entitled to screen (or authorise others to screen) the Film on US Network television.
- (d) The Producer will ensure that its contract in respect of the right to screen the Film on US Network television with the US Network referred to in clause 39A.2(a), or with the distributor entitled to licence the relevant rights to such US Network, as the case may be **(the “Relevant US Network Television Licensee”)**, includes provisions requiring the US Network or the Relevant US Network Television Licensee to pay the US Network Residual Fee directly to the Producer without diversion or deduction of any kind.

39A.3 Making-Of Film

- (a) With respect to the exploitation of any Making-Of Film, the Producer shall pay to MEAA a deferred compensation, for distribution to the Performers appearing in the Making-Of Film in accordance with Clause 39B, equal to 15% of the gross sale price or licence fee paid in connection with the exploitation of the Making-Of Film (converted to money terms where "other consideration" is paid or given) **(the “Making-Of Film Residual Fee”)** payable within thirty (30) days of the receipt by the Producer of the proceeds from the exploitation of the Making-Of Film.
- (b) If the foregoing gross sale price or licence fee is paid in instalments, then the Producer shall pay to MEAA 15% of each such instalment.
- (c) For the avoidance of doubt, no Making-Of Film Residual Fees shall be payable under this clause for the inclusion of the Making-Of Film as a bonus feature on the DVD release of the Film.
- (e) The Producer will ensure that its contract in respect of the right to exploit the Making-Of Film with the licensee of the right to exploit the Making-Of Film referred to in clause 39A.3(a), or with the distributor entitled to licence the relevant rights to such licensee, as the case may be **(the “Relevant Making-Of Licensee”)**, includes provisions requiring the person exploiting the Making-Of Film or the Relevant Making-Of Licensee to pay the Making-Of Film Residual Fee to the Producer without diversion or deduction of any kind.

39A.4 Producer’s Share of Film’s Net Profits

- (a) The Producer shall also pay to MEAA a deferred compensation on an ongoing basis, for distribution to the Performers appearing in the Film in accordance with Clause 39B, sums from time to time equal to 10% of 100% of the Producer’s Share of Film’s Net Profits (“Performer’s Net Profit Entitlement”) payable at the same time as either the Producer (or the collection agent) accounts to the investors in the Film, but in any event no later than ninety (90) days after receipt by the Producer.

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- (b) The Producer shall supply to MEAA, at the same time it is required to deliver the report described in Clause 39B.2, copies of the definitions of “Film’s Net Profits” and the “Producer’s Share of Film’s Net Profits” as set out in the principal production and investment agreement for the Film and confirm in writing that such definition is on a favoured nations with all other parties entitled to a share of the Film’s Net Profits and a share in the Producer’s Share of Film’s Net Profits (as the case may be).
 - (c) If MEAA contends that the definition of “Film’s Net Profits” or the “Producer’s Share of Film’s Net Profits” as set out in the principal production and investment agreement for the Film is not within generally accepted industry standards, such claim shall be determined by arbitration.
 - (d) If a Performer separately negotiates with the Producer a share of Film’s Net Profits or a share of Producer’s Share of Film’s Net Profits (“Additional Profit Entitlement”), the Additional Profit Entitlement payable by the Producer to the Performer shall be deemed reduced by the amount of the Performer’s share of the Producer’s Share of Film’s Net Profits payable to MEAA by the Producer pursuant to Clause 39A.4. The Producer and MEAA will co-operate in order to calculate the reduction applicable to the Additional Profit Entitlement to the Performer.
 - (e) In the event that a film is in profit and the Producer has made payments to the MEAA in accordance with clause 39F, the Producer and the MEAA will have good faith discussion regarding a reduction in the Performers Producer’s Share of Film’s Net Profit entitlement to address any overlap between Producers Share of Films Net Profits and North American Residual payments.. In the event that the Producer and the MEAA are unable to agree on the formula for an appropriate reduction of the Producer’s Share of Net Profit entitlement then the matter shall be determined by arbitration in accordance with the procedure set out in Clause 50 and Schedule B of this Agreement.

39A.5 Gross Sales Price or License Fee

The term ‘gross sales price or license fee’ in clauses 39A.1, 39A.2 and 39A.3 shall not include:

- (a) sums realised or held by way of deposits or security, until and unless earned, other than such sums as are not-returnable; or
- (b) sums required to be paid or withheld as good and services taxes, value added taxes and other taxes, in the nature of turnover taxes, sales taxes or similar taxes based on the actual source receipts of such motion pictures or on any monies to be remitted to or by the distributor (excluding income tax, franchise tax, or excess profit tax or similar tax payable on the party’s net income or for the privilege of doing business).

39A.6 Failure to Pay Residual Fees

If any Relevant Free Television Licensee, Relevant US Network Television Licensee, other Relevant North American Distributor or Relevant Making-Of Licensee fails to pay the applicable Residual Fee in breach of its contract with the Producer (other the Producer’s agent or licensee), then:

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- (a) the Producer shall use all reasonable endeavours to enforce its rights under such contract or otherwise in respect of such breach.;
 - (b) the Producer shall promptly notify MEAA in writing upon the Producer becoming aware of any potential or any actual breach and all steps taken by the Producer under Clause 39A.6(a).

39B. PAYMENT BY MEAA OF RESIDUAL FEES TO PERFORMERS

39B.1 MEAA shall distribute the Residual Fees and the Performer's Net Profit Entitlement it receives to the Performers appearing in the Film or, in relation to the Residual Fees payable under Clause 39A.3, the Making-Of Film as follows:

Units will be assigned to each Performer entitled to participate on the following basis:

1. Time units
With respect to each Performer, units for Time Worked, as defined, shall be computed as follows:

Each day = 1/5th unit
Each week = 1 unit.

No more than 5 time units may be credited to any Performer.
2. Salary units
With respect to each Performer, units for Total Compensation received from the Film shall be credited as follows:
 - (a) Day Performer: each multiple of daily scale = 1/5th unit.
A fraction of daily scale, when more than one half, shall be credited as another 1/5th unit.
 - (b) All other Performers:
each multiple of weekly scale = 1 unit.
A fraction of a multiple, when more than one half of weekly scale, shall be credited as another weekly unit.
 - (c) No more than 10 salary units may be credited to any Performer.
3. Computation
Each Performer shall be credited with the sum of time and salary units as computed above, and each Performer will receive that rateable proportion of the monies, as the Performer's number of units, bears to the total number of units for the entire cast.

39B.2 Within 6 weeks following the end of production of the Film, the Producer shall furnish to MEAA a report which details:

- (a) a complete list of all Performers engaged on the Film (including all foreign cast);
- (b) MEAA/JUST numbers for all Australian cast;
- (c) the number of days/weeks each cast member worked (including overtime and other Calls defined as Time Worked);

- (d) the Total Compensation for each cast member;
- (e) the daily/weekly BNF for each cast member.

The Producer will thereafter furnish a revised or final list where necessary.

39B.3 In this Agreement the following terms have the following meanings:

- (a) "Time Worked" means the total time worked or contracted for, whichever is the greater and includes (without otherwise limiting this clause):
 - * Rehearsals;
 - * travel (up to 8 hours per day);
 - * fittings prior to first Call;
 - * lay days;
 - * pick-ups, re-takes and Post-Synchronisation;
 - * overtime;
 - * pre-production stills and pre-recordings; and
 - * make-up, hairdressing and wardrobe.
- (b) "Total Compensation" means the total salary received by a Performer including personal loading, overtime, all penalties and premiums and annual leave, but excluding superannuation.

39C. REPORTING AND PAYMENT PROCEDURE

39C.1 The Producer will deliver to MEAA:

- (a) at the same time it is required to pay the Residual Fees, a statement of account showing the gross sale price, licence fee and other monies paid in connection with the exercise of the rights described in Clauses 39A.1 – 39A.3 (inclusive) and 39F (whether or not such rights are distributed direct by the Producer or by a third party distributor appointed by the Producer); and
- (b) at the same time it is required to pay the Performer's Net Profit Entitlement, a statement of account showing gross receipts received by the Producer (or the collections agent) and all deductions from such gross receipts in calculating the Producer's Share of Film's Net Profits.

39C.2 The Producer shall keep at its principal office accurate and complete books of account relating to:

- (a) the gross sale price, licence fee and other monies paid in connection with the exercise of the rights described in Clauses 39A.1 – 39A.3 (inclusive) and 39F and of the transactions relevant to the calculation of the Residual Fees (including any distributor's statements delivered to the Producer); and
- (b) gross receipts received by the Producer and of the transactions relevant to the calculation of the Producer's Share of Film's Net Profits;

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- 39C.3 MEAA (or its nominee) at its own expense and on reasonable notice will be entitled to inspect and audit the Producer's books and records referred to in Clause 39C.2 not more than once each year. Where such inspection or audit discloses errors of account in the Producer's favour exceeding \$5,000 or 10% of the amount due to MEAA under the relevant statement (whichever is higher), the costs of the inspection or audit will be reimbursed by the Producer.
- 39C.4 All Residual Fees and the Performer's Net Profit Entitlement shall be forwarded at the time payable to MEAA in one lump sum in Australian dollars.
- 39C.5 Any underpayment of the Residual Fees or the Performer's Net Profit Entitlement shall be paid immediately by the Producer and any overpayment may be deducted from future payments. The Producer shall clearly note on the next statement any reduction for a previous overpayment.
- 39C.6 The Producer acknowledges that MEAA may request that television stations and, if the Producer is a member of Screenrights, Screenrights make available to MEAA any information necessary to verify the screenings of the Film on Free Television in Australia. The Producer irrevocably authorises MEAA to obtain such information from television stations and, if the Producer is a member of Screenrights, Screenrights and the Producer agrees to confirm this authorisation in writing to the television station and Screenrights (as the case may be), upon request by MEAA.
- 39C.7 Where the Producer receives payment for the exercise of the rights described in Clause 39A.1 – 39A.3 (inclusive) and 39F, the Residual Fees shall be payable whether or not the Film or the Making-Of Film (as the case may be) are in fact commercially released.

39D. SALE OF THE FILM

- 39D.1 If the Producer or its heirs, successors or assigns proposes to sell, assign, or otherwise dispose of the Film, or any rights thereto ("Proposed Sale"), the Producer shall not be relieved of any of its obligations under this Agreement, unless the third party to whom the property or rights the subject of the Proposed Sale will be sold, assigned or otherwise disposed of ("the Purchaser") enters into a novation agreement with the Producer and MEAA (acting on its own behalf and as agent for all Artists) under which the Purchaser assumes and agrees to discharge in full all of the Producer's obligations to MEAA and all Artists under this Agreement (including under the contracts entered into by the Artists and, if applicable, their Lenders in accordance with schedule A) in relation to the property or rights the subject of the Proposed Sale.
- 39D.2 It is understood by this provision that the parties hereto shall not use any leasing or other device with a Purchaser to evade their obligations under this Agreement. If, under a Proposed Sale, the Producer intends to assign to the Purchaser any of the Producer's rights or obligations under this Agreement, then the Producer shall give notice of the existence of this Agreement and this Clause 39D to any Purchaser, including notice of the obligations of the Producer under this Agreement or any part thereof.
- 39D.3 Despite anything to the contrary in this Clause 39D, MEAA has the right to require a review of the application of this Clause 39D in relation to any Producer(s) if MEAA is of the opinion that such Producer(s) are abusing this provision in relation to evading their obligations under this Agreement, and in such event (and without being in breach of confidence) MEAA may refer the

matter (including the name of such Producer(s) and the name of the applicable Film(s)) to SPAA and IPI Inc. for their attention and action.

39D.4 Despite the terms of any Novation Agreement:

- (a) the Producer remains fully responsible for the performance of its obligations to MEAA and all Artists under this Agreement (including under the contracts entered into by the Artists and, if applicable, their Lenders in accordance with Schedule A) in relation to the Film (other than the obligations assumed by the Purchaser under the Novation Agreement);
- (b) SPAA, IPI Inc, SPAA Members and IPI Inc Members remain fully responsible for the performance of their respective obligations to MEAA and all Artists under this Agreement (other than the obligations of the Producer assumed by the Purchaser under the Novation Agreement).

39D.5 Despite anything to the contrary in this clause 39D, this Clause 39D does not apply to a Proposed Sale by the Producer to the investors in the Film in the normal course of financing the Film where such Proposed Sale is a precondition to the investors' investment in the Film.

39E. ISAN NUMBER

The Producer will obtain an International Standard Audiovisual Number (ISAN) for the film prior to the film being commercially released and will provide the ISAN to the MEAA upon request.

39F. NORTH AMERICAN RESIDUALS EXCLUDING US NETWORK

- (a) The Producer shall pay to MEAA a royalty (the "North American Residual Fee"), for distribution to the Performers appearing in the Film in accordance with Clause 39B, equal to 3.6% of Distributor's Gross Receipts from the exploitation of the following rights in North America (that is, the United States and Canada): Free Television Rights (excluding any screening on a US Network), Pay Television Rights and Ancillary Rights excluding Distributor's Gross Receipts earned in respect of the first four (4) years of initial exploitation of the Film in North America (the "Initial Four YearPeriod")
PROVIDED THAT where there are different distributors appointed for Canada and the United States and these distributors are not related or affiliated then: the Initial Four Year Period for Canada shall commence on the date of initial exploitation in Canada and the Initial Four Year Period shall for the United States shall commence on the date of initial exploitation in the United States.
- (b) "Distributor's Gross Receipts" shall mean all monies derived in any manner whatsoever from distribution of the Film, including through the sale, license, or other like means of distribution of the Film received by the distributor of the Film or any sub-distributor, and shall be calculated before or simultaneously with any other gross participants from first dollar, without deductions of expenses of any kind.

Despite the foregoing, if the Producer is the distributor of the Home Video Distribution rights or the distributor is owned by or affiliated with the Producer, the "Distributor's Gross Receipts" derived from Home Video Distribution of the Film shall be 20% of the wholesale receipts derived by the Distributor in North America.

In such cases, if the distributor is also the retailer, a reasonable allocation of retail gross receipts shall be made as between the distributor (as distributor) and the distributor (as retailer), and 20% of the former only shall be deemed to be "Distributor's Gross Receipts".

The reasonableness of such allocation shall be subject to arbitration in accordance with Clause 50 and Schedule B of this Agreement, and in such arbitration generally prevailing trade practices in the home video industry with respect to dealings between non-related companies shall be relevant evidence.

A distribution advance or guarantee (i.e., a payment by a distributor or subdistributor against the possibility of earning future income) shall not be included in Distributor's Gross Receipts for the purpose of triggering the payment of residual fees to Performers; however, neither the Producer nor a distributor shall be entitled to deduct the amount of the distribution advance or guarantee from the Distributor's Gross Receipts for the purpose of calculating residual payments due. Accordingly, residual payments may be due despite the distributor not having recouped the distribution advance or guarantee as at the end of the Initial Four Year Period. For the avoidance of doubt, this provision applies to Distributor's Gross Receipts attributable to Home Video Distribution.

In the case of an outright sale of the applicable rights or a sale during the Initial Four Year Period with a licence period that extends beyond the Initial Four Year Period, the Producer shall allocate a fair and reasonable portion of the sale price/licence fee as the amount attributable as Distributor's Gross Receipts for exploitation of the Film beyond the Initial Four Year Period. The Producer shall promptly notify MEAA in writing of its proposed allocation and determination. If MEAA contends that the amount so allocated is not fair and reasonable, such claim shall be determined by arbitration in accordance with Appendix 3.

Despite the foregoing, Distributor's Gross Receipts shall not include sums required to be paid or withheld as goods and services taxes, value added taxes and other taxes, in the nature of turnover taxes, sales taxes or similar taxes based on the actual source receipts of such motion pictures or on any monies to be remitted to or by the distributor (excluding income tax, franchise tax, or excess profit tax or similar tax payable on the party's net income or for the privilege of doing business).

- (c) "Home Video Distribution" shall mean the sale or rental of an audio-visual device, including, without limitation, cassette, cartridge, phonogram or other similar audio-visual device now known or hereafter devised, containing a theatrical motion picture (recorded on film, disc, tapes or other material) and designed for replay in the home (or other private place of the individual consumer) through a television receiver or comparable device. "Home Video Distribution" does not include electronic sell-through or streaming or

other form of delivery where the consumer does not purchase or rent the Film as embodied on a physical device such as a cassette or DVD (but for the avoidance of doubt, revenue from electronic sell-through etc shall form part of Distributor's Gross Receipts).

- (d) The Producer will ensure that all licensees, distributors, sales agents and parties entering into agreements with the Producer to exploit the film are made aware of their obligations for the payment of rights and residuals due to performers under this Agreement.

39G. DISTRIBUTOR'S ASSUMPTION AGREEMENT

- (a) Without limitation to clauses 39A.2(a), 39A.2(d), 39A.3(a), 30A.3(c) and 39F(a) the Producer must use best endeavours to procure that the distributor(s) controlling the US Network Television Rights, North American Free Television Rights (other than US Network), North American Pay Television Rights and/or North American Ancillary Rights referred to in clause 39A.2 and 39A.3 ("Relevant North American Distributor") enters into a Distributor Assumption Agreement in the form of Appendix 4, pursuant to which the Relevant North American Distributor agrees to assume the obligations of the Producer to pay US Network Residual Fees and/or the North American Residual Fees (as applicable).
- (b) Where the Producer appoints a sales agent, whose appointment includes the territory or the US alone or North America, the Producer shall use best endeavours to ensure that the sales agent requires the Relevant North American Distributor to enter into a Distributor Assumption Agreement.
- (c) In the event that the Producer or the appointed sales agent is unable to procure agreement from the distributor(s) to enter into a Distributors Assumption Agreement, the Producer will promptly notify the MEAA as soon as it becomes aware and in any event prior to distribution of the Film and arrange a time to meet with the MEAA to discuss a way forward for arrangements for the payment of US Network Residual Fees and/or the North American Residual Fees.

40. SUPERANNUATION

- (a) In addition to all other payments provided for by this Agreement, the Producer shall make a superannuation contribution pursuant to the Superannuation Guarantee Legislation to the Media Super or such other fund as nominated by the Artist on behalf of the Artist, at the rate of 10% on the following:
- (i) the Artist's Composite Fee; and
 - (ii) all regular contracted overtime (whether or not worked) noted at Clause 3 of the Performer's Standard Contract (Schedule "A")

paid to the Artist for the duration of the engagement provided that if the total of (i) and (ii) above exceeds \$240,000 paid by the Producer to the Artist in any one financial year the Producer will not be obliged to pay a superannuation contribution on the component of the Artist's payment in excess of \$240,000 in that financial year.

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- (b) Juvenile Artists shall not be entitled to the benefits of this clause unless:
 - (i) The Juvenile is engaged on a 12 week contract or longer; or
 - (ii) The Juvenile has been employed in the Entertainment Industry for a minimum of six professional engagements; or
 - (iii) The Juvenile has previously been employed in the entertainment industry for a minimum of 30 days.
 - (c) The Producer shall make contributions to any Artist over the age of 70, who would not otherwise have received a contribution as a consequence of section 27(1)(a) of the Superannuation Guarantee (Administration) Act 1992. Therefore the provision of section 27(1)(a) of the Superannuation Guarantee (Administration) Act 1992 will not apply to this agreement. In the event that a Producer is not able to make contributions to a superannuation fund on the Artists behalf the Producer will make a payment, equal to the required superannuation contribution identified in clause 40(a), directly to the Artist and will identify the payment on the Artists statement of earnings as a "superannuation payment."

41. NUDITY/SEX SIMULATED SCENES

- (a) (i) The Producer or his/her representative may not direct the Artist to appear nude, Semi-Nude or in sex simulated scenes except where such request has been previously discussed with the Artist and expressly stated in the Artist's contract or the separate written consent of the Artist has been obtained.
- (ii) A Performer's consent to appear nude, Semi-Nude or in a sex simulated scene may only be sought by the Producer where the Producer has specified the following in writing:
 - (A) The scene where the nudity will be required;
 - (B) The extent of the nudity involved;
 - (C) The type of physical contact (if any) required in the scene;
 - (D) The nature of the wardrobe involved (if any) (see through clothes etc.).

And any other relevant information requested by the Artist pertaining to the scene which may reasonably be expected to give full, true and complete disclosure and informed consent.

- (b) Subject to Clause 41(c), the Producer may, for publicity purposes, use stills or footage of the Artist appearing in scenes referred to in Clause 41(a) provided that the Artist's written consent to such usage has been obtained.
- (c) No still photographs will be taken during the Rehearsal or filming of scenes where the Artist is required to appear nude, Semi-Nude or in sex simulated scenes. A special still photographic session may be conducted immediately prior to or after the filming of such scenes, provided that the Artist's consent

is obtained pursuant to Clause 41(b) and the Artist is clearly advised prior to and at the time of the stills session that such session is to take place. The Artist is to be given the right of approval in respect of selection of such publicity stills and shall not withhold approval beyond any conditions upon which consent may have been provided pursuant to Clause 41(b).

- (d) The Artist may nominate an individual to be present during the filming or Rehearsal of nude or sex simulated scenes.
- (e) A Stand-In or Double cannot be used in a scene where the Stand-In or Double is required to appear nude, Semi-Nude or in sex simulated scenes, unless the express written consent of the original Artist is obtained.
- (f)
 - (i) The Producer shall ensure during Rehearsal or filming of sex simulated scenes or scenes where the Artist appears nude that the set (or place of Rehearsal) will be closed to all but essential production personnel.
 - (ii) Where the Artist is directed to appear Semi-Nude (but not in a sex simulated scene) the Artist may request that the set or place of Rehearsal be closed as provided in sub-paragraph (f)(i).
- (g) The Producer shall ensure to the best of his/her ability that all outtakes of the Film featuring the Artist in scenes referred to in Clause 41(a) are destroyed. This shall not apply to outtakes held for alternative versions of the Film necessitated by overseas distribution requirements. In the event however that outtakes are retained as provided for in this provision such outtakes are also to be destroyed when no longer required.

42. DANCERS

- (a) All footwear for dancers, where such footwear is provided by the Producer, shall be appropriate to the work, clean, properly fitted, braced and rubbered.
- (b) The Producer shall ensure that an adequate warm-up space is provided to permit all dancers to "warm-up" thirty minutes prior to the commencement of work. Such warm-up time shall count as time worked.
- (c) A rest break of no less than ten (10) minutes per hour shall be granted during all Rehearsal/filming periods.
- (d) The Producer shall ensure to the best of his/her ability that all surfaces on which the dancers are required to perform or rehearse are safe including that they are:
 - (i) resilient and
 - (ii) clean and free of wax, nails etc.
- (e) This clause applies only in circumstances where professional dancers are engaged to perform choreographed or unchoreographed dance (eg. rap, freestyle) to a level normally expected of a professional dancer.

43. PUBLICITY/PROMOTION

- (a) The Artist shall carry out such publicity and/or promotion work for the Film outside the Artist's normal working hours as may be reasonable.

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- (b) The Producer may require the Artist to be available for publicity and/or promotion work within the Artist's normal working hours.
 - (c) Where the Artist is required to make him/herself available for publicity and/or promotion work outside his/her normal working hours s/he shall be paid at the rate of the BNF with a minimum Call of two and one half hours.
 - (d) In carrying out any publicity and/or promotion work pursuant to this clause, an Artist shall, where relevant, be entitled to the provisions of this Agreement in respect of travelling, accommodation and expenses except that:
 - (i) an Artist shall be provided with transport or paid the cost of same both ways:
 - (1) between the Artist's place of residence and the place of publicity and/or promotion work, or
 - (2) where the Artist is required to travel by air to the place of publicity and/or promotion work, between the Artist's place of residence and the airport terminal where the Artist's travel commences and between the airport terminal where the Artist's air travel concludes and the place of publicity and/or promotion work; and
 - (ii) an Artist shall be provided with air travel of a class stipulated in the Artist's engagement/employment contract or in the absence of any such stipulation, pursuant to Clause 13(a);
 - (iii) except to the extent specific publicity and promotion obligations are contracted at point of engagement, where the Artist is required to travel interstate or similar distance outside contracted hours payment for hours worked will be calculated from the scheduled departure time of the plane (or other transport) in the home state of the Performer to the actual return time of the plane (or other transport) in the home state of the Performer.
 - (e) Prior to the Artist's departure s/he shall be provided with an itinerary outlining the places where s/he will be required to attend and the duties required of the Artist in carrying out such publicity and/or promotion work (eg. interviews, performance etc.).

44. STORAGE OF PERSONAL EFFECTS

- (a) The Producer shall make available a securable facility (eg. a trunk, large box or locker) for the storage of the personal effects of all Performers.
- (b) The Producer shall nominate one or more persons to be responsible for locking and unlocking the facility for the purpose of storing personal effects therein.
- (c) Neither the Producer nor any person responsible for unlocking/locking the facility shall be held responsible or liable for the safekeeping of the personal effects stored within the facility referred to in this clause.

45. ENTERPRISE FLEXIBILITY ARRANGEMENTS

- (a) Notwithstanding any other provision of this enterprise agreement, the Producer and an individual Artist may agree to vary the application of certain terms of this enterprise agreement to meet the genuine individual needs of the Producer and the individual Artist. The terms the Producer and the individual Artist may agree to vary the application of are those concerning:
 - (i) arrangements for the taking of meal and other work breaks.
- (b) The Producer and the individual Artist must have genuinely made the agreement without coercion or duress.
- (c) The agreement between the Producer and the individual Artist must:
 - (i) be confined to a variation in the application of one or more of the terms listed in clause 14; and
 - (ii) result in the Artist being better off overall than the Artist would have been if no individual flexibility agreement had been agreed to.
- (d) The agreement between the Producer and the individual Artist must also:
 - (i) be in writing in a form agreed between the Producer and the MEAA, name the parties to the agreement and be signed by the Producer and the individual Artist and, if the Artist is under 18 years of age, the Artists parent or guardian;
 - (ii) state each term of this enterprise agreement that the Producer and the individual Artist have agreed to vary;
 - (iii) detail how the application of each term has been varied by agreement between the Producer and the individual Artist;
 - (iv) detail the monetary value of each term that has been varied by agreement between the Producer and the individual Artist;
 - (v) detail how the agreement results in the individual Artist being better off overall in relation to the individual Artist's terms and conditions of employment; and
 - (vi) state the date the agreement commences to operate.
- (e) The Producer must give the individual Artist a copy of the agreement and keep the agreement as a time and wages record.
- (f) Except as provided in clause 45(d)(i) the agreement must not require the approval or consent of a person other than the Producer and the individual Artist.
- (g) A Producer seeking to enter into an agreement must provide a written proposal to the Artist. Where the Artist's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the Artist understands the proposal.
- (h) The agreement may be terminated:
 - (i) by the Producer or the individual Artist giving four weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or

- (ii) at any time, by written agreement between the Producer and the individual Artist.
- (i) The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an Producer and an individual Artist contained in any other term of this enterprise agreement.
- (j) Any such agreement may not be made a requirement by an Producer of any prospective Artist gaining employment.

46. ANTI-DISCRIMINATION

- 46.1 It is the intention of the respondents to this Agreement to achieve the principal object in section 771 of Division 2 of the Fair Work Act 2009 through respecting and valuing diversity of the workforce by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, having consideration for the inherent requirements of a role or production.
- 46.2 Accordingly, in fulfilling their obligations under the disputes avoidance and settling clause, the respondents must make every endeavour to ensure that neither the Agreement provisions nor their operation are directly or indirectly discriminatory in their effects.
- 46.3 Nothing in this clause is to be taken to affect:
- 46.3.1 any different treatment (or treatment having different effects) which is specifically exempted under the Commonwealth anti-discrimination legislation;
 - 46.3.2 junior rates of pay;
 - 46.3.3 an Artist, a Producer or MEAA, pursuing matters of discrimination in any state or federal jurisdiction, including by application to the Human Rights and Equal Opportunity Commission; or
 - 46.3.4 the exemptions in sections 170CK(3) and (4) of the Act.

46 B. DIVERSITY IN CASTING

- (a) SPAA, IPI and the MEAA recognise the need for expanding the participation of performers from ethnic minorities (for example Indigenous Australians and Asian-Australians), women performers and performers with disability in their artistic process. Towards that end the Producer confirms its commitment to non-discrimination and a flexible, imaginative casting policy, known hereafter as diverse casting.
- (b) Diverse casting shall be defined, for the purposes of this Agreement, as the casting of ethnic minority performers, women performers and performers with disability in roles where race, ethnicity, gender or the presence or absence of a disability is not germane.

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- (c) SPAA and IPI members will attach a statement of this diverse casting policy to their contracts with directors and casting consultants.
 - (d) SPAA, IPI and the MEAA agree to collaborate in the presentation of a “diverse casting one day workshop” to be held in Melbourne and Sydney. The parties will make equal financial and non-financial contributions to the workshop. The diverse casting workshop will be designed to promote diversity in casting policies and behaviour and will be open to identified performers, casting agents, writers, directors, producers, and distributors.

47. SMOKING

- (a) The Producer or his/her representative may not direct the Artist to smoke or appear to be smoking except where such a request has been previously discussed with the Artist and expressly stated in the Artist’s contract or the separate written consent of the Artist has been obtained, and the Producer may not, for publicity purposes use stills of the Artist appearing in such scenes.
- (b) A Performers consent to smoke in a scene may only be sought by the Producer where the Producer has specified the following in writing:
 - (i) The scene where smoking will be required; and
 - (ii) The extent of the smoking involved.

And any other relevant information requested by the Artist pertaining to the scene which may reasonably be expected to give full, true and complete disclosure and informed consent.

48. DISCUSSIONS DURING THE TERM OF THE AGREEMENT

- (a) Despite anything in this Agreement to the contrary but subject to Clauses 48(b) and 48(c), the parties have agreed to exclude a Film from the operation of Clauses 39(a)(ii) - (v) (inclusive) and 39A.4 if the Film:
 - (i) is funded wholly or principally by a US Studio; or
 - (ii) is subject to Australian Creative Control but with a budgeted cost equal to or in excess of \$AUD22.5 million.
- (b) Notwithstanding sub-clause 48(a), it is understood between the parties that the quantum of the loadings for rights under clauses 39(a) (ii) - (v) is not to be renegotiated but rather, the extent of the rights acquired pursuant to those clauses for the payments made;
- (c) The parties have agreed to negotiate relevant changes to Clauses 39(a)(ii) - (v) (inclusive) and 39A.4 to accommodate Films covered by Clause 48(a) above as early as possible but in any event prior to the production of each such Film.

49. NO EXTRA CLAIMS

MEAA undertakes that it will make no further claims for the term of this Agreement except as set out in Clause 48 above and in relation to the negotiation of an Agreement to replace this Agreement which negotiations will commence no earlier than 1 July 2014.

50. DISPUTE RESOLUTION

- (a) The parties to this Agreement are committed to promoting good industrial relations based upon goodwill, consultation and discussion.
- (b) Stages 1 to 5 of this procedure shall be observed by the artist(s)/MEAA and the producer/parties to resolve any grievance, claim or dispute other than a safety dispute which arises at the workplace in respect of a local matter, the resolution of which is not likely to have a repercussive impact at any other location in the industry.
- (c) Stages 4 and 5 of this procedure shall be observed by the union and the parties to this Agreement to resolve any grievance, claim or dispute other than a grievance, claim or dispute referred to in paragraph (b) hereof or a safety dispute.
- (d) During the progress of discussions pursuant to Stages 1 to 5 of this procedure, no stoppage of work or any other form of limitation of work shall be applied by either the producer or the artist(s).
- (e) In the event of a grievance, claim or dispute arising which involves the working of overtime in accordance with the Agreement by any artist(s), the dispute settling procedure set out herein shall be observed. During the progress of discussions pursuant to Stages 1 to 5 of this procedure, work shall continue in the normal manner and overtime shall be worked as instructed by the producer in accordance with the Agreement.
- (f) Subject to (c) hereof, nothing contained herein shall preclude the producer and/or producer organisation and the union from entering into direct negotiations on any matter.

PROCEDURE

- Stage 1 The grievance, claim or dispute shall be discussed between the artist(s) concerned and his/her/their immediate supervisor(s). A MEAA representative may be requested to join the discussion.
- Stage 2 If not resolved, the grievance, claim or dispute shall be discussed between an accredited MEAA representative and a delegated officer of the producer.
- Stage 3 If agreement has been reached the grievance, claim or dispute shall be discussed between the accredited MEAA representative (or his/her nominee) and the producer (or his/her nominee).
- Stage 4 If the grievance, claim or dispute is still not resolved it shall be discussed between the MEAA and the producer organisation.

Stage 5 If the matter remains unresolved and it is a matter arising under this Agreement or the NES, then a party to the dispute may refer the matter to Fair Work Australia.

Stage 6 Fair Work Australia may deal with the dispute in 2 stages:

(a) Fair Work Australia will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and

(b) If Fair Work Australia is unable to resolve the dispute at the first stage, Fair Work Australia may then:

- (i) arbitrate the dispute; and
- (ii) make a determination that is binding on the parties.

Stage 7: If Fair Work Australia will not arbitrate the dispute in accordance with 6(b) the parties will refer the matter to an independent arbitrator in accordance with Appendix 3 to this Agreement.

51. CONSULTATION ON MAJOR WORKPLACE CHANGE

- (a) This term applies if:
 - (i) the Producer has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and
 - (ii) the change is likely to have a significant effect on Artists of the enterprise.
- (b) The Producer must notify the relevant Artists and the MEAA of the decision to introduce the major change.
- (c) The relevant Artists may appoint a representative for the purposes of the procedures in this term.
- (d) If:
 - (i) a relevant Artist appoints, or relevant Artists appoint, a representative for the purposes of consultation; and
 - (ii) the Artist or Artists advise the Producer of the identity of the representative;
 the Producer must recognise the representative.
- (e) As soon as practicable after making its decision, the Producer must:
 - (i) discuss with the relevant Artists:
 - A. the introduction of the change; and
 - B. the effect the change is likely to have on the Artists; and
 - C. measures the Producer is taking to avert or mitigate the adverse effect of the change on the Artists; and
 - (ii) for the purposes of the discussion — provide, in writing, to the relevant Artists:
 - A. all relevant information about the change including the nature of the change proposed; and
 - B. information about the expected effects of the change on the Artists; and

C. any other matters likely to affect the Artists.

- (f) However, the Producer is not required to disclose confidential or commercially sensitive information to the relevant Artists.
- (g) The Producer must give prompt and genuine consideration to matters raised about the major change by the relevant Artists.
- (h) If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Producer, the requirements set out in sub-clauses (b), (c) and (e) are taken not to apply.
- (i) In this term, a major change is likely to have a significant effect on Artists if it results in:
 - (i) the termination of the employment of Artists; or
 - (ii) major change to the composition, operation or size of the Producer's workforce or to the skills required of Artists; or
 - (iii) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - (iv) the alteration of hours of work; or
 - (v) the need to retrain Artists; or
 - (vi) the need to relocate Artists to another workplace; or
 - (vii) the restructuring of jobs.
- (j) In this term, relevant Artists means the Artists who may be affected by the major change.
- (k) It is not intended that this clause apply to the alterations to production schedules that ordinarily or conventionally occur in the course of the production of a Film.

PLEASE NOTE:

The Actors' Feature Film Agreement Standard Contract and The Actors' Feature Film Agreement Standard Lenders Contract is Schedule A of the Agreement. The Actors' Feature Film Standard Lender's Contract is to be used where the Performer uses a company and is engaged as such. The Lender is the Performer's company.

SCHEDULE A

**ACTORS FEATURE FILM COLLECTIVE AGREEMENT STANDARD CONTRACT
2012 VERSION**

PRODUCTION TITLE

FILM CATEGORY

PRODUCTION COMPANY (**ABN**

ADDRESS (Production Office)

PHONE

ARTIST'S NAME

ARTIST'S ADDRESS

JUST SUPER NUMBER

AGENT'S NAME

AGENT'S ADDRESS

PHONE

This **AGREEMENT** dated 200_ is between the abovementioned production company of the one part ("the Producer") and the above-mentioned Artist of the other part ("the Artist") in respect of the above-mentioned production ("the Film").

WHEREAS:

A. THIS AGREEMENT incorporates and includes all of the terms and conditions of The Actors Feature Film Collective Agreement 2012 (as amended) ("AFFCA") between the Media Entertainment and Arts Alliance ("MEAA"), the Screen Producers Association of Australia ("SPAA") and the Independent Producers Initiative Inc ("IPI Inc") as if those terms were written herein. In the event of any inconsistency between the terms of this Contract and the terms of AFFCA, the terms of AFFCA shall prevail.

B. THE PRODUCER has agreed to engage the Artist to perform the part of for the Film.

C. RIGHTS: The Artist acknowledges that for the total fees set out hereunder the Producer, for the percentage designated, has acquired the following rights:

<i>(delete</i>	Australian Free Television Rights	
<i>and initial</i>	4 runs over 5 years	20%
<i>those</i>	or 5 runs over 5 years	or 25%
<i>rights not</i>	Australian Ancillary Rights and Australian Pay	20%
<i>acquired)</i>	Television Rights	
	World TV Rights excluding US Network*	25%
	World Theatrical Rights*	25%
	World Ancillary Rights excluding Australia*	20%

PERCENTAGE TOTAL: _____

and these rights are hereby assigned.

*Note: World TV Rights excluding US Network, World Theatrical Rights and World Ancillary Rights excluding Australia are limited to a period of 4 years in North America. Thereafter North American Residuals are payable in accordance with clause 39A.3 of the AFFCA.

Subject to payment by the Producer to MEAA of the Residual Fees payable in accordance with Clause 39A.2(a) of AFFCA, the Producer shall be entitled to screen (or authorise others to screen) the Film on US Network television.

The Producer shall pay to MEAA sums from time to time equal to 10% of 100% of the Producer's Share of Film's Net Profits and the Residual Fees in accordance with clause 39A of AFFCA.

D. CONSENT: The Producer shall have the right to photograph, record and/or otherwise produce, reproduce, transmit, exhibit, distribute and publicise in connection with the Film any and all of the acts, poses, plays and appearances of any and all kinds of the Artist appearing in the Film containing such acts, poses, plays and appearances.

The Producer shall likewise have the right to use and give publicity to the Artist's name and likeness, photographic and otherwise, and to recordings and reproductions of the Artist's voice and all instrumental, musical and other sound effects produced by the Artist in the Film in order that it may be publicised or advertised.

Nothing in this Agreement shall prevent the Artist from being entitled to receive moneys from any recognised collecting society charged with the collection and payment of secondary royalties pursuant to collective agreements negotiated by such collection societies under the laws of any jurisdiction ('Collection Society Income'), but this shall not constitute an admission or acknowledgment that the Producer is obliged to make any payment of Collection Society Income to any collecting society or the Artist.

In the event of a proposed sale of the Film or any rights thereto by the Producer, the MEAA is authorised to act as agent for the Artist in the making of any Novation Agreement in accordance with clause 39D.1 of the AFFCA, and the rights and obligations of the Producer, the Artist and the Purchaser shall be subject to the terms of any Novation Agreement thereby made.

The Artist consents to the Producer providing his/her personal details to the MEAA for the purposes of administration and processing of payment of Residual Fees by the MEAA.

THE PARTIES AGREE AS FOLLOWS:

1. ENGAGEMENT - WEEKLY

The Artist is engaged by the week on the following basis for.....days over.....weeks to commence from and terminate on with a maximum of days and not more thanhours per week to be worked in not more than hours per day. Weeks worked in excess of will be paid for at

2. ENGAGEMENT - DAILY

The Artist is engaged by the day on the following basis for days on the following dates with not more than hours per day.

3. SALARY WEEKLY

Artist's Basic Negotiated Fee	\$.....
Film Category Loading	\$.....
Loading for Rights (.....%)	\$.....
[Category]	
COMPOSITE FEE	\$.....
Overtime up to hours	\$.....
TOTAL WEEKLY FEE	\$.....
Annual Leave Provision	\$.....

DAILY

Artist's Basic Negotiated Fee	\$.....
Film Category Loading	\$.....
Loading for Rights (.....%)	\$.....
[Category]	
COMPOSITE FEE	\$.....
Overtime up to hours	\$.....
TOTAL DAILY FEE	\$.....
Annual Leave Provision	\$.....

N.B. 1. Payment of annual leave shall be calculated on the Artist's contracted or actual overtime worked - whichever is the greater. See clause 16 of AFFCA. The Artist acknowledges and agrees that due to the unique nature of film production and operational requirements of the Producer, it is not reasonably practicable for the Artist to take

annual leave during the course of an engagement. The Artist agrees that a payment in lieu of accrued but untaken leave will be paid at the end of an Artist's engagement.

- 2. Post Synchronisation shall be paid at the hourly equivalent of the Artist's Composite Fee with a minimum payment of 2.5hrs.
- 3. Rehearsals shall be paid at the Artist's Basic Negotiated Fee. See clause 36 of AFCFA.

4. ADDITIONAL DAYS TO CONTRACT

Should the Artist be required to work additional days, days up to and includingshall be payable at a fee of \$..... per day. Should the Artist be required to work additional days numbering more than and up to and including the weekly rate of \$..... will be payable.

5. METHOD OF PAYMENT: The Artist hereby acknowledges that the aforementioned Agent (if any) is authorised to collect and receive all sums of money payable to the Artist provided that the Artist may require payments to be made directly to the Artist upon written notification to the Producer. Receipt of such moneys by the said Agent or Artist shall be a good and valid discharge all such moneys owed.

6. SPECIAL STIPULATIONS: Specify requirements (for example nudity, haircuts, Making-Of Film(s) etc.)

.....
In the event that the Artist has agreed to appear nude or semi-nude in the Film and subject to Clause 41, the Artist consents to the use of nude or semi-nude footage from the final version of the Film only, in theatrical trailers publicising the Film.

.....
7. CREDIT: The name under which the Artist is to receive a credit (if applicable) shall be

.....
(Please print clearly)

Additional Billing Requirements:
.....

8. SUPERANNUATION: The Producer shall contribute to JUST Super or the Superannuation fund of the Artist's choice in accordance with clause 40 of AFFCA.

9. MEAA MEMBERSHIP: The Artist warrants that the Artist is / is not a financial member of MEAA prior to commencement of engagement.

IN WITNESS WHEREOF the parties have affixed their signature on the day and year first hereby written.

ARTIST

PRODUCER

.....
(signature)

.....
(signature)

.....
(print name and title of person signing on behalf of the Producer)

Witnessed by:

Witnessed by:

.....
(signature)

.....
(signature)

.....
(print name)

.....
(print name)

N.B Unless the Agent produces proof of a Power of Attorney, this contract must be signed by the Artist.

(For information only I certify that I am of nationality.)

**ACTORS FEATURE FILM COLLECTIVE AGREEMENT
ACTORS' (LENDERS) STANDARD CONTRACT
2012 VERSION**

PRODUCTION TITLE

FILM CATEGORY

PRODUCTION COMPANY (**ABN**

ADDRESS (Production Office)

PHONE

LENDER'S NAME (**ABN**

LENDER'S ADDRESS

PHONE

ARTIST'S NAME

ARTIST'S ADDRESS

AGENT'S NAME

AGENT'S ADDRESS

PHONE

This **AGREEMENT** dated 200_ is between the abovementioned production company of the first part ("the Producer"), the abovementioned Lending company of the second part ("the Lender") and the abovementioned Artist of the third part ("the Artist") in respect of the above-mentioned production ("the Film").

WHEREAS:

- A. THIS AGREEMENT** incorporates and includes all of the terms and conditions of The Actors Feature Film Collective Agreement 2012 (as amended) ("AFFCA") between the Media Entertainment and Arts Alliance ("MEAA"), the Screen Producers Association of Australia ("SPAA") and the Independent Producers Initiative Inc ("IPI Inc") as if those terms were written herein. In the event of any inconsistency between the terms of this Contract and the terms of AFFCA, the terms of AFFCA shall prevail.
- B. THE PRODUCER** has agreed with the Lender to engage the Artist and the Artist has agreed to perform the part of for the Film.
- C. RIGHTS:** The Lender and the Artist acknowledge that for the total fees payable to the Lender set out hereunder the Producer, for the percentage designated, has acquired the following rights:

<i>(delete and initial those rights not acquired)</i>	Australian Free Television Rights	
	4 runs over 5 years	20%
	or 5 runs over 5 years	or 25%
	Australian Ancillary Rights and Australian Pay Television Rights	20%
	World TV Rights excluding US Network*	25%
	World Theatrical Rights*	25%
	World Ancillary Rights excluding Australia*	20%

PERCENTAGE TOTAL: _____

and these rights are hereby assigned.

*Note: World TV Rights excluding US Network, World Theatrical Rights and World Ancillary Rights excluding Australia are limited to a period of 4 years in North America. Thereafter North American Residuals are payable in accordance with clause 39A.3 of the AFFCA.

Subject to payment by the Producer to MEAA of the Residual Fees payable in accordance with Clause 39A.2(a) of AFFCA, the Producer shall be entitled to screen (or authorise others to screen) the Film on US Network television.

The Producer shall pay to MEAA sums from time to time equal to 10% of 100% of the Producer's Share of Film's Net Profits and the Residual Fees in accordance with clause 39A of AFFCA.

D. CONSENT: The Producer shall have the right to photograph, record and/or otherwise produce, reproduce, transmit, exhibit, distribute and publicise in connection with the Film any and all of the acts, poses, plays and appearances of any and all kinds of the Artist appearing in the Film containing such acts, poses, plays and appearances.

The Producer shall likewise have the right to use and give publicity to the Artist's name and likeness, photographic and otherwise, and to recordings and reproductions of the Artist's voice and all instrumental, musical and other sound effects produced by the Artist in the said Film in order that it may be publicised or advertised.

Nothing in this Agreement shall prevent the Artist from being entitled to receive moneys from any recognised collecting society charged with the collection and payment of secondary royalties pursuant to collective agreements negotiated by such collection societies under the laws of any jurisdiction ('Collection Society Income'), but this shall not constitute an admission or acknowledgment that the Producer is obliged to make any payment of Collection Society Income to any collecting society, the Lender or the Artist.

In the event of a proposed sale of the Film or any rights thereto by the Producer, the MEAA is authorised to act as agent for the Artist and the Lender in the making of any Novation Agreement in accordance with clause 39D.1 of the AFFCA, and the rights and obligations of the Producer, the Artist, the Lender and the Purchaser shall be subject to the terms of any Novation Agreement thereby made.

The Artist consents to the Producer providing his/her personal details to the MEAA for the purposes of administration and processing of payment of Residual Fees by the MEAA.

THE PARTIES AGREE AS FOLLOWS:

1. ENGAGEMENT - WEEKLY

The Artist is engaged by the week on the following basis for days over weeks to commence from and terminate on with a maximum of days and not more than hours per week to be worked in not more than hours per day. Weeks worked in excess of will be paid for at

2. ENGAGEMENT - DAILY

The Artist is engaged by the day on the following basis for..... days on the following dates with not more than.....hours per day.

3. SALARY WEEKLY		DAILY	
Artist's Basic Negotiated Fee	\$.....	Artist's Basic Negotiated Fee	\$.....
Film Category Loading	\$.....	Film Category Loading	\$.....
Loading for Rights (.....%)	\$.....	Loading for Rights (.....%)	\$.....
[Category		[Category	
COMPOSITE FEE	\$.....	COMPOSITE FEE	\$.....
Overtime up to hours	\$.....	Overtime up to hours	\$.....
Payment		Payment	
(in lieu of annual leave – 8.33%)	\$.....	(in lieu of annual leave – 8.33%)	\$.....
TOTAL WEEKLY FEE	\$ _____	TOTAL DAILY FEE	\$ _____

N.B. 1. Post Synchronisation Fee shall be paid at the hourly equivalent of the Artist's Composite Fee with a minimum payment of 2.5hrs.

- 2. Rehearsals shall be paid at the Artist's Basic Negotiated Fee. See clause 36 of AFFCA.
- 3. The Producer shall pay to the Lender, in addition to the Total Weekly Fee or Total Daily Fee (as the case may be), an amount equal to 10% of the Total Weekly Fee or Total Daily Fee (as the case may be).

4. ADDITIONAL DAYS TO CONTRACT

Should the Artist be required to work additional days, days up to and includingshall be payable at a fee of \$..... per day. Should the Artist be required to work additional days numbering more than and up to and including the weekly rate of \$..... will be payable.

5. METHOD OF PAYMENT: The Artist and the Lender hereby acknowledges that the aforementioned Agent (if any) is authorised to collect and receive all sums of money payable to the Artist and the Lender provided that the Artist and the Lender may require payments to be made directly to the Lender or the Artist upon written notification to the Producer. Receipt of such moneys by the said Agent shall be a good and valid discharge all such moneys owed.

6. SERVICE AGREEMENT: The Artist is and will be throughout this agreement under a contract of service to the Lender which shall not be varied during the course of this agreement without the prior consent of the Producer.

7. SPECIAL STIPULATIONS: Specify requirements (for example nudity, haircuts, Making-Of Film(s) etc.) In the event that the Artist has agreed to appear nude or semi-nude in the Film and subject to Clause 41, the Artist consents to the use of nude or semi-nude footage from the final version of the Film only, in theatrical trailers publicising the Film.

.....
8. CREDIT: The name under which the Artist is to receive a credit (if applicable) shall be

.....
(Please print clearly)

Additional Billing Requirements:
.....

9. MEAA MEMBERSHIP: The Artist warrants that the Artist is / is not a financial member of MEAA prior to commencement of engagement.

IN WITNESS WHEREOF the parties have affixed their signature on the day and year first hereby written.

LENDER

.....
(signature)

PRODUCER

.....
(signature)

ARTIST

.....
(signature)

.....
(print name and title of person signing for the Producer)

Witnessed by:

.....
(signature)

Witnessed by:

.....
(signature)

.....
(print name)

.....
(print name)

NB Unless the Agent produces proof of a Power of Attorney, this contract must be signed by the Artist.

(For information only I certify that I am of nationality.)

APPENDIX 1

SIGNATORIES

for and on behalf of the MEDIA ENTERTAINMENT & ARTS ALLIANCE

Signature:

Name:

Position:

Date:

for and on behalf of the Production Company

.....

Signature:

Name:

Position:

APPENDIX 2

The following allowances are adjusted each year by applying the June quarter CPI increase for the previous 12 months to the rate for the previous year, with the new rate to be effective from August 1 each year.

AFFCA - APPENDIX 2 - ALLOWANCES			
Clause	Purpose	1/8/11-30/7/12	1/7/12- 30/7/13
	MEALS		
13(d),(e). 14(a)	Breakfast	15.10	15.50
13(d),(e). 14(b)	Lunch	17.10	17.50
13(d),(e). 14(b)	Dinner	26.10	26.80
13(d),(e). 14(j)	Supper	17.10	17.50
	ACCOMMODATION		
13(d)	Private home	10.20	10.60
13(d)	Caravan	20.80	21.70
13(d)	Shearers' quarters	41.40	43.20
	TRANSPORT		
13 (m)	Car	0.89	0.91
13 (m)	Motor bike	0.42	0.43
	WARDROBE		
26(d)	Formal Wear	50.10	51.10
26(d)	Other Wardrobe	29.90	30.50
26(d)	Special Character	50.10	51.10

APPENDIX 3

ARBITRATION PROCEDURE

1. The parties shall in good faith agree upon the person to act as arbitrator. Subject to availability, the arbitrator appointed shall have experience in matters involving the entertainment industry. The parties are unable to agree on the name of arbitrator or that person is unavailable and the parties cannot agree on a replacement within ten (10) business days of the request to agree by the party requesting the arbitration ("Requesting Party") to the responding party ("Responding Party") then the Requesting Party shall ask the President of the Law Society of NSW to nominate an arbitrator who is suitable and available to arbitrate. Neither party may challenge the jurisdiction or authority of the person agreed or nominated under this clause ("the Arbitrator").
2. The arbitration will be conducted in Sydney (or in such other place as the parties to the dispute may agree) in accordance with the Australian Commercial Disputes Centre Rules for Domestic Arbitration which are operating at the time the dispute is referred to arbitration by the Arbitrator. To the extent permitted at law, the parties waive the right to seek punitive damages and the Arbitrator shall have no authority to award such damages. The Arbitrator will provide a detailed written statement of decision, which will be part of the arbitration award and admissible in any judicial proceeding to confirm, correct or vacate the award. If either party refuses to perform any or all of its obligations under the final arbitration award (following appeal, if applicable), then the other party may enforce the final award in any court of competent jurisdiction in New South Wales. The party seeking enforcement shall be entitled to recover all costs, fees and expenses, including attorneys' fees, incurred in enforcing the award, to be paid by the party against whom enforcement is ordered.

APPENDIX 4

DISTRIBUTOR'S ASSUMPTION AGREEMENT

In consideration of the execution of a Distribution Agreement between _____ (hereinafter referred to as "Producer") and _____ (hereinafter referred to as "Distributor"), Distributor agrees that the motion picture more specifically described in the attached scheduled (hereinafter referred to as "Film") is subject to the Actors Feature Film Collective Agreement 2012 (hereinafter referred to as "AFFCA"), and particularly to the provisions thereof providing for the payment of US Network runs and other residual payments in respect of North America, and Distributor hereby agrees, expressly for the benefit of the Media Entertainment & Arts Alliance (hereinafter referred to as "the MEAA") as representative of the performers whose services are included in the Film, to pay all additional residual payments required thereby, arising out of the distribution of the Film by or on behalf of Distributor, including where the Film is:

- [Amend as*
- (i) broadcast on a US Network;
 - (ii) exploited by means of Free Television Rights (excluding any screening on a US Network), Pay Television Rights and Ancillary Rights (excluding Distributor's Gross Receipts earned in respect of the first four (4) years of initial exploitation of the Film in North America)

It is expressly understood that the right of Distributor to license the Film in respect of the above specified rights shall be subject to and conditioned upon the prompt payment of any and all such additional compensation in accordance with the provisions of the AFFCA.

The Distributor shall give the MEAA prompt written notice of the date on which each such Film is first telecast in the United States on a US Network and for the second run and thereafter for each subsequent run.

Distributor agrees to keep (as applicable to the rights licensed by the Distributor):

- (i) complete records showing all cities in the United States in which the Film has been telecast on a US Network and the number of such telecasts in each such city, the television stations on which telecast, and the dates thereof; and
- (ii) complete records showing the calculation of "distributor's gross receipts" for the Film to the extent that such records are pertinent to the computation of payments due under the AFFCA. The MEAA shall have the right, at all reasonable times, to inspect any and all such records. The Distributor shall furnish reports to the MEAA showing "distributor's gross receipts" derived from the Film on an annual basis.

Distributor agrees to cooperate in responding to reasonable requests from the MEAA as to whether the Film is currently being exploited in any market in North America that gives rise to residual payments for performers. An inadvertent failure to comply with any of the notice or reporting provisions hereof shall not constitute a default by Distributor hereunder, provided said failure is cured promptly after written notice thereof from the MEAA.